

**MINIT MESYUARAT**  
**LEMBAGA HASIL DALAM NEGERI MALAYSIA (LHDNM) BERSAMA**  
**BADAN PROFESIONAL DAN PENGAMAL PERCUKAIAN**  
**DIALOG DESIRE BIL. 1 TAHUN 2022**

**Tarikh: 27 September 2022 (Selasa)**

**Tempat: Bilik Mesyuarat Bendahara, Aras 1, Menara Hasil, Cyberjaya**

**SENARAI KEHADIRAN LHDNM**

<b>BIL.</b>	<b>NAMA</b>	<b>JABATAN</b>
1.	YBhg. Datuk Dr. Sotimin bin Muhalip	Timbalan Ketua Pegawai Eksekutif (Operasi Percukaian) <b>[Pengerusi]</b>
2.	Dr. Hazlina binti Hussain	Pengarah, Jabatan Undang-Undang (JUJ)
3.	En. Ahmad Khairuddin bin Abdullah	Pengarah, Jabatan Resolusi Pertikaian (JRP)
4.	En. Hishamudin bin Mohamed	Pengarah, Jabatan Khidmat Korporat (JKK)
5.	Pn. Azalina binti Hamdi	Pengarah, Jabatan Operasi Setem & CKHT (JOSC)
6.	En. Mohamad Zain bin Mohamad Said	Pengarah Negeri Wilayah Persekutuan Kuala Lumpur
7.	En. Mohamad Fauzi bin Saat	Pengarah Negeri Wilayah Persekutuan Putrajaya
8.	Pn. Norhayati binti Mat Kassim	Pengarah Bahagian, Jabatan Operasi Cukai (JOC)
9.	En. Shaharrudy bin Othman	Pengarah Bahagian, Jabatan Dasar Percukaian (JDP)
10.	En. Chakngari @ Yusof bin Daud	Pengarah Bahagian, Jabatan Pematuhan Cukai (JPC)
11.	En. Marside @ Marsidi bin Julika @ Zelika	Pengarah Bahagian, Jabatan Pungutan Hasil (JPH)
12.	Pn. Nooriah binti Mohd Mainuri	Pengarah Bahagian, Jabatan Percukaian Antarabangsa (JPCA)

13.	En. Nor Azam bin Mohamad	Pengarah Bahagian, Jabatan Integriti Dan Pengurusan Risiko (JIPR)
14.	Pn. Rhyrita binti Sukiman	Pengarah Bahagian, Cawangan Cukai Multinasional
15.	Pn. Shifaak binti Md Amin	Pengarah Bahagian, Cawangan Pembayar Cukai Besar
16.	En. Syarein bin Abu Samah	Pengarah, Cawangan Tidak Bermastautin
17.	Pn. Nik Marzan binti Mohamad	Pengarah Seksyen, Cawangan Pembayar Cukai Besar
18.	Pn Dayangku Salawaty binti Awgku Dzulkarnain	Pengarah Seksyen, JOC
19.	Pn. Roshida binti Daud	Pengarah Seksyen, JOC
20.	Pn. Muna Liza binti Janis	Pengarah Seksyen, JPC
21.	Pn. Khairul Faizah binti. Abu Bakar	Pengarah Seksyen Pejabat Pengarah Negeri Selangor
22.	En. Norrizal bin Daldiri	Eksekutif Hasil Kanan I, JOC
23.	Pn. Suriyanti binti Esa	Eksekutif Hasil Kanan I, JOC
24.	En. Ahmad Nurul Lail bin Mohamad Salleh	Eksekutif Hasil Kanan I, JOC
25.	En. Ahmad Hafidz bin Mohamad Kassim	Eksekutif Hasil Kanan I, Jabatan Teknologi Maklumat (JTM)
26.	En. Mohd Rosli bin Ahmad Noor	Eksekutif Hasil Kanan I, JOSC
27.	En. Mohd Syazli bin Mokhtar	Eksekutif Hasil Kanan II Pegawai Khas TKPE (Operasi Percukaian)
28.	En. Mohd Zamri bin Basir	Eksekutif Hasil Kanan II, JOSC
29.	En. Noor Mohamad bin Zakariah	Penolong Eksekutif Hasil Kanan II, JOC (Urus Setia)
30.	Pn. Rosnie binti Yaacob	Penolong Eksekutif Hasil, JOC (Urus Setia)
31.	En. Jaffar bin Tukiran	Eksekutif Hasil Kanan II, JOC <b>(Setiausaha)</b>

**SENARAI KEHADIRAN BADAN PROFESIONAL DAN PENGAMAL PERCUKAIAN**

<b>BIL.</b>	<b>NAMA</b>	<b>ORGANISASI</b>
1.	En. Soh Lian Seng	CTIM
2.	En. Harvindar Singh	CTIM
3.	Pn. Agnes Wong Ling Lee	CTIM
4.	Pn. Carol Eng Hooi Ling	CTIM
5.	Pn. S Yamuna	CTIM
6.	Dr. Mohd Fairuz bin A. Razak	MATA
7.	En. Mohameed Faisal bin Syed Ibrahim	MATA
8.	En. Fan Kah Seong	MIA
9.	Pn. Rafidah binti Mohd Noor	MIA
10.	En. MB Gathani	Bekas Pegawai Hasil
11.	YBhg. Datuk Harpal	Bekas Pegawai Hasil
12.	Pn. Patricia Kam	Bekas Pegawai Hasil
13.	En. Alan Chung Ch'ung Yit	CPA Australia
14.	En. Mohd Azfar Asa'ad bin Mohd Sharawi Asa'ad Gopinath	CPA Australia
15.	Pn. Francine Maureen Roy	CPA Australia
16.	En. Tan Yu Yin	MICPA
17.	En. Woon Yoke Lee	MICPA
18.	En. Khaw Wei Seng	MICPA
19.	En. Tai Lai Kok	MICPA

## **1. PENDAHULUAN Pengerusi**

- 1.1. Pengerusi memulakan dengan ucapan salam, selamat pagi dan selamat datang kepada ahli-ahli mesyuarat yang terdiri daripada wakil-wakil badan profesional dan pengamal percukaian serta Pengarah-Pengarah Jabatan / Bahagian LHDNM atau wakil yang hadir ke sesi Dialog DESIRE bagi tahun 2022 setelah dua (2) tahun dialog tidak dapat dilaksanakan secara bersemuka akibat pandemik COVID-19.
- 1.2. Sesi dialog ini adalah bertujuan untuk menambahbaik sistem penyampaian perkhidmatan LHDNM kepada pembayar cukai dan mewujudkan ekosistem percukaian yang sihat. Pengerusi mengalu-alukan sebarang cadangan dan maklum balas dari badan-badan profesional dan pengamal percukaian berkaitan penambahbaikan prosedur operasi untuk meningkatkan mutu perkhidmatan LHDNM.
- 1.3. Dalam mesyuarat ini, isu-isu berkaitan operasi yang dikemukakan oleh badan profesional dan pengamal percukaian ini akan disemak dan dibuat penambahbaikan bagi melancarkan lagi operasi percukaian serta meningkatkan kecekapan sistem percukaian di samping memudahkan urusan percukaian di pihak pembayar cukai dan ejen cukai.

## **2. PERBINCANGAN ISU DAN MAKLUM BALAS LHDNM**

- 2.1. **Lampiran 1** – CTIM Memorandum on Compliance & Operational Issues
- 2.2. **Lampiran 2** – MIA-MICPA Joint Letter
- 2.3. **Lampiran 3** – CTIM Further Feedback and Comments on Form e-C 2022

## **3. PERKARA BERBANGKIT**

- 3.1. **Lampiran 4** – Soalan tambahan DESIRE

#### **4. PENUTUP**

- 4.1. Pengerusi memaklumkan bahawa LHDNM sentiasa bersedia menerima cadangan dan maklum balas terutamanya daripada badan-badan profesional dan pengamal percukaian dalam usaha meningkatkan mutu perkhidmatan LHDNM kepada pembayar cukai dan pelanggan. Malah LHDNM juga telah membuat perancangan untuk menyediakan lebih banyak perkhidmatan secara dalam talian bagi meningkatkan kemudahan akses secara efektif dan efisien oleh pembayar cukai dan pelanggan.
  
- 4.2. Pengerusi mengucapkan ribuan terima kasih kepada semua yang hadir atas penglibatan, input, cadangan dan maklum balas dalam dialog ini yang memberikan manfaat kepada kedua-dua belah pihak iaitu LHDNM serta badan-badan profesional dan pengamal percukaian. Sesi dialog ditamatkan pada jam 11:30 pagi.

Disediakan oleh:

**Sekretariat Dialog DESIRE LHDNM**

27 September 2022



# **MEMORANDUM ON COMPLIANCE AND OPERATIONAL ISSUES (DESIRE DIALOGUE 1/2022)**

**9 September 2022**

Prepared by:  
Compliance & Operations Working Group (COWG)  
Chartered Tax Institute of Malaysia

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## 1. Withholding (WHT) Form Submission & WHT Payment of Small Value for Transactions that Recur

We refer to HASiL's letter addressed to the Institute dated 12 August 2022 (see Appendix 1).

### 1.1 Refer to para 2 of the letter –

2. Lembaga Hasil Dalam Negeri Malaysia (LHDNM) telah menimbangkan cadangan Chartered Tax Institute of Malaysia (CTIM) bagi membenarkan penangguhan pengemukaan Borang Nyata Cukai dan juga pembayaran Cukai Pegangan bernilai kecil bagi memudah dan mengurangkan kos pematuhan. Cadangan telah dikemukakan dalam siri Mesyuarat PEMUDAH berhubung "Ease Of Paying Taxes". Sukacita dimaklumkan bahawa pengurusan LHDNM telah bersetuju dengan cadangan berkenaan dan penangguhan adalah dibenarkan bermula dari bulan Ogos 2022.

### CTIM comments:

We would like to seek confirmation on the following –

- Whether the implementation of this concession starts on 1 August 2022. Does the effective date refer to the date services are rendered (4A)/facility is used (royalty)?
- Whether it is applicable to:
  - a. WHT due in August 2022; or
  - b. Payments made to NR in August 2022

### Maklum Balas HASiL

Konsesi yang dibenarkan adalah berhubung penangguhan pengemukaan borang dan bayaran cukai pegangan bernilai kecil yang sepatutnya dibayar kepada HASiL dalam tempoh sebulan dari tarikh bayaran kepada penerima tidak bermastautin. Oleh itu, kelulusan penangguhan bermula 12 Ogos 2022 merujuk kepada transaksi bayaran kepada penerima tidak bermastautin di luar negara dari 1 Ogos 2022 yang tertakluk kepada cukai pegangan. Walau bagaimanapun, untuk manfaat pihak pembayar, **HASiL bersedia memperluaskan skop konsesi penangguhan kepada cukai pegangan yang sepatutnya dibayar dari 1 Ogos 2022 (sekiranya ada yang menangguhkan) jika memenuhi kriteria yang dinyatakan.**

**1.2 Refer to para 1 of the Rules attached to the letter –**

'Pembayar' merujuk kepada individu/badan yang bermastautin di Malaysia atau menjalankan perniagaan di Malaysia dan perlu meremitkan cukai pegangan terhadap sebarang bentuk bayaran perkhidmatan/khidmat nasihat/sewa harta mudah alih/royalti/faedah/kontrak yang dibayar kepada penerima tidak bermastautin.

Pembayar dikehendaki meremitkan kepada Lembaga Hasil Dalam Negeri Malaysia (LHDNM) cukai pegangan (sama ada atau tidak cukai dipotong) dalam tempoh 30 hari selepas tarikh bayaran dibuat/ dikreditkan kepada penerima tidak bermastautin.

**CTIM comments:**

- The contract payments generally fall under Section 107A which is out of scope for the application of this concession as per the above, we would suggest to remove the word "kontrak".
- We refer to the word 'body of resident', there is no clarification provided on the term 'body'.

It is also noted that 'body' is mentioned in the meaning of 'body of persons', 'company', 'statutory authority', and 'trust body' in Section 2 of the ITA 1967 but it is not clear whether all or some of the aforementioned are included.

We wish to seek clarification on whether the 'body of resident' refers to an unincorporated body, it also does not refer to the incorporated company.

- We would suggest to include the above clarification in the special WHT form which will be issued by HASiL.
- We would request that Guidelines be issued together with the special WHT Form for ease of compliance.
- The statutory due date is "within one month", we would suggest to amend it from "30 days" to "one month" in the letter.

**Maklum Balas HASiL**

Perenggan berkenaan definisi 'cukai pegangan' dan 'pembayar' yang dinyatakan hanyalah suatu penjelasan ringkas berkenaan cukai pegangan secara umum dan bukannya merujuk kepada skop konsesi penangguhan yang diberi. Definisi yang sama juga dipaparkan di Portal Rasmi HASiL. Skop konsesi adalah dinyatakan pada perenggan 2 Lampiran. Bagi mengelakkan kekeliruan, LHDNM akan mengeluarkan lampiran baru.

Pindaan akan dilakukan berhubung frasa tempoh pengemukaan dari '30 hari' kepada 'dalam tempoh sebulan'.

1.3 Refer to para 3 of the Rules attached to the letter –

**3. SYARAT KELAYAKAN**

Penundaan bayaran cukai pegangan bagi bayaran royalti, faedah dan pendapatan kelas khas boleh dibenarkan berdasarkan kriteria berikut:

- a) amaun bayaran cukai pegangan adalah bernilai kecil iaitu **amaun cukai pegangan bernilai tidak melebihi RM500 bagi sesuatu transaksi**, dan
- b) tertakluk kepada pembayar yang mengetahui bahawa **bayaran cukai pegangan berkenaan akan dilakukan sebanyak lebih dari sekali** dalam tempoh lanjutan dibenarkan contohnya dalam tempoh enam bulan berkenaan.

**CTIM comments:**

We wish to seek clarification on the following –

- "sesuatu transaksi" - does it refer to each payment made to the non-resident (NR), regardless of the gross amount due for a service rendered by the NR?
- "pegangan berkenaan" - does it refer to the same class of payment made to the same NR or does it includes the same class of payment made to another NR?
- What if the taxpayer is aware there will be repeated payments of WHT that do not happen due to unforeseen circumstances? Will a penalty be imposed?
- If taxpayers have a WHT amount less than RM500 but only incurred once a year or are not sure if taxpayers will incur again during the 6 months period or not, does that mean this deferment is not applicable and taxpayers still need to submit within one month although the amount is less than RM500?

**Maklum Balas HASiL**

“Sesuatu transaksi” merujuk kepada bayaran yang dilakukan kepada penerima tidak bermastautin yang tertakluk kepada pengenaan cukai pegangan. Bagi kelayakan konsesi ianya merujuk kepada bayaran yang dilakukan kepada pihak tidak bermastautin yang akan tertakluk kepada cukai pegangan bernilai tidak melebihi RM500.

“Bayaran cukai pegangan berkenaan” merujuk kepada amaun cukai pegangan bernilai tidak melebihi RM500 yang perlu dibayar kepada HASiL tanpa mengira sama ada ianya dibayar kepada penerima yang sama ataupun penerima yang berbeza.

Jika bayaran cukai pegangan bernilai rendah hanya dilakukan sekali berbeza dengan jangkaan awal, pembayar cukai perlu memberi penjelasan dan mengemukakan rayuan agar tidak dikenakan kenaikan 10% apabila mengemukakan borang. Bagi kesalahan pertama, pembayar boleh menunjukkan bukti pembayaran cukai pegangan bernilai kecil pada masa lalu yang dilakukan lebih dari sekali dalam tempoh enam bulan sebagai bukti. Untuk penilaian pada masa hadapan, HASiL akan menjadikan rekod penangguhan yang wujud pada tempoh sebelumnya sebagai panduan penilaian rayuan.

Bagi pembayar yang tidak menjangkakan akan melakukan bayaran cukai pegangan bernilai kecil lebih dari sekali dalam tempoh enam bulan, mereka dinasihatkan untuk mengemukakan borang dan bayaran cukai pegangan dalam tempoh sebulan selepas bayaran seperti biasa bagi mengelakkan pengenaan kenaikan.

1.4 Refer to para 5 of the Rules attached to the letter –

**5. PENGEMUKAAN BORANG NYATA DAN PEMBAYARAN CUKAI PEGANGAN**

Penangguhan dibenarkan bagi pengemukaan borang nyata cukai dan bayaran cukai pegangan bagi amaun cukai pegangan bernilai kecil yang tidak melebihi RM500 daripada keperluan pengemukaan tidak lewat dari 30 hari selepas transaksi bayaran kepada pengemukaan dan pembayaran sekali dalam setiap tempoh enam bulan iaitu:

- **Pada atau sebelum 30 Jun** bagi transaksi bayaran yang dilakukan kepada penerima tidak bermastautin antara **1 Disember tahun sebelum hingga 31 Mei** tahun semasa; dan
- **Pada atau sebelum 30 Disember** bagi transaksi bayaran yang dilakukan kepada penerima tidak bermastautin antara **1 Jun hingga 30 November** tahun semasa.

LHDNM akan menyediakan borang nyata Cukai Pegangan khas iaitu Borang CP37 (Cukai pegangan Seksyen 109) dan CP37D (Cukai pegangan Seksyen 109B) bagi kegunaan pihak pembayar.

**CTIM comments:**

- We wish to highlight that it should be 31 December instead of 30 December if the statutory due date of one month is calculated from 30 November.
- The above concession for a deferral of the WHT RF submission and the remittance of WHT to HASiL aims to simplify and reduce the compliance cost relating to WHT. However, the above proposed payment cycles [i.e. two WHT payments due on 30 June and 30 December as per the two bullet points (words in bold) shown in the above print screen] may still be perceived as a relatively tedious and costly approach to taxpayers with basis period ending on a date other than 30 November and wish to defer the WHT RF submission and the remittance of WHT to HASiL. This group of taxpayers would need to keep track of WHT remitted to HASiL under the above concession to determine whether a claim for deduction of the payments made to the NRs would be disallowed pursuant to Sections 39(1)(f) and 39(1)(j) of the ITA 1967. For example, a taxpayer with a basis period ending on 31 March would have three payment cycles for WHT due for payment transactions to NRs in the basis period as illustrated in the table below:

Basis Period	1st cycle (Yr 1)	1st WHT due	2nd cycle (Y1)	2nd WHT due	1st cycle (Yr 2)	1st WHT due
01.12.2022 – 30.11.2023	01.12.2022 – 31.05.2023	30.06.2023	01.06.2023 – 30.11.2023	30.12.2023		
01.04.2023 – 31.03.2024	<b>01.04.2023</b> – 31.05.2023	30.06.2023	01.06.2023 – 30.11.2023	30.12.2023	01.12.2023 – <b>31.03.2024</b>	30.06.2024

We urge the authority to consider allowing taxpayers' qualifying RF submissions and WHT remittances to be made once in every six months of the taxpayer's basis periods. For example, a taxpayer with a basis period ending on 31 March would only have two payment

cycles for WHT due for payment transactions to NRs in the basis period as illustrated in the table below:

Basis Period	1st cycle (Yr 1)	1st WHT due	2nd cycle (Y1)	2nd WHT due
01.04.2023 – 31.03.2024	<b>01.04.2023</b> – 30.09.2023	31.10.2023	01.10.2023 – <b>31.03.2024</b>	30.04.2024

## Maklum Balas HASiL

HASiL bersetuju meminda perenggan berkenaan kepada “**Pada atau sebelum 31 Disember**” bagi memenuhi tempoh pengemukaan dalam sebulan.

HASiL menganggap konsesi penangguhan pengemukaan borang dan bayaran cukai pegangan bernilai kecil daripada “dalam tempoh sebulan bayaran dilakukan” kepada “sekali dalam tempoh enam bulan iaitu sebelum atau pada 30 Jun dan 31 Disember” sebagai wajar kerana ianya bersesuaian dengan majoriti syarikat yang mempunyai tempoh asas berakhir 31 Disember. Pertimbangan untuk membenarkan pengemukaan berdasarkan tempoh asas setiap syarikat pula akan dilakukan jika wujud keperluan/permohonan.

## 2. Application of Tax Position

Generally, HASiL will provide a tax position upon receiving an application from the taxpayer. However, members have informed the Institute that certain branches have rejected the taxpayer’s application and requested the taxpayer to provide tax payment records for verification.

The following was extracted from HASiL's reply letter:-

- Untuk maklumat terperinci bagi kedudukan cukai syarikat, mohon semak maklumat tersebut di laman sesawang yang berikut <https://ez.hasil.gov.my> (butiran ID dan password dimiliki oleh pengarah syarikat jika pengarah telah mendaftar e-Filing Organisasi).

Setelah mengakses laman sesawang tersebut, terdapat maklumat di e-lejer yang menerangkan kedudukan terkini baki cukai, samada berbaki debit atau kredit.

- Namun, jika tuan/puan tidak dapat mengakses maklumat tersebut, mohon kerjasama tuan/puan untuk **mengemukakan dokumen berikut terlebih dahulu** sebelum pihak kami dapat memberikan sebarang pengesahan urusan percukaian:

- Pihak firma / wakil cukai dikehendaki **mengemukakan penyata percukaian pembayar cukai** berdasarkan rekod firma @ wakil cukai **terlebih dahulu** untuk pengesahan di pihak LHDNM.
- Pastikan ke semua dokumen di atas **dikemukakan tanpa sebarang kata laluan @ password** dan tidak dikemukakan secara berasingan.
- Saiz dokumen** yang dikemukakan mestilah **tidak melebihi 2 MB**.

- Jawapan @ maklum balas hanya akan diberikan apabila **semua dokumen di atas telah lengkap diterima** oleh pihak kami.

**CTIM comments:**

We would appreciate that if HASiL could provide the tax position to the taxpayer instead of requesting a statement of the tax payment transaction for verification.

**Maklum Balas HASiL**

HASiL telah menyediakan kemudahan semakan penyata kedudukan cukai melalui capaian e-Lejar di Portal MyTax HASiL. Aplikasi MyTax juga boleh dimuatnaik menerusi peranti mudah alih (handphone). Pembayar cukai digalakkan untuk mengakses e-Lejar menggunakan kemudahan MyTax (ID Individu atau Organisasi) untuk menyemak kedudukan cukai terkini dengan lebih mudah. Transaksi bayaran yang dilakukan akan dikemas kini ke e-Lejar dalam tempoh tiga (3) hari bekerja.

Pihak HASiL juga masih di peringkat kajian dan semakan perundangan bagi membenarkan ejen cukai menyemak kedudukan cukai pelanggannya secara dalam talian.

### 3. Electronic Submission of Information Requested by HASiL during an Audit

When HASiL requests certain information from the taxpayer in order to conduct an audit, it is noted that submission of the information is preferred via e-mail, the issue that persists is HASiL officer's email account has a certain size limit (i.e., each email should not exceed 15 MB). Consequently, the information emailed to HASiL has to be emailed over in several batches (which takes up more time). Sometimes, the taxpayer has to send over a dozen emails to HASiL officer.

There are cases where the HASiL officer suggested for the information to be emailed to them using their personal email account to circumvent this email size issue. However, this method is not preferred as it is not safeguarding the confidentiality of the taxpayer's information.

Some officers suggested the use of saving the information onto a USB pen drive or alternatively sending over a hard copy of the information. While these alternatives are workable, there may be a risk of the information being lost in transit, or having to incur unnecessary time to track the package.

The use of OneDrive is a possibility, but this method is not preferred by HASiL officers due to user restriction issues or the intended users having issues accessing the shared folder in OneDrive using the HASiL email addresses.

#### **CTIM comments:**

To ease the submission of the information requested by HASiL via electronic and while ensuring that the taxpayer's information is safeguarded, we would suggest the following –

- To consider not having an email size limit so that information can be emailed to HASiL without any issue.
- Alternatively, consider the use of other types of shared drives.

#### **Maklum Balas HASiL**

HASiL di peringkat akhir pembangunan fungsi muat naik dokumen sokongan audit melalui platform MITRS yang dijangka akan boleh digunakan mulai November 2022.

Pada ketika ini, HASiL akan menggunakan platform HASiL OneDrive bagi membolehkan pembayar cukai atau ejen cukai mengemukakan dokumen yang diminta oleh pegawai audit. Pautan bagi tujuan muat naik dokumen akan diberikan oleh pegawai audit kepada pembayar cukai yang berkenaan (berdasarkan permohonan dari pembayar cukai sekiranya menghadapi kesukaran mengemukakan dokumen yang bersaiz besar).

#### **4. Submission of Form CP21/Form CP22A**

##### **Under Section 83(3) –**

a notice of cessation of employment (Form CP22A) must be submitted within 30 days before the date of cessation of employment.

##### **Under Section 83(4) –**

the employer is exempted from submitting the notice of cessation if the employee has been subject to a monthly tax deduction or the employee's remuneration is below the taxable thresholds or the employee will continue working & is not retiring from employment.

##### **Under Section 83(4) –**

For foreign leavers, where an employee is about to leave Malaysia for a period exceeding 3 months, the employer is required to furnish Form CP21 not less than 30 days before the expected date of the employee's departure.

Failure to submit the notice of cessation where applicable, would mean that the employer is liable to a fine of not less than RM200 and not more than RM20,000 or to imprisonment for a term not exceeding 6 months or to both.

##### **a) Form CP21**

Previously, in practice, HASiL was not strict with the 30 days notice period prior to the employee's departure. In recent times, HASiL has been imposing a fine for every Form CP21 which is late. The HASiL has also revisited the Forms CP21 submitted in the earlier years of assessment in order to impose fines.

##### **CTIM comments:**

We would like to request whether HASiL can consider adopting the imposition of the fine for late submission of Form CP21 for taxpayers with valid reasons. Sometimes, the employer may not be aware that the employee (expatriate) will be transferred to another location until the very last minute.

##### **Maklum Balas HASiL**

Berdasarkan kepada senario tersebut, majikan perlu mengemukakan dokumen sokongan kepada cawangan yang mengendalikan fail majikan bagi mempertimbangkan rayuan ke atas penalti yang telah dikenakan.

##### **b) Form CP22A**

Where the exemption from notification is applicable, the employer would not have submitted Form CP22A for local leaver cases. However, there are cases where the employee meets the exemption requirement at the time of cessation but subsequently decides to leave the workforce. In such cases, HASiL has imposed fines on the employer for failure to notify the HASiL.

**CTIM comments:**

We would like to request whether HASiL can consider not to impose fines as long as the employer is able to show signed confirmation from the employee that the individual intends to continue being employed. Often, an exiting employee may not be transparent with the employer.

**Maklum Balas HASiL**

Pihak HASiL bersetuju untuk majikan mengemukakan dokumen pengesahan daripada pekerja bagi pemakluman akan bekerja dengan majikan baharu sebagai dokumen pembuktian kepada LHDNM sekiranya penalti dikenakan ke atas ketidakpatuhan pengemukaan CP22A.

**5. Comments on “CTIM Additional Feedback and Comments on Form e-C 2022 (2-2022)”**

We refer to item 10 as below:

**10. Declaration Section**

*[Refer to Issue No.8 - HASiL’s Responses on CTIM Feedback and Comments on Form e-C 2022 (revised 2 August 2022)]*

**CTIM comments on HASiL’s responses dated 2 August 2022**

DECLARATION	
1	<div style="display: flex; justify-content: space-between;"> <div style="border: 1px solid black; width: 40%; height: 20px;"></div> <div style="border: 1px solid black; width: 40%; height: 20px;"></div> </div> <p style="font-size: small;">Identification / Passport No * (* Delete whichever is not relevant)</p>
<p>hereby declare that this return form ** contains information that is true, correct and complete pertaining to the income tax of this company as required under the Income Tax Act 1967.</p>	
<input type="checkbox"/> 1 = This return form is prepared based on audited financial statements under the Companies Act 2016.	<input type="checkbox"/> 3 = This return form is prepared based on the liquidator's account in accordance with the requirements under the Companies Act 2016 (if item 6 = 3).
<input type="checkbox"/> 2 = This return form is prepared based on unaudited financial statements which are exempted under the Companies Act 2016.	
Date: <input style="width: 100px;" type="text"/> (dd/mm/yyyy)	Signature: <input style="width: 150px;" type="text"/>
Designation: <input style="width: 150px;" type="text"/>	

- i. Option 2 in the declaration section of the YA 2021 Form C was worded as "This return form is prepared based on unaudited accounts." As such, where a company is unable to get its audited accounts signed by the filing due date, but still wishes to submit its tax return, the company would select "Option 2".

Option 2 is also applicable to a Permanent Establishment ("PE") which is not registered with the Companies Commission of Malaysia, which would not have audited accounts for tax purposes. These scenarios would no longer fit into any of the above options in the YA 2022 Form C.

We understand that pursuant to the law, unless an audit exemption is granted, a company must submit its tax return based on signed audited accounts. However, it is not uncommon that the audited accounts could not be ready by the filing due date, due to various reasons.

**CTIM Comments:**

In these circumstances, we would like to seek clarification, particularly:

- a) Is the company permitted to submit its tax return for YA 2022 based on draft audited accounts, without audit exemption being granted?

**Maklum balas LHDNM:**

Borang C perlu dikemukakan berdasarkan penyata kewangan yang disediakan mengikut akta penubuhannya seperti peruntukan di bawah seksyen 77A. Bagi syarikat yang ditubuhkan di bawah Akta Syarikat 2016, borang C perlu dikemukakan berdasarkan akaun beraudit yang telah ditandatangani kecuali jika syarikat mendapat pengecualian di bawah akta syarikat 2016 dari mengemukakan akaun beraudit. Oleh itu, pengemukaan Borang C mestilah berdasarkan pilihan 1.

- b) If yes to Question 1, notwithstanding any penalties to be imposed, which option should the company select?

For the avoidance of doubt, we would like HASiL to consider adding a new Option 4 to cater to tax returns submitted based on draft audited accounts/management accounts (for a PE).

**Maklum balas LHDNM:**

Bagi syarikat yang ditubuhkan di bawah akta syarikat, borang C perlu dikemukakan berdasarkan akaun beraudit yang telah ditandatangani kecuali syarikat mendapat pengecualian di bawah akta syarikat 2016 dari mengemukakan akaun beraudit. Oleh itu pengemukaan Borang C mestilah berdasarkan pilihan 1.

Jika pengemukaan borang C tidak berdasarkan akaun beraudit, pengemukaan borang C tersebut adalah tidak sah.

The above response does not address the issue of a PE which is not registered with CCM. Kindly clarify.

**CTIM comments:**

In addition to the above submission for HASiL’s clarification, we would like to request HASiL to include i.e. the Labuan company incorporated under Labuan Companies Act 1990 which has elected to be taxed under ITA 1967.

**Maklum Balas HASiL**

Tiada peruntukan spesifik di dalam Akta Cukai Pendapatan 1967 bagi mewajibkan pengemukaan borang nyata berdasarkan akaun beraudit bagi PE yang tidak berdaftar dengan Suruhanjaya Syarikat Malaysia. Walau bagaimanapun, PE boleh dikehendaki untuk menyediakan akaun beraudit berdasarkan subseksyen 82(5) Akta Cukai Pendapatan 1967 apabila tindakan audit dijalankan.

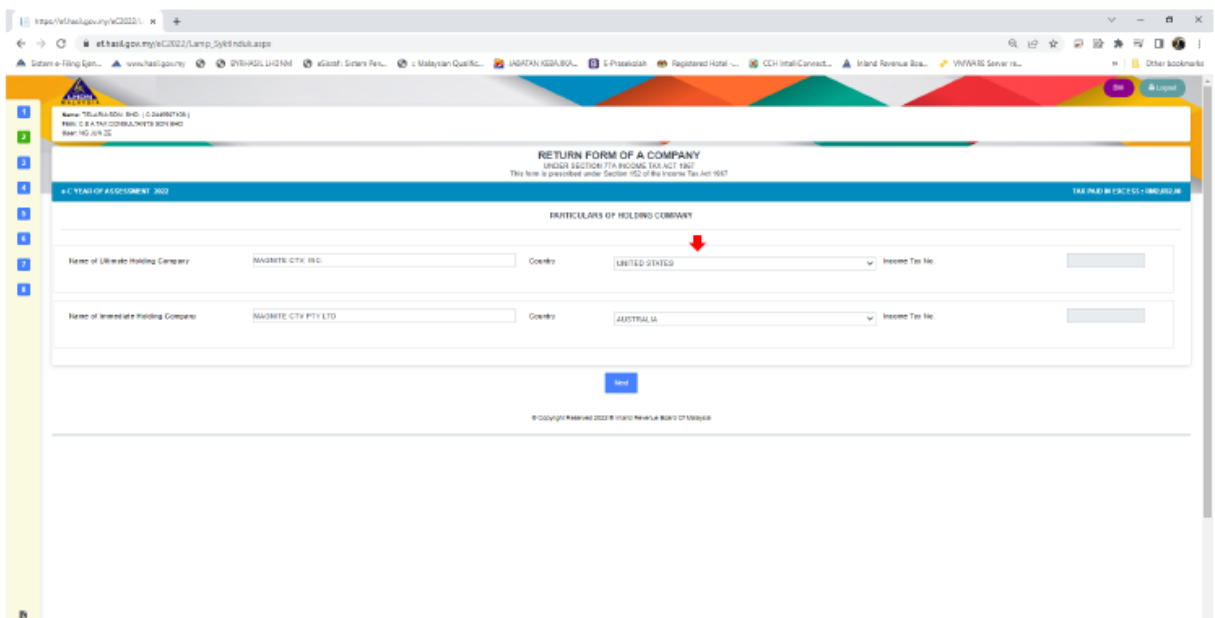
Sehubungan itu, bagi tujuan e-C 2022, PE dinasihatkan untuk memilih pilihan “2” sekiranya penyata kewangan beraudit tidak disediakan. Pilihan tambahan akan dipertimbangkan dalam reka bentuk Borang e-C 2023.

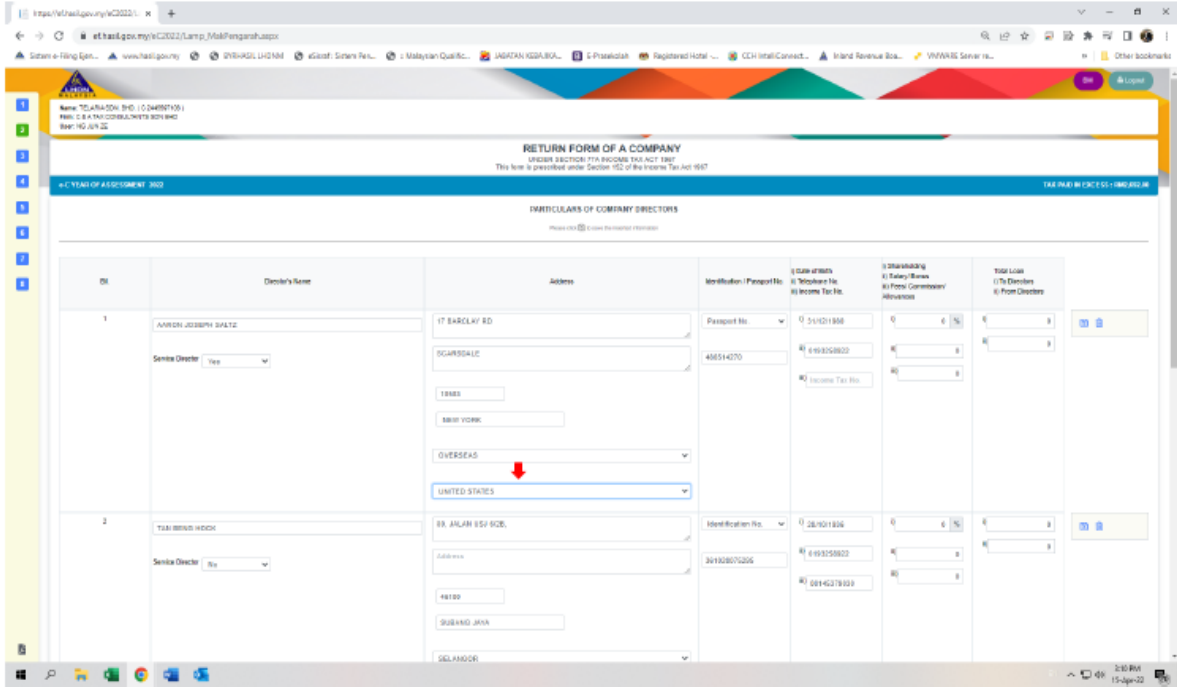
Pihak HASiL juga ambil maklum berhubung syarikat Labuan dan keperluan pindaan akan diambil kira dalam Borang C mulai tahun taksiran 2023. Pilihan pengemukaan sedia ada di Bahagian Akaun juga terpakai bagi syarikat yang diperbadankan di bawah Akta Syarikat Labuan 1990. Pemilihan perlu dilakukan berdasarkan akta penubuhannya.

**6. Form e-C 2022 - Particulars of Holding Company and Particulars of Directors**

When the taxpayer selects the country as “United States”, the generated PDF Form C shows it as “United States Minor Outlying Islands”.

When the taxpayer selects “United States Minor Outlying Islands”, the generated PDF Form C shows it as “United States”.





**NAME OF COMPANY : TELARIA SDN. BHD. INCOME TAX NO. : C 2445897106**

**OTHER EXPENSES**

Prospecting expenditure under Schedule 4  
 Pre-operational business expenditure under Schedule 4B  
 Permitted expenses under section 60F  
 Permitted expenses under section 60H  
**TOTAL**

**APPROVED DONATIONS / GIFTS / CONTRIBUTIONS**

Gift of money to the Government / State Government / local authority  
 Gift of money to approved institutions / organisations / funds  
 Gift of money for any sports activity approved by the Minister of Finance  
 Gift of money or cost of contribution in kind for any project of national interest approved by the Minister of Finance  
 Gift of money in the form of waqaf to any religious authority / religious body / public university or gift of money in the form of endowment to a public university  
 Gift of money for the provision of library facilities or to libraries  
 Gift of paintings to the National Art Gallery or any state art gallery  
**TOTAL**

**PARTICULARS OF HOLDING COMPANY**

F7a	Name of Ultimate Holding Company	Country	Income Tax No. (if Country = MY)
	MAGNITE CTV, INC.	United States <del>Minor Outlying Islands</del>	←
F7b	Name of Immediate Holding Company	Country	Income Tax No. (if Country Code = MY)
	MAGNITE CTV PTY LTD	Australia	

**DRAFT**

ATTACHMENT 2  
INCOME TAX NO. : C 2448297106

NAME OF COMPANY : TELARA SDN BHD

PARTICULARS OF COMPANY DIRECTOR												
NO	Director's Name	Service Director	Address	Identification / Passport No.	Date of Birth	Income Tax No.	Telephone No.	Sharehold ing (%)	Salary / Bonus (RM)	Fees / Commission / Allowance (RM)	Total Loan To Directors (RM)	Total Loan From Directors (RM)
1	AARON JOSEPH GALTZ	YES	17 BARKLEY RD, SCARSDALE, 10583, NEW YORK, United States Minor Outlying Islands	PASSPORT NO. 480814278	31/12/1980		819020802	0.00	0	0	0	0
2	TAN SENG HOCK	NO	03 JALAN USJ 2/2B, 48100, SUBANG JAYA, SELANGOR Malaysia	IDENTIFICATION NO. 341029075295	28/10/1938	00140379000	819020802	0.00	0	0	0	0
3	CHEW SAW CHING	NO	27, JALAN DESA KASIA, 20, DESA KASIA, BANDAR BARU NILAU, NEAJ, NEGERI SEMBILAN Malaysia	IDENTIFICATION NO. 550817315388	17/04/1965	00723426000	819020802	0.00	0	0	0	0

Printed on : 15-04-2022 05:12:32 TT2022 Page 2/3

**CTIM comments:**

We wish to highlight the above issue to HASiL to rectify it in the system.

**Maklum Balas HASiL**

Tindakan pembetulan telah diambil oleh pihak HASiL. Semakan juga menunjukkan paparan negara adalah betul dan teratur.

**7. Submission of CP204B**

The submission of CP204B can only be done manually via the HASiL counter at Bangi.

**CTIM comments:**

We would suggest that the submission of CP204B can be done via e-Filing.

**Maklum Balas HASiL**

Pihak HASiL dalam perancangan bagi pembangunan CP204B secara dalam talian.

## 8. e-TT System for TT, EFT, and IBG Payment Methods

- 8.1 We refer to the below information on e-Telegraphic Transfer Virtual Account [e-TT (VA)] in the HASiL's media release:



HASiL/2022/03/03 - 21

**PELAKSANAAN SISTEM e-TT BAGI KAEDAH BAYARAN SECARA  
TELEGRAPHIC TRANSFER (TT) / ELECTRONIC FUNDS TRANSFER  
(EFT) DAN INTERBANK GIRO (IBG)**

### CTIM comments:

We would suggest HASiL to issue the information as in the above Media Release bilingual (i.e., Bahasa Malaysia and English version) so that the overseas companies are also aware of such information and it will not affect the payment arrangements.

### Maklum Balas HASiL

HASiL ambil maklum berkenaan penyediaan kenyataan media dalam dwi-bahasa bagi kes-kes tertentu.

HASiL juga akan menyediakan maklumat pelaksanaan e-TT dalam Bahasa Inggeris dan dipaparkan di Portal Rasmi HASiL versi Bahasa Inggeris. Soalan khusus (*Frequently Asked Questions*) berhubung e-TT telah dimuat naik di Portal Rasmi HASiL.

- 8.2 **Comments on “HASiL's Responses to the CTIM Comments on FAQs on Implementation of e-TT System for TT EFT and IBG Payment Methods”**

We refer to Item 9(v) as below:

- v. The introduction of the VA account number and closure of the existing HASiL bank account has caught many taxpayers by surprise. Can HASiL consider a transition period where no penalties are imposed for late payment of taxes made via e-TT (i.e., income taxes, petroleum income taxes, compounds, taxes of public entertainers, withholding tax, RPGT)

**Maklumbalas LHDNM:**

LHDNM membenarkan pengecualian dari pengenaan kenaikan / penalti cukai lewat bayar terhadap kegagalan pembayar cukai bagi semua bayaran yang diterima lewat antara 16 – 30 April 2022.

**CTIM comments:**

It states that HASiL will grant exemption from imposition of penalties for payments made between 16 April 2022 – 30 April 2022, we wish to seek clarification –

- What if the payment is made between 1 April 2022 to 15 April 2022?
- The e-TT came into effect on 1 April 2022, should the period be 1 April 2022 – 30 April 2022?

**Maklum Balas HASiL**

Bayaran yang dilakukan antara 1 April 2022 hingga 15 April 2022 adalah dilakukan dalam tempoh dibenarkan (*due date*) bagi kebanyakan ansuran iaitu dibayar sebelum atau pada hari ke-15 kalendar bulanan. Tiada kenaikan dikenakan. Jika terdapat kelewatan bayaran disebabkan pelaksanaan e-TT bagi bayaran yang dilakukan antara 1 hingga 15 April 2022, pembayar boleh mengemukakan rayuan agar tidak dikenakan kenaikan lewat bayar.

Bayaran yang dilakukan antara 16 April hingga 30 April 2022 dianggap lewat dan diberikan pengecualian dari pengenaan kenaikan sebagai konsesi kerana April 2022 adalah bulan pertama pelaksanaan e-TT.

## **9. Identifying the Right Branch for the Taxpayer**

Currently, by typing the ROC number of a company, the tax agent will be able to obtain the tax file C number of a taxpayer. However, tax agents are not able to know which Branch this taxpayer belongs to. To find out which Branch a taxpayer belongs to, currently, the approach is to either contact HASiL call center or email via customer feedback. This situation also applies to employer E number filing.

**CTIM comments:**

We would request HASiL to review the above issue.

**Maklum Balas HASiL**

Cadangan penambahbaikan akan diambil kira dalam pembangunan Sistem TAeF2.0

## 10. Form C – PDF Files

Currently, after submitting Form C, when downloading the submission, it comes with 3 separate PDF files.

### CTIM comments:

We would suggest HASiL to combine this single submission proof into just 1 PDF file for easy retention and also when sent to taxpayers.

### Maklum Balas HASiL

Cadangan akan disemak semula dan diambil kira dalam pembangunan e-Borang yang akan datang.

## 11. Item 10(a) of Information on Controlled Transactions

We refer to item 10(a) of the “Information on Controlled Transactions” in the Guidebook of Form C 2022 as below:

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<b>10a.</b> <i>Are you a PE as defined under the TP Rules?</i>	<i>The Income Tax (Transfer Pricing) Rules 2012 (TP Rules) defines a Permanent Establishment (PE) as a fixed place of business of a particular person through which the business of the person is wholly or partly carried on or a fixed place of business of another person, through which the particular person makes supplies, in which case the permanent establishment shall be treated as a distinct and separate enterprise from its head office and related branches.</i> <i>Enter '1' if you are a PE. Enter '2' if you are not a PE.</i> <i>If yes, answer 10b below.</i>	-	-
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### CTIM comments:

We wish to seek clarification on whether HASiL is asking if the taxpayer is having a PE in Malaysia or having PE outside Malaysia.

### Maklum Balas HASiL

Pertanyaan tersebut adalah merujuk kepada pembayar cukai sekiranya ia beroperasi sebagai PE di Malaysia atau tidak.



IBU PEJABAT LEMBAGA HASIL DALAM NEGERI MALAYSIA  
JABATAN PUNGUTAN HASIL  
MENARA HASIL ARAS 15  
PERSIARAN RIMBA PERMAI  
CYBER 8, 63000 CYBERJAYA, SELANGOR  
TELEFON : 03-83138888 FAKS : 03-83137823

Rujukan Tuan:  
Rujukan Kami: LHDNM.AQ.B.600-14/1/13  
Tarikh: 12 Ogos 2022

Kepada  
Presiden Chartered Tax Institute of Malaysia (CTIM)  
B-13-2, Megan Avenue II,  
No. 12, Jalan Yap Kwan Seng,  
50450 Kuala Lumpur,  
Wilayah Persekutuan Kuala Lumpur

Tuan,

**PENANGGUHAN PENGEMUKAAN BORANG NYATA CUKAI DAN PEMBAYARAN  
CUKAI PEGANGAN BERNILAI KECIL**

Dengan hormatnya saya merujuk kepada perkara di atas.

2. Lembaga Hasil Dalam Negeri Malaysia (LHDNM) telah menimbang cadangan Chartered Tax Institute of Malaysia (CTIM) bagi membenarkan penangguhan pengemukaan Borang Nyata Cukai dan juga pembayaran Cukai Pegangan bernilai kecil bagi memudah dan mengurangkan kos pematuhan. Cadangan telah dikemukakan dalam siri Mesyuarat PEMUDAH berhubung "Ease Of Paying Taxes". Sukacita dimaklumkan bahawa pengurusan LHDNM telah bersetuju dengan cadangan berkenaan dan penangguhan adalah dibenarkan bermula dari bulan Ogos 2022.

3. Berikut disertakan Panduan/ Peraturan yang ditetapkan oleh LHDNM berhubung pelaksanaan penangguhan pengemukaan Borang Nyata dan Bayaran Cukai Pegangan bernilai kecil untuk makluman dan hebahan kepada ahli CTIM.

4. LHDNM berharap pelaksanaan penangguhan dapat dilaksanakan secara teratur dan Borang Nyata khusus akan dikeluarkan untuk digunakan oleh pembayar yang memilih untuk menangguhkan pengemukaan dan pembayaran cukai pegangan.

Sekian, Terima kasih.

"BERKHIDMAT UNTUK NEGARA"  
"BERSAMA MEMBANGUN NEGARA"  
"ORGANISASI BERIKTIRAF MS ISO 9001:2015"

  
(AZZOL BIN AHMAD)  
Pengarah  
Jabatan Pungutan Hasil  
Lembaga Hasil Dalam Negeri Malaysia



**PERATURAN BERHUBUNG PENANGGUHAN PENGEMUKAAN BORANG NYATA  
CUKAI DAN PEMBAYARAN CUKAI PEGANGAN BERNILAI KECIL**

**1. PENDAHULUAN**

Cukai pegangan merupakan tanggungan cukai yang dikenakan kepada penerima pendapatan yang bermastautin di luar Malaysia berhubung terimaan pendapatan yang berpunca dari dalam Malaysia (derived from Malaysia) melibatkan beberapa kategori pendapatan. Cukai Pegangan merupakan amaun yang dipegang oleh pembayar terhadap pendapatan yang diterima oleh penerima bukan pemastautin (individu/badan selain individu) dan perlu dibayar kepada Lembaga Hasil Dalam Negeri Malaysia.

'Pembayar' merujuk kepada individu/badan yang bermastautin di Malaysia atau menjalankan perniagaan di Malaysia dan perlu meremitkan cukai pegangan terhadap sebarang bentuk bayaran perkhidmatan/khidmat nasihat/sewa harta mudah alih/royalti/faedah/kontrak yang dibayar kepada penerima tidak bermastautin.

Pembayar dikehendaki meremitkan kepada Lembaga Hasil Dalam Negeri Malaysia (LHDNM) cukai pegangan (sama ada atau tidak cukai dipotong) dalam tempoh 30 hari selepas tarikh bayaran dibuat/ dikreditkan kepada penerima tidak bermastautin.

Dalam mesyuarat Jawatankuasa PEMUDAH 'Ease of Paying Taxes' Bil 4/2021, cadangan dikemukakan agar pembayaran cukai pegangan melibatkan amaun yang kecil ditangguhkan bagi tempoh tertentu contohnya enam bulan sekali berbanding peraturan semasa yang menetapkan bayaran cukai pegangan dalam tempoh 30 hari dari tarikh bayaran dilakukan kepada pihak tidak bermastautin. Ianya bagi memudahkan bayaran cukai dan mampu mengurangkan kos pematuhan.

**2. KATEGORI CUKAI PEGANGAN TERLIBAT**

Kategori cukai pegangan yang terlibat adalah seperti berikut:

- a) Cukai pegangan melibatkan pendapatan faedah atau royalti dibayar kepada penerima tidak bermastautin (Seksyen 109, ACP 1967)
- b) Cukai pegangan melibatkan pendapatan tertentu kelas khas dibayar kepada penerima tidak bermastautin (Seksyen 109B, ACP1967)

**3. SYARAT KELAYAKAN**

Penundaan bayaran cukai pegangan bagi bayaran royalti, faedah dan pendapatan kelas khas boleh dibenarkan berdasarkan kriteria berikut:

- a) amaun bayaran cukai pegangan adalah bernilai kecil iaitu **amaun cukai pegangan bernilai tidak melebihi RM500 bagi sesuatu transaksi**, dan
- b) tertakluk kepada pembayar yang mengetahui bahawa **bayaran cukai pegangan berkenaan akan dilakukan sebanyak lebih dari sekali dalam tempoh lanjutan** dibenarkan contohnya dalam tempoh enam bulan berkenaan.

**4. PENANGGUHAN DIBENARKAN**

Bagi kemudahan pihak pembayar, pengemukaan borang nyata dan bayaran cukai pegangan bernilai kecil boleh dilakukan sekali dalam setiap tempoh enam bulan.

**5. PENGEMUKAAN BORANG NYATA DAN PEMBAYARAN CUKAI PEGANGAN**

Penangguhan dibenarkan bagi pengemukaan borang nyata cukai dan bayaran cukai pegangan bagi amaun cukai pegangan bernilai kecil yang tidak melebihi RM500 daripada keperluan pengemukaan tidak lewat dari 30 hari selepas transaksi bayaran kepada pengemukaan dan pembayaran sekali dalam setiap tempoh enam bulan iaitu:

- **Pada atau sebelum 30 Jun** bagi transaksi bayaran yang dilakukan kepada penerima tidak bermastautin antara **1 Disember tahun sebelum hingga 31 Mei** tahun semasa; dan
- **Pada atau sebelum 30 Disember** bagi transaksi bayaran yang dilakukan kepada penerima tidak bermastautin antara **1 Jun hingga 30 November** tahun semasa.

LHDNM akan menyediakan borang nyata Cukai Pegangan khas iaitu Borang CP37 (Cukai pegangan Seksyen 109) dan CP37D (Cukai pegangan Seksyen 109B) bagi kegunaan pihak pembayar.

## NON-TECHNICAL TAX COMPLIANCE AND OPERATIONAL ISSUES

## Appendix

No.	Type of Non-Technical Tax Compliance / Operational Issue (i.e. e-Filing issues, Response Time on Live Chat)	Facts and details of the issue	Suggestion / Recommendation to address issue	Maklum Balas HASiL
1.	Electronic submission of information requested by the IRB during an audit	<p>It is noted that while submission of the information requested to the IRB via e-mail is preferred, the issue still persists that IRB officer's email account have a certain size limit (i.e. each email should not exceed 15 MB). Consequently, the information emailed to the IRB have to be emailed over in several batches (which takes up unnecessary time). Sometimes, this can mean having to send over a dozen emails to the IRB officer.</p> <p>We have cases whereby the IRB officer suggested for the information to be emailed to them using their personal email account to circumvent this email size issue. However, this method is not preferred as it is not safeguarding the confidentiality of the taxpayer's information.</p> <p>Some officers suggested the use of saving the information onto a USB pen drive or alternatively</p>	To ease the submission of information requested by the IRB via electronic means, while ensuring that taxpayer's information is safeguarded, we would suggest for the IRB to consider not having an email size limit so that information can be emailed to the IRB in one go.	<p>HASiL di peringkat akhir pembangunan fungsi muat naik dokumen sokongan audit melalui platform MITRS yang dijangka akan boleh digunakan mulai November 2022.</p> <p>Pada ketika ini, HASiL akan menggunakan platform HASiL OneDrive bagi membolehkan pembayar cukai atau ejen cukai mengemukakan dokumen yang diminta oleh pegawai audit. Pautan bagi tujuan muat naik dokumen akan diberikan oleh pegawai audit kepada pembayar cukai yang berkenaan (berdasarkan permohonan dari pembayar cukai sekiranya menghadapi kesukaran mengemukakan dokumen yang bersaiz besar).</p>

		<p>sending over a hard copy of the information. While these alternatives are workable, there may be a risk of the information being lost in transit, or having to incur unnecessary time to track the package.</p> <p>The use of OneDrive is a possibility, but we understand that this method is not preferred by the IRB officers due to user restriction issues or the intended users having issues accessing the shared folder in OneDrive using the IRB email addresses.</p>		
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26 September 2022

BY E-MAIL

**Puan Norhayati Binti Mat Kassim**

Deputy Director, Tax Operations Department  
Headquarters Inland Revenue Board of Malaysia  
Level 12, Hasil Tower  
Persiaran Rimba Permai  
Cyber 8, 63000 Cyberjaya  
Selangor

Dear Pn Norhayati,

**CTIM Further Feedback and Comments on Form e-C 2022 (3/2022)**

We are pleased to submit the attached *CTIM Further Feedback and Comments on Form e-C 2022 (3-2022)*, prepared by the CTIM Compliance and Operations Working Group (COWG) for the Inland Revenue Board of Malaysia's consideration.

If further clarification is needed, the Institute would be pleased to engage in a discussion with your goodself and the team on these matters.

We look forward to your favourable response to the issues raised in the Paper.

Thank you.

Yours faithfully,

**CHARTERED TAX INSTITUTE OF MALAYSIA**



**Harvindar Singh**

**Chairman of CTIM Compliance and Operations Working Group**

Enclosure.

---

Cc

Datuk Dr. Sotimin B. Muhalip  
Chief Executive Officer Office (Tax Operation)  
Headquarters Inland Revenue Board of Malaysia  
Level 18, Hasil Tower  
Persiaran Rimba Permai  
Cyber 8, 63000 Cyberjaya  
Selangor

Encik Hisham Bin Rusli  
Director, Tax Operations Department  
Headquarters Inland Revenue Board of Malaysia  
Level 12, Hasil Tower  
Persiaran Rimba Permai  
Cyber 8, 63000 Cyberjaya  
Selangor



**CTIM FURTHER  
FEEDBACK AND COMMENTS  
ON FORM e-C 2022  
(3/2022)**

**26 September 2022**

Prepared by:  
Compliance & Operations Working Group (COWG)  
Chartered Tax Institute of Malaysia

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# CTIM Additional Feedback on Form e-C 2022

## 1. Form e-C YA 2022 - TAeF System

We refer to Form e-C for YA 2022. It is noted that HASiL's TAeF system now allows tax agents to download drafts and submitted tax returns in the English version. However, we would like to provide feedback as follows:

- a) If tax agents did not download the English version at the time of submission, but try to retrieve the submitted tax return from "semakan pengesahan", only the Malay version is available.
- b) The attachment on "notification as a reporting / non-reporting entity" is in the Malay version, even though we downloaded the English version.

### CTIM Comments:

We would like to highlight the above issues to HASiL to update/rectify the system.

### Maklum Balas HASiL

- a) Versi Bahasa yang dipaparkan pada lampiran Semakan Pengesahan, Salinan e-Borang dan salinan Lampiran e-Filing adalah berdasarkan versi Bahasa yang dipilih semasa pengemukaan borang secara e-Filing. Sekiranya semasa pengemukaan borang dibuat, versi Bahasa yang dipilih ialah Bahasa Melayu, pembayar cukai tidak boleh menukar atau memuat naik dokumen yang berkaitan dalam versi Bahasa Inggeris dan sebaliknya.
- b) Tindakan pembetulan pada sistem e-Filing telah diambil di mana sekiranya versi Bahasa yang dipilih ialah Bahasa Melayu, lampiran *notification as a reporting / non-reporting entity* juga akan dipaparkan dalam versi Bahasa Melayu dan sebaliknya. Sekiranya pengemukaan borang telah dibuat, penukaran Bahasa bagi tujuan cetakan atau muatnaik dokumen adalah tidak dibenarkan.

# CTIM Comments on HASiL's Responses on CTIM Feedback and Comments on Form e-C 2022

## 2. Item F8 - Information on controlled transactions

*[Refer to Item 4(ii) Part A – Item 2b, Item 3b, 4b - HASiL's Responses on CTIM Feedback and Comments on Form e-C 2022 (revised 2 August 2022)]*

**CTIM comments on HASiL's responses dated 2 August 2022**

2b.	<i>Characterization of manufacturing activity</i>	<i>Select the character of the manufacturing activity performed by the company.</i> 1 = Toll manufacturer 2 = Contract manufacturer 3 = Full-fledge manufacturer 4 = Others	-	-
3b.	<i>Characterization of distribution activity</i>	<i>Select the character of the distribution activity performed by the company</i> 1 = Full-fledge distributor 2 = Commissionaire distributor 3 = Agent distributor 4 = Limited risk distributor 5 = Licensed distributor 6 = Others	-	-
4b.	<i>Characterization of service activity</i>	<i>Select the character of the service activity performed by the company</i> 1 = Management service provider 2 = IT service provider 3 = Treasury 4 = Others	-	-

- b) Kindly provide a detailed explanation for the respective terms of the characteristics stated on Form C manufacturing/distribution/service activity and etc. for further reference.

Maklum balas LHDNM:

IRBM will update further explanation on the characteristics such as manufacturing, distribution or service activity in the Company Return Form Guidebook 2022.

### CTIM comments:

We refer to the above requirement to indicate the categorisation of the taxpayer such as contract manufacturer/toll manufacturer/others etc. We would like to request HASiL to remove this requirement.

### Maklum Balas HASiL

Keperluan maklumat tersebut dikekalkan dalam Borang C 2022.

HASiL akan mempertimbangkan agar pembayar cukai yang perlu menyediakan Transfer Pricing Documentatation (TPD) sahaja yang perlu mengisi F8 (Lampiran) - Part A: Company Information termasuk Item (2b), 3(b) dan 4(b). Perkara ini akan dijelaskan dengan lebih lanjut dalam Buku Panduan Borang C 2022.

### 3. Declaration Section

[Refer to Item 10 - HASiL's Responses to CTIM Additional Feedback and Comments on Form e-C 2022 (2-2022) dated 9 September 2022]

#### **CTIM comments on HASiL's responses dated 9 September 2022**

A verbal clarification was sought in response to item 10 of HASiL's response on 9 September 2022 which appears unclear, especially in the 3rd sentence as below:

For the avoidance of doubt, we would like HASiL to consider adding a new Option 4 to cater to tax returns submitted based on draft audited accounts/management accounts (for a PE).

**Maklum balas LHDNM:**  
Bagi syarikat yang ditubuhkan di bawah akta syarikat, borang C perlu dikemukakan berdasarkan akaun beraudit yang telah ditandatangani kecuali syarikat mendapat pengecualian di bawah akta syarikat 2016 dari mengemukakan akaun beraudit. Oleh itu pengemukaan Borang C mestilah berdasarkan pilihan 1.

Jika pengemukaan borang C tidak berdasarkan akaun beraudit, pengemukaan borang C tersebut adalah tidak sah.

The above response does not address the issue of a PE which is not registered with CCM. Kindly clarify.

**Maklum Balas HASiL 9/9/2022 :**  
Syarikat asing yang menjalankan perniagaan di Malaysia adalah tertakluk kepada seksyen 561 dan seksyen 562 Akta Syarikat 2016.

Di bawah seksyen 77A(4) ACP 1967 pula syarikat perlu mengemukakan borang nyata berdasarkan penyata kewangan yang disediakan mengikut akta penubuhannya.

Jesteru itu, PE di Malaysia perlu mengemukakan Borang C berdasarkan penyata kewangan beraudit mengikut ketetapan akta penubuhan PE di Malaysia atau syarikat induknya.

Pegemukaan berdasarkan akaun pengurusan adalah tidak sah dan tertakluk kepada seksyen 112(3). Dengan itu, pilihan di Bahagian Akaun borang C adalah kekal.

A PE in Malaysia which is not registered with the Companies Commission of Malaysia (CCM) is allowed to select option 1 in the declaration part in the Form e-C 2022 if the submission of Form C is based on the Head Office audited financial statements prepared in accordance with the written law of the respective jurisdiction.

DECLARATION	
I <input style="width: 100%;" type="text"/>	Identification / Passport No * (* Delete whichever is not relevant) <input style="width: 100%;" type="text"/>
<p>hereby declare that this return form ** contains information that is true, correct and complete pertaining to the income tax of this company as required under the Income Tax Act 1967.</p>	
<p>** <input type="checkbox"/> 1 = This return form is prepared based on audited financial statements under the Companies Act 2016.</p> <p><input type="checkbox"/> 2 = This return form is prepared based on unaudited financial statements which are exempted under the Companies Act 2016.</p>	<p><input type="checkbox"/> 3 = This return form is prepared based on the liquidator's account in accordance with the requirements under the Companies Act 2016 (If item 6 = 3).</p>
Date: <input style="width: 150px;" type="text"/> (dd/mm/yyyy)	Signature: <input style="width: 200px;" type="text"/>
Designation: <input style="width: 300px;" type="text"/>	

**CTIM comments:**

1. We would like to request HASiL to reconsider options under the “declaration section” of the Form e-C 2022 by including an option under Option 4 that ***“This return is based on financial statements prepared in accordance with any other written law”***.
  
2. With regard to a PE which is not registered with the CCM, we understand from the 3<sup>rd</sup> sentence of HASiL’s response that a PE in Malaysia may submit Form C based on the Head Office audited financial statements prepared in accordance with the written law of the respective jurisdiction.  
  
This shall include a “segment reporting” (i.e., a reporting of the operating segments of a company in the disclosures accompanying its financial statements) on the PE or the financial statements of the PE which has been audited in accordance with the written law of the respective jurisdiction.  
  
In this scenario, the PE may select option 1 in the “declaration section” of Form e-C 2022. Kindly confirm.
  
3. In the situation where the financial statements of the PE have not been audited but the P&L of the PE has been drawn up and it forms part of the Head Office statutory audited account for the period, the PE may select option 1 in the “declaration section” of Form e-C 2022. Kindly confirm.

### **Maklum Balas HASiL**

Maklum balas HASiL bagi soalan 5 dalam Memorandum CTIM bertarikh 9/9/2022 adalah berkenaan.

Tiada peruntukan spesifik di dalam Akta Cukai Pendapatan 1967 bagi mewajibkan pengemukaan borang nyata berdasarkan akaun beraudit bagi PE yang tidak berdaftar dengan Suruhanjaya Syarikat Malaysia. Walau bagaimanapun, PE boleh dikehendaki untuk menyediakan akaun beraudit berdasarkan seksyen 82(5) Akta Cukai Pendapatan 1967 apabila tindakan audit dijalankan.

Sehubungan itu, bagi tujuan e-C 2022, PE dinasihatkan untuk memilih pilihan “2” sekiranya penyata kewangan beraudit tidak disediakan. Pilihan tambahan akan dipertimbangkan dalam reka bentuk Borang e-C 2023.

## ADDITIONAL ISSUES FOR DESIRE

No.	Type of Non-Technical Tax Compliance / Operational Issue	Facts and Details of the Issue	Suggestion / Recommendation to address issue	Maklum Balas HASiL
1.	Issuance of Form CP205 with Backdated Instalment Scheme	<p>Presently, the submission of CP204B can only be done manually and the IRB officer from Pusat Pemprosesan Maklumat will process the Form manually and subsequently, will issue a Form CP205 with a revised instalment scheme to the relevant taxpayer.</p> <p>There are several occasions happened such as the following illustration:-</p> <ol style="list-style-type: none"> <li>1) Form CP204B was submitted on 1<sup>st</sup> September 2022.</li> <li>2) Form CP205 was issued by the IRB on 27<sup>th</sup> September 2022 but with a revised instalment scheme (with a higher amount) to be applied retrospectively to</li> </ol>	<p>The Institute wishes to suggest to the IRB to issue the Form CP205 with a new revised instalment scheme which will be due for payment effective in the immediately succeeding month of the date of the Form CP205.</p> <p>In this illustration, the revised amount should be effective from October 2022 instalment payment and not backdated to September 2022 instalment payment.</p>	<p>HASiL bersetuju untuk menyemak semula tarikh mula bayaran kepada bulan berikutnya sekiranya tarikh proses dilakukan selepas 15hb.</p>

		<p>the instalment payment due by 15<sup>th</sup> September 2022.</p> <p>Due to late issuance and receipt of the Form CP205, the taxpayer might be penalised for 10% late payment penalty in respect of the instalment payment for the month of September 2022.</p>		
2.	Application for Tax Credit Utilisation Arising from Deemed Assessment	<p>It is noted that Pusat Pemprosesan Maklumat will only run batch update of the income tax return forms submitted by taxpayers via e-filing on weekly basis.</p> <p>There are incidents happened where the IRB officers from Collection Branch could not processed taxpayers' application for tax credit utilisation due to the tax credit for deemed assessment has yet to be "deemed" or updated in the IRB's system even though an acknowledgement slip of the tax return form has been submitted</p>	The Institute wishes to suggest to the IRB to run the batch update in respect of the tax return forms filed via e-filing on daily basis instead of weekly basis pending the IRB upgrade their internal system.	HASiL sedang dalam perancangan penambah-baikkan ke atas sistem untuk membolehkan data diproses secara masa nyata ( <i>realtime</i> ).

		to prove that there is a tax credit in the account with the IRB.		
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