



Tax Chat

Vol. 12/2019 December

Audit / Tax / Advisory

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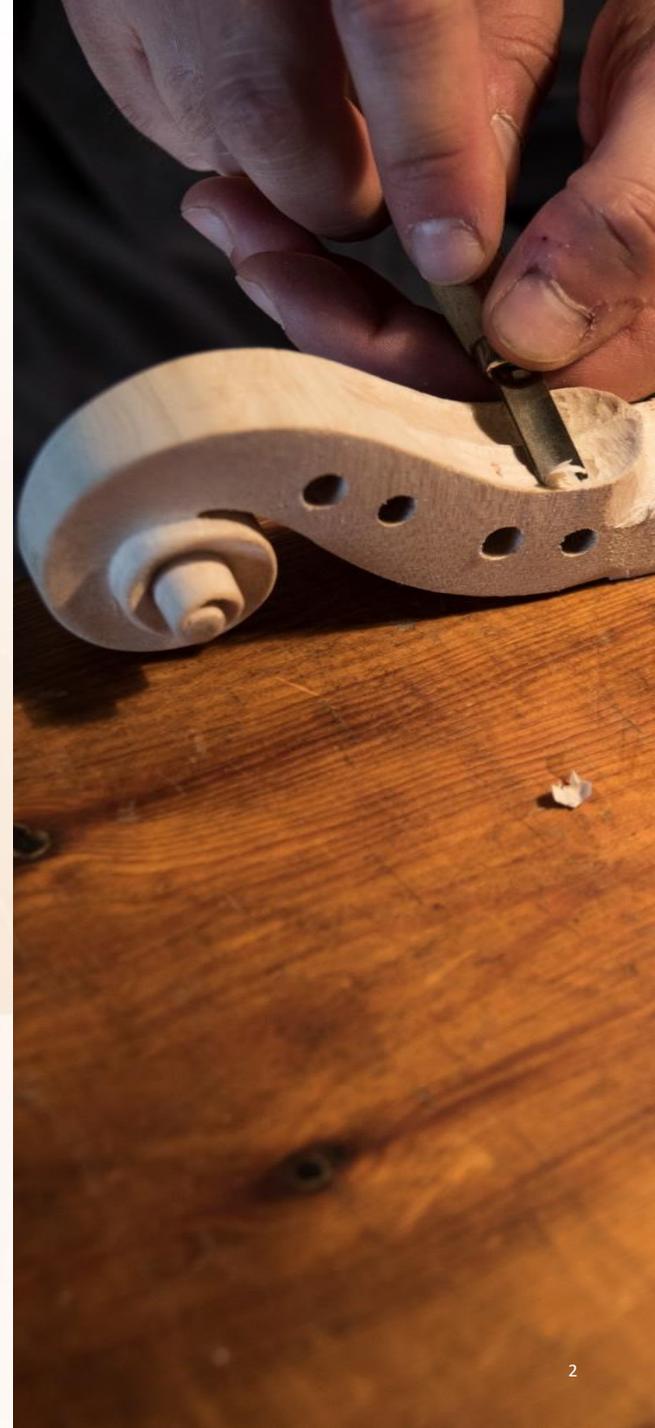
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PR4/2019 – Tax Treatment of Wholly and Partly Irrecoverable Debts and Debt Recoveries

PR4/2019 – Tax Treatment of Wholly and Partly Irrecoverable Debts and Debt Recoveries

The Inland Revenue Board of Malaysia (IRBM) issued [PR4/2019 – Tax Treatment of Wholly and Partly Irrecoverable Debts and Debt Recoveries](#) on 24 September 2019 to replace PR 1/2002 – Deduction for Bad & Doubtful Debts and Treatment of Recoveries.

The objective of this PR is to explain the tax treatment of –

- wholly and partly irrecoverable debts as a deduction against gross income of a person from a business for the basis year for a year of assessment (YA); and
- recoveries of wholly and partly irrecoverable debts where a deduction has been made in ascertaining the adjusted income for an earlier YA.

There are no significant changes in the new PR as compared to the old PR except for some minor changes to the examples and updates to a few definitions of some key terms. One of the salient changes to the key terms is as follows:

The definition and explanation of “bad debt” is streamlined with the provisions of Section 34(1), 34(2) and 34(3) of the Income Tax Act, 1967 (ITA). Hence, a debt should be irrecoverable and the amount of debt should be included in the gross income of the person for the basis period for a YA prior to the relevant YA in order to qualify for tax deductions.

PR5/2019 – Perquisites from Employment

PR5/2019 – Perquisites from Employment

[PR5/2019 – Perquisites from Employment](#) was issued on 19 November 2019 to explain the tax treatment on perquisites received by an employee when having or exercising an employment in Malaysia. This new PR replaces the earlier PR2/2013 - Perquisites from Employment which was published on 28 February 2013.

“Perquisites”, in relation to an employment, means benefits in cash or in kind that are convertible into money received by an employee from the employer or third parties in respect of having or exercising the employment.

The main changes identified in this new PR are as follows:

- ❖ Clarification that “gift of personal computers” will include tablets. Therefore, where an employee receives a gift of a personal computer (including a tablet), the market value will be taxed as a perquisite to the employee.
- ❖ Payment in lieu of notice or buy-out payment made either through reimbursement to the new employee or direct payment to the previous employer must be treated as gross income from employment under paragraph 13(1)(a) of the ITA. Furthermore, the new employer is required to take into account this type of payment in the calculation of the new employee’s monthly tax deduction.
- ❖ Limitation of exemption for gifts and monthly bills for fixed line telephone, mobile phone, tablet, pager, personal digital assistant (PDA) and subscription of broadband (registered under the employee’s name) to only one (1) unit for each category of asset.

PR6/2019 – Tax Treatment on Expenditure for Repairs and Renewals of Assets

PR6/2019 – Tax Treatment on Expenditure for Repairs and Renewals of Assets

Business owners often incur various types of repair expenditure when conducting their business activities. However, confusion always arises as to the nature of repair expenses which are allowed for tax deductions.

The IRBM issued [PR6/2019 – Tax Treatment on Expenditure for Repairs and Renewals of Assets](#) on 26 November 2019 to explain the tax treatment on expenditure for repair and renewal of an asset.

The important highlights of PR6/2019 are as follows:

- ❖ As there is no definition for the word “repair” in the ITA, the PR provides that the word “repair” means to restore (*a composite, structural and others**) to good condition by renewing or replacing the damaged parts.
* *this is the wording in the PR (sic)*
- ❖ The following is a summary of the tax treatment of repair expenses as provided in the PR:

REPAIRS	
Revenue expenditure (allowed as a deduction)	Capital expenditure (not allowed as a deduction)
Repair which restores an asset to its existing condition	Repairs or replacement with an element of improvement or renewal to the assets / altering the original condition of the assets
Repairs which allow businesses to continue	Initial expenditure or repairs on assets immediately after an asset is acquired
Replacement of part of the entire asset	Replacement of the entire asset (entirety)
Replacement and renewals of implements, utensils or articles that have an expected life span of not more than two (2) years	

Transfer Pricing Audit Framework 2019

Transfer Pricing Audit Framework 2019

The IRBM issued the Transfer Pricing Audit Framework 2019 on 15 December 2019 (TPAF 2019). The TPAF 2019 supersedes the Transfer Pricing Audit Framework issued on 1 April 2013.

The TPAF 2019 sets out the various administrative procedures expected from the taxpayer and the IRBM in the event a taxpayer is being selected for a transfer pricing audit. Amongst others:

- ❖ Procedures for desk audit and field audit;
- ❖ Documentation required to be submitted to the IRBM prior to commencement of audit;
- ❖ Duration and scope of audit;
- ❖ Procedures for finalisation of audit findings;
- ❖ Appeal procedures;
- ❖ Procedures for voluntary disclosure;
- ❖ Rights and responsibilities of the stakeholders (namely the IRBM, taxpayers and tax agents); and
- ❖ Penalty rates.

Click [HERE](#) for the full version of the TPAF 2019 which is available in Bahasa Malaysia only.

Transfer Pricing Audit Framework 2019

Transfer Pricing Audit Approach

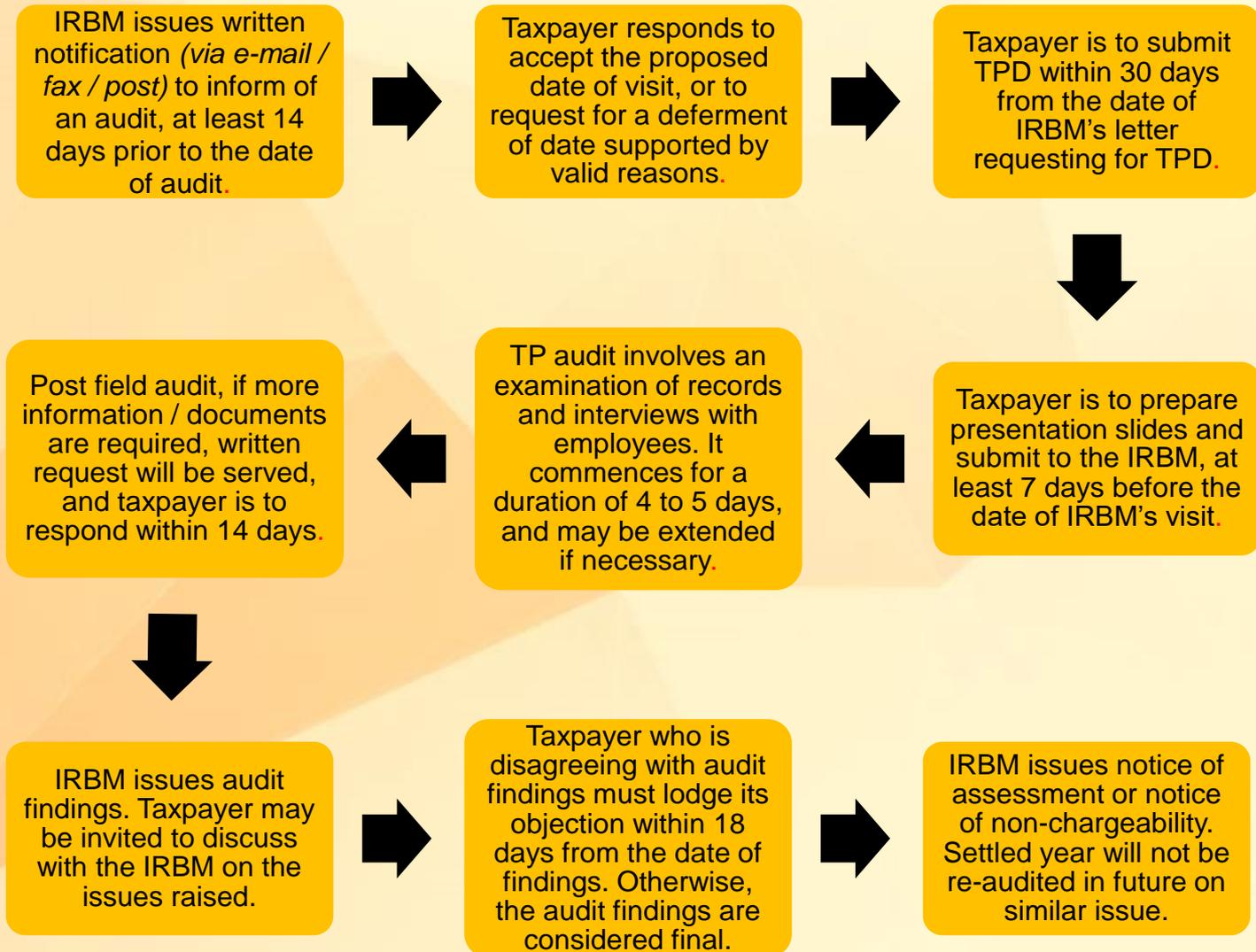
The TPAF 2019 specifies that the IRBM's transfer pricing audits shall be conducted in accordance with the requirements under:

	Section 140A of the ITA	requires controlled transactions to be conducted based on the arm's length principle.
	Income Tax (Transfer Pricing) Rules 2012	prescribes the information and documents to be prepared by taxpayers in supporting their controlled transactions via Transfer Pricing Documentation (TPD).
	Transfer Pricing Guidelines 2012 (including revised chapters published on 15 July 2017)	provides detailed guides on preparation of TPD, on controlled transactions involving sales and purchases of goods, provision of services, intra-group financing, use of intellectual property rights, and commodity transactions.

The audits may be carried out in the form of a desk audit (i.e. at the IRBM's office) or a field audit (i.e. at the taxpayer's office, IRBM's office or mutually agreed venue). Apart from that, the rest of the administrative procedures remain similar under both desk audits and field audits.

Transfer Pricing Audit Framework 2019

Field Audit Process Flowchart



Transfer Pricing Audit Framework 2019

Timelines to Observe

No.	Notable Event	Timeline
1	<i>Prior to commencement of TP audit:</i> - Notification to taxpayer of an audit	At least 14 calendar days prior to the date of the IRBM's visit.
2	<i>Prior to commencement of TP audit:</i> - Submission of TPD	Within 30 calendar days from the date of the IRBM's letter requesting for TPD.
3	<i>Prior to commencement of TP audit:</i> - Submission of presentation slides on required information	At least 7 calendar days prior to the date of the IRBM's visit.
4	<i>During the audit:</i> - Furnishing of additional information / documents	Within 14 calendar days from the date of the IRBM's letter requesting for such information / documents.
5	<i>During the audit:</i> - Scope of audit	Generally covers 3 to 6 years of assessment. May be extended where fraud, wilful default or negligence is detected.
6	<i>During the audit:</i> - Objection to audit findings	Objection to be lodged within 18 calendar days from the date of audit findings.
7	<i>Post audit:</i> - Appeal on notice of assessment	Form Q to be filed to the IRBM within 30 days from the notice of assessment.

Transfer Pricing Audit Framework 2019

Offences and Penalties

- Section 113(2) of the ITA provides for a maximum penalty rate equal to the **amount of tax undercharged (100%)**.
- Depending on the severity of an offence, TPAF 2019 specifies that the relevant penalty rates to be imposed under Section 113(2), categorised into audit cases (i.e. cases already subject to audit) and voluntary disclosure cases (i.e. prior to commencement of audit), are as follows:

No.	Condition	Penalty rate (TP related issue only)	
		Audit cases	Voluntary Disclosure cases
1	Taxpayer did not prepare TPD	50%	NA*
2	Taxpayer prepared TPD but did not fully comply with the requirements under the Transfer Pricing Guidelines; Or Taxpayer fails to submit the TPD within 30 days from the date of IRBM's letter requesting for TPD	30%	20%
3	TPD is comprehensive and of good quality , i.e. in accordance with the IRBM's requirements in the Transfer Pricing Guidelines, AND submitted to the IRBM within 30 days from the date of IRBM's letter requesting for TPD	0%	0%

* NA – Not applicable as the IRBM does not accept voluntary disclosure in the absence of TPD.

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