

The obligation of taxpayers/taxable persons/employers &/or their agents

Benefits-in-kind

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The systems for SAS & the making of returns – Responsibility to keep documents			
Individual	Years to keep	Documents	Penalty for failure to keep
carrying on a biz	7 years from the end of the year to which any income from the biz relates	❖ If the sales of goods > RM150,000, & provision of services > RM100,000 => printed receipt with serial number is required ❖ Records = a) books of account recording receipt & payment or income & expenditure b) Invoices, vouchers, receipts & others c) Any other records as specified by the DG	>= RM300 & <= RM10,000 or to imprisonment for a term not > 1 year or to both
Employment/ Investment income	7 years from the end of the year to which any income from the biz	Statement of income & expenditure, invoices, vouchers, receipts & others	>= RM300 & <= RM10,000 or to imprisonment for a term not > 1 year or to both


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The systems for SAS & the making of returns –Responsibility to keep documents			
	Years to keep	Documents	Penalty for failure to keep
Company	7 years from the end of the year to which any income from the biz/operation relates	❖If the sales of goods>RM150,000, & provision of services > RM100,000 =>printed receipt with serial number is required ❖Records = a) Invoices, bank statements, pay-in slips, cheque butts, vouchers, receipts & others b) Any other records as specified by the DG	>= RM300 & <= RM10,000 or to imprisonment for a term not > 1 year or to both

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Submission of return		
	Submission of tax return	Payment of income tax
Employment/ investment income	30 April = Deemed assessment E-Filing, extended to 15.5 <u>Failure to furnish a return</u> <u>W/ prosecution</u> Fine >RM200 to RM20,000 or imprisonment <= 6 months or both <u>W/out prosecution</u> Fine = 3x of amt of tax Exception(note): Election MTDs=Deemed final	• tax deducted monthly by his employer •Instalment payment for business/investment income (6 bi-monthly instalments fr March to Jan) •Tax payable attributable to employment income <div style="border: 1px solid black; padding: 2px; display: inline-block;"> $A/B \times C$ </div> Eg 31.1.pg526 A= SI i.r.o gains/profits from employment B = total income for that YA C = his tax payable •Balance income tax payable = 30.4 <u>Penalty if not paid by 30.4</u> 10% penalty on the balance tax payable A further 5% if tax remains unpaid after 60 days.(deleted wef 1.1.2020)

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Submission of return

Exception(Note)Section 77C

Pre-requisite:

- Income= employment income only;
- MTDs has been made by the employer
- Tax is not borne by the employer, thus no tax on tax issues;
- The employee's spouse does not elect for joint assessment

Deemed elect for S77C if no Form BE submitted and meet the above conditions.

For fraud, negligence or willful default, DG can disregard the above and impose penalties from 45% - 100%.

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	Submission of tax return	Payment of income tax
Individual with business income	<p>30 June</p> <p><u>Failure to furnish a return</u></p> <p><u>W prosecution</u> Fine >RM200 to RM20,000 or imprisonment <= 6 months or both</p> <p><u>W/out prosecution</u> Fine = 3x of amt of tax</p>	<p>▪ 6 bi-monthly instalment payment beginning from March for business/investment income</p> <p><u>Penalty</u> 10% penalty on the outstanding instalment amt (<= 30days fr each instalment) ▪(Eg 33.3 Pg 538)</p> <p>▪Allow to vary by 30.6 and the balance tax payable would have to spread over the remaining 4 bi-monthly instalment (Eg 33.1 Pg 537)</p> <p><u>Penalty for variation of instalments</u> ▪10% penalty @ 30% (actual tax payable – total instalments payments after variation) (Eg 33.2 Pg 537)</p> <p>▪Balance income tax payable = 30.6 <u>Penalty if not paid by 30.6</u> 10% penalty on the balance tax payable A further 5% if tax remains unpaid after 60 days. (deleted wef 1.1.2020)</p>


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Submission of return		
	Submission of tax return	Payment of income tax
Companies	<p>7 months from the financial year end</p> <p><u>Failure to furnish a return</u></p> <p><u>W prosecution</u> Fine >RM200 to RM20,000 or imprisonment < = 6 months or both</p> <p><u>Without prosecution</u> Fine = 3x of amt of tax</p>	<p>Refer attachment Eg 32.1,32.2,pg528</p> <p><i>Failure to submit ITA, IRB is empowered to direct company to make payments by instalments before the 6th mth of the basis period.</i></p> <p><i>Wef YA2012, IRB can direct payment by instalments for a YA at any time during the basis period. If the amount is directed b4 9th month of the basis period, revised estimate can be furnished in 6th or 9th month of the basis period.</i></p>

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Amendment of return	
<ul style="list-style-type: none"> ➤ TP is allowed to amend <= 6 months from the due date of submission of such return ➤ To specify: <ul style="list-style-type: none"> ✓ additional amt of CI ✓ additional amt of income tax payable ✓ Particulars ✓ Late payment penalty (10% if <= 60 days from the due date +5% if furnished after 60days) (deleted wef 1.1.2020) refer pg543 ➤ Allowed to amend once only ➤ Any tax & penalty shall be due and payable 	

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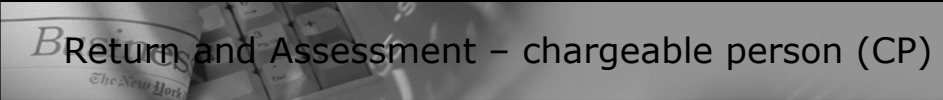


Return and Assessment – chargeable person (CP)

- CP = person who derives income from Malaysia
- = HE, Act provides for the appointment of agents or representatives to be assessed on behalf of such persons when it is impractical to collect tax

Circumstances	Chargeable person
Husband & Wife – joint assessment	<p>▪DG is empowered to collect the amt of income tax from the spouse</p> <div> $\frac{\text{Spouse total income}}{\text{Aggregate total income of spouses}} \times \text{income tax payable}$ </div> <p>Example 30.1 pg 506</p>

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Return and Assessment – chargeable person (CP)

Circumstances	Chargeable person
Company ✓income tax due & payable ✓STDs ✓RPGT <i>Refer Eg 1 – 11, PR 2/2019</i>	<p>Directors = occupying the position of director (by whatever name called), including any person who is concerned in the mgt of the company's affairs and</p> <p>= Control directly or indirectly at least 20% of the ordinary share capital of the company</p>
Company under liquidation	<p>Liquidator who fails to make full provision for the payment of any income tax which he may know or reasonably expect to be payable</p>

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Return and Assessment – chargeable person (CP)	
Circumstances	Chargeable person
Non-resident	(a) Directly in his own name (b) In the name of attorney, agent, factor, receiver or manager of his even though such person may not have the receipt of any income of the non-R person

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Return and Assessment – chargeable person (CP)		
Other than company, trust body or co-operative	Notice of chargeability	Penalty
Any person carrying on a business	Before 30 June of the following YA	Fine >RM200 to RM20,000 or imprisonment <= 6 months or both
Any person who is not carrying on a business but > has CI in that YA > nO CI but has furnished a return > has been required to furnish a return	Before 30 April of the following YA	Fine >RM200 to RM20,000 or imprisonment <= 6 months or both

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Return and Assessment – Electronics filing (E filing)	
Taxpayer Make a declaration <input type="checkbox"/> his tax agent is authorised to furnish a return to the DG <input type="checkbox"/> Information provided by him to the TA is true and correct	Tax Agent Make a declaration <input type="checkbox"/> the return is prepared in accordance with the info given by the taxpayer <input type="checkbox"/> received a declaration of the TP

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Employer's duties & responsibilities			
		Due date	Penalty for not compliance
Deduction from salaries	Must remit to the IRB the tax deduction from employees' salaries (Section 13(1)(a)) ✓ as directed by the IRB ✓ Under STD scheme	15 th day of the following month	Fine >=RM200 to RM20,000 or imprisonment <= 6 months or both (Note)
Commencement of employment	Inform IRB by completing Form CP22 if an individual is likely to be chargeable to tax	<= 30 days(*) from date of commencement	Fine >=RM200 to RM20,000 or imprisonment <= 6 months or both

(*) minor amendment from 1 month to 30 days wef 1.1. 2021

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Employer's duties & responsibilities


Note

Liable to prosecution for each offence (each employee) & if convicted, be liable to a fine **>=RM200 to RM20,000** or imprisonment **<= 6 months** or both **if without any reasonable excuse:**

- (i) Fails to remit the appropriate tax deduction to the tax authorities
- (ii) Fails to remit tax deduction by the 15th day of the following month;
- (iii) Not deducting & remitting the correct amount
- (iv) Fails to inform DG within 10 days after a remuneration ceased to be paid

Eg 33.4, pg 540

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Employer's duties & responsibilities


		Due date	Penalty for not compliance
Cessation of employment	Inform IRB by completing Form CP22A unless: (a) employee's income is subject to STDs; (b) Monthly income < min amt subject to PCBs (c) Not retiring from employment permanently	<= 30 days (*) prior to the date of cessation	Fine >=RM200 to RM20,000 or imprisonment <= 6 months or both

(*) minor amendment from 1 month to 30 days wef 1.1. 2021


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 Employer's duties & responsibilities			
		Due date	Penalty for non compliance
Retention of money	Required to withhold payment of any moneys payable to the employee	To withhold earlier of ✓90days or ✓Until tax clearance is received	Fine >=RM200 to RM20,000 or imprisonment <= 6 months or both
Employees leaving Malaysia	Form CP 21 to be completed if an employee is about to leave Malaysia for > 3 months unless it is frequent business trips	<= 30days (*) from date of departure	Fine >=RM200 to RM20,000 or imprisonment <= 6 months or both
(*) minor amendment from 1 month to 30 days wef 1.1. 2021			


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 Employer's duties & responsibilities			
		Due date	Penalty for non compliance
Form CP8A	❖Details of remuneration paid to each employee, including the amt contributed to EPF & amt of tax deducted under the STDs ❖One copy to the IRB & one copy to the employee		
Death of employees	❖Prescribed form to be completed after being informed of the employee's death (WEF 1.1. 2021)	<= 30days from date after being informed	

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 Employer's duties & responsibilities				
			Due date	Penalty for non compliance
	Form E	<input type="checkbox"/> Providing particulars of the employees to enable IRB to assess the employees in the event employees fail to submit their return Form BE <input type="checkbox"/> Required to submit Form CP 159 together with Form E showing: (a) Total gross remuneration paid to all employees each month (b) Total gross remuneration paid to employees who are subject to PCB (c) Total amt of tax deducted in accordance to the deduction table for each employee (d) Total amt of tax that has been deducted & remitted to IRB	By 31.3.	Fine >=RM200 to RM20,000 or imprisonment <= 6 months or both

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 Chargeable persons duties & responsibilities		
		Due date
Change of address	Must inform IRB in prescribed form	<= 3 months of the change
An individual who arrives in M'sia who is chargeable <i>Eg 30.4, pg513</i>	Must inform IRB in writing	<= 2 months of arrival

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Monetary and non monetary incentive payments

- A company is required to report monetary((e.g. commission/bonus/others) and non monetary incentive payments(e.g. provision of vehicle/house/tour/travel package/others) to agents, dealers or distributors
- For non monetary incentives, the amount to be disclosed should be based on the actual cost incurred by the payer companies.
- The Form CP58 must be provided to the agent, dealer or distributor by 31 March of the following year.

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Monetary and non monetary incentive payments

- Incentives which are not required to be disclosed in the Form CP58 are :
 - 1.trade discounts and bulk discounts;
 - 2.promotional items or gifts received which are not stipulated in the contract;
 - 3.incentives given during an open invitation to encourage the public or customers to introduce more customers;
 - 4.special treatment in the form of preferential rate given to an independent agent who buys and sells goods on his own accord;
 - 5.credit rebate;
 - 6.incentives to sub-contractors;
 - 7.handling fees; and
 - 8.items such as umbrellas, pens, calendars, etc given to all agents, dealers and distributors which are not based on performance.

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Monetary and non monetary incentive payments

Failure to comply

Failure to provide a copy of the Form CP58 to the relevant agent, dealer or distributor within the stipulated period is an offence. The payer company shall, on conviction, be liable to a fine of not less than RM200 and not more than RM2,000 or to imprisonment for a term not exceeding 6 months or both.

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Agent , dealer or distributor

- Wef 1.1.2022, WHT 2% (not a final tax) to be deducted for **cash** payments made to a **resident individual ADD deriving commission income of >= RM100,000** in cash or in kind in calendar year 2021. within 30 days upon made to the IRB
- Cash payment = commission, allowance or cash incentives
In kind = holiday package, mobile phones, computer and other promotional items
- Consequences of non compliance by paying company :
 - 10% penalty on WHT amount;
 - a debt due to the Gvt ;
 - no deduction on the gross payment

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Assessment			
Type of Assessment	Explanation	Right to appeal – Taxpayer	IRB
Original	<ul style="list-style-type: none"> oTax return submitted oDG may determine the amt of CI to the 'best of his judgment' under the following: <ul style="list-style-type: none"> ❖refuse to accept the return submitted or ❖Non submission of return. <p>But does not preclude the person from liability</p> <p>Time bar = <= 5 years after the end of the relevant YA except for fraud, wilful default or negligence</p>	To object <= 30 days of the date of deemed NA	Further appeal to SC if not able to reach an agreement

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Assessment	
Type of Assessment	Explanation
Reduced	<p>TP may under an appeal against an assessment or additional assessment:</p> <ul style="list-style-type: none"> ▪ reach an agreement with DG or by providing acceptable evidence for claims of expenses; ▪Win the case thru SP or court decision

Benefits-in-kind

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Assessment				
Type of Assessment	Explanation	Penalty	Right to appeal – Taxpayer	IRB
Additional	✓DG may raise under the following circumstances: ❖ TP omitted certain income & discovered by DG ❖ Tax refunded by an error of fact or law ❖ Additional income/income not taken into account when making the return	Additional tax must be paid < = 30 days upon receipt of the notice notwithstanding any appeal	✓To object <= 30 days of the date of deemed NA ✓Appeal can only be made against the additional assessment	Further appeal to SC if not able to reach an agreement

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Assessment		
Type of Assessment	Explanation	Penalty
Additional	✓DG is also permitted to raise upon discovering new facts/new documents ✓Time bar = <= 5 years after the end of the relevant YA except for fraud, wilful default or negligence	<u>Penalty if not paid by due date</u> 10% penalty on the balance tax payable A further 5% if tax remains unpaid after 60 days <i>(deleted wef 1.1.2020)</i> (Eg 33.6-33.8 pg 542)

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Assessment	
Type of Assessment	Explanation
Composite	<ul style="list-style-type: none"> ➤ Where a TP <ul style="list-style-type: none"> (a) makes a default in furnishing a return; (b) fails to give notice of chargeability (c) makes an incorrect return by omitting or understating any income (d) gives any incorrect information affecting his own chargeability ➤ Tax payable stated = amt undercharged + penalty ➤ Not allowed to appeal to SP once CA is issued ➤ Normally issued after a tax investigation/audit is conducted
Increased	<ul style="list-style-type: none"> ➤ Where a TP <ul style="list-style-type: none"> (a) Reach an agreement with DG during the review of assessment (b) SP/Court had decided the issue in dispute has resulted in an increase in eth tax payable ➤ NO right of appeal against an increased assessment when there is an agreement between TP & DG

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Assessment		
Type of Assessment	Explanation	Right to appeal
Advance	<ul style="list-style-type: none"> ➤ DG can issue advance assessment to prevent loss revenue to the gvt under the following circumstances where TP: <ul style="list-style-type: none"> (a) cease to carry on a business; (b) Commences to receive E income, pension, annuity or periodical payment (c) About to leave Malaysia & his source of income is likely to cease upon leaving M (d) Where the basis period of a business/investment income sources for a YA does not coincide with the calendar year (e) Where TP received income subsequent to a cessation of biz income 	Made ≤ first 3 months of the assessment year following the YA for which the assessment is made


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Assessment	
Type of Assessment	Explanation
Protective	Issued by DG to avoid assessment being time barred (ie subject to 5 years time limit)
Unlimited	<p>➤If it appears to DG that –</p> <p>(a) Any form of fraud /wilful default has been committed by or on behalf of any person;</p> <p>(b) Any person has been negligent</p> <p>'fraud' – shown that a false representation has been made knowingly, or without belief in its truth, or recklessly, without caring whether it is to be true or false</p> <p>'negligence' –</p> <p>(a) TP owes a standard duty of care to the tax authorities when filling up the info;</p> <p>(b) TP has broken the duty of care; and</p> <p>(c) thereby causes some legally recognized damage to the tax authorities</p>

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Appeals	
<p>Section 99 of the ITA shall only apply to appeals on notice of assessment made for any YA for cases stated below:</p> <p>(a) Assessment(#)/additional assessment (#)/advanced assessment(*)/NONC(^) which are made by the DGIR as a result of desk audit or investigation findings; or</p> <p>(b) Best judgement assessment made without ITRF or late submission of ITRF under subsection 90(3) (#)of the ITA or best judgment assessment under subsection 91(1) of the ITA;</p> <p>© deemed assessment or deemed assessment for amended ITRF where the taxpayer disagrees with the tax treatment stated in PR or known stand, rules and practices of the DGIR prevailing at the time when the assessment is made.</p> <p>(#) <i>An appeal must be made by submitting Form Q not later than thirty (30) days after the notice of assessment has been served</i> Eg 1,2,5 ,6 PR 7/2020</p> <p>(*) <i>an appeal against advanced assessment must be made within the first three (3) months of the YA following the YA in which the assessment was made</i> Eg 4 PR7/2020</p> <p>(^) ITRF submitted within the stipulated period / written notification issued by IRBM - appeal against the deemed notification within thirty (30) days from the date of being so notified. Eg 7, 10 PR 7/2020</p> <p>(^) ITRF not submitted within the stipulated period - not entitled to appeal Eg 8 PR7/2020</p>	

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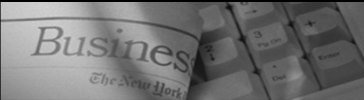


Appeals

Grounds of Appeal

- state the reasons why he disagreed with the notice of assessment which was issued. No need to submit supporting documents with the Form Q unless requested subsequently
- must submit the evidence related to the known stand, rules and practices of the DGIR which he disagreed together with Form Q.

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Appeals


	Taxpayer
Notification of non chargeability	> <= 30 days from the notification, appeal to the SC > NO appeal = final & conclusive
Appeal which are out of time i.e not made <= 30 days	> File a written application using Form N(Note) to DG > If DG rejects -> forward to SC -> will inform TP in writing -> TP <= 21 days to SC

Note: Must file within 7 years from 30 days after the notice of assessment was served wef YA2020 EG 11,12 PR7/2020

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 Appeals	
Notification of non chargeability	Deadline
>Wef 1.1.2017 appeals are extended for NL cases where: (a)A person aggrieved by PR made under S138A	30 days from Notification ie Tax Return furnished
(b) Error or mistake - Return deemed to be Notification	<= 6 months from date of Tax Return furnished <i>Eg 17 PR7/2020</i>
© any exemption, relief, remission, allowance or deduction granted for that YA under the ITA 1967 or any other written law is published in the Gazette after the YA in which the return is furnished	<= 5 years after the end of the year Gazette publication

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 Appeals	
Notification of non chargeability	Deadline
(d) The approval for any exemption, relief, remission, allowance or deduction is granted after the YA in which the return is furnished	<= 5 years after end of the year exemption, relief, remission, allowance is published in the Gazette or the Minister's approval is granted, whichever is later <i>Eg 18 PR7/2020</i>
(e) A deduction not allowed on failure to pay WHT	<=1 year after end of year payment is made


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Appeals Timeline	
Relief i.r.o error & mistakes(S 131(1))for excessive assessment	Deadline
<ul style="list-style-type: none"> -assessment has not become final & conclusive -must be via CP15C in writing -Tax has been paid on that YA 	<p><= 5 years after the end of the YA in which the assessment is deemed.</p> <p>Eg 34.4,pg562</p>
Eg 13,14 PR 7/2020	

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Appeals	
Relief other than error or mistake (S131A) Wef 1.1.2017	Deadline
(a) A deduction not allowed on failure to pay WHT	<=1 year after end of year payment is made
(b)any exemption, relief, remission, allowance or deduction granted for that YA under the ITA 1967 or any other written law is published in the Gazette after the YA in which the return is furnished	<= 5 years after the end of the year Gazette publication
(c) The approval for any exemption, relief, remission, allowance or deduction is granted after the YA in which the return is furnished Eg 15,16 PR 7/2020	<= 5 years after end of the year exemption, relief, remission, allowance is published in the Gazette or the Minister's approval is granted, whichever is later

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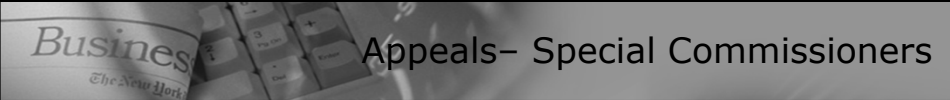


Appeals

- ✓ If the application for relief is approved by the DGIR, the assessment will be amended and a reduced assessment will be issued.
- ✓ If the application for relief is rejected by the DGIR, a rejection letter together with the grounds of rejection will be issued to the taxpayer.
- ✓ If the taxpayer disagrees with the decision, he may request via a letter to the DGIR to send the application for relief (which was submitted earlier to the SCIT) within six (6) months from the date of the rejection.
- ✓ The DGIR shall forward the application to the SCIT within three (3) months from the date of receipt of the request.

Refer Appendix 1 PR 7/2020

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Appeals– Special Commissioners

- ❖ **Will issue a Deciding Order once the hearing is done**
- ❖ **If DG/TP dissatisfied ->High Court ->Court of Appeal**
- ❖ **SC's Decision can only be set aside if :**
 - ✓ **there is error in law or misconception of law**
 - ✓ **Decision is not in line with the evidence found in the case**
 - ✓ **Conclusion is not reasonable**

Refer Chart 34.1 pg 565

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Compensation for overpayment of tax (WEF YA2013)

Accorded if tax refunded by IRB after:

- (a) **90 days** from the due date of tax return submission if submitted via **electronic** filing ;or
- (b) **120 days** from the due date of tax return submission if submitted via **manual** filing

$$A \times B/C \times 2\%$$

A=tax amount due to refund for a YA

B = no of days less 90/120days

C=no of days in a year

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TAX EVASION & TAX AVOIDANCE

Tax Evasion: using illegal means to avoid tax

Tax avoidance: legally avoid tax.

IRB's viewpoint: would like to limit such practices if it were of the opinion that such scheme are not commercially justifiable or merely set up to avoid tax.

Anti avoidance provision: Section140, 140A

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Penalties & Offences – Incorrect return under Section 113		
Incorrect return	Penalty	TP's choice
Include (a) Omitting or understating income; and (b) Incorrect info affecting the chargeability of tax	<u>Prosecution</u> (a) fine \geq RM1,000 & \leq RM10,000 and (b) 2x tax undercharged	Defense = Incorrect return was made in 'good faith' = 'honestly' <i>Eg 35.2 pg 572</i>
	<u>No Prosecution</u> = Tax undercharged; or 45% for the first offence	

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Penalties & Offences – Incorrect return under Section 113: Penalty for late payment of withholding tax	
Say accounting year end :31.12.2011	RM
Gross payment(fee paid to non resident on 1.6.2011)	1,000
Less: withholding tax(WHT)	<u>(100)</u>
Actual payment to non-resident	<u>900</u>
WHT paid late but on or before 31.7.2012(due date for filing of tax return)	100
Penalty for late payment of WHT at 10% paid on before 31.7.2012	<u>10</u>
Total WHT & penalty	<u>110</u>
Penalty under Section 113(2)	NIL

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Penalties & Offences – Incorrect return under Section 113-Penalty for late payment of withholding tax	
Say accounting year end :31.12.2011	RM
Gross payment(fee paid to non resident on 1.6.2011)	1,000
Less: withholding tax(WHT)	(100)
Actual payment to non-resident	900
Payment of WHT, say on 25.8.2012	100
(i) Late payment penalty	
WHT paid due	100
Penalty for late payment of WHT at 10%	10
Total WHT & penalty	110
(ii) Section 113(2) penalty	
<u>Income tax payable per submitted tax computation</u>	
Gross income of TP	20,000
Less: Gross fee paid to non-resident	(1,000)
Other expenses	(10,000)
Chargeable income	9,000
Tax payable @ 25%	2,250

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Penalties & Offences – Incorrect return under Section 113-Penalty for late payment of withholding tax	
Say accounting year end :31.12.2011	RM
(ii) Section 113(2) penalty	
<u>Income tax payable per revised tax computation</u> (for computation of penalty only)	
CI per above	9,000
Add: Deduction disallowed – gross fee paid to non-resident	1,000
Revised CI	10,000
Tax payable at 25%	2,500
Less: tax payable per submitted tax computation	(2,250)
Tax undercharged due to incorrect return	250
Section 113(2)penalty, say 45% on tax undercharged	112.50
Total WHT & penalties	222.50

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Penalties & Offences – voluntary disclosure of the omitted income

	Period from the due date of submitting return form	Rate %
Voluntary disclosure before case is selected for audit	<= 60 days	10
	> 60 days to 6 months	15.5
	> 6 months	35

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Penalties & Offences – Incorrect return under Section 113

Wef 1.1.2018, IRB has standardized the rate of penalty on incorrect return at 100% for example:

- ☐ *Repeated offences of undeclared or incorrectly declare income received by way of a return form;*
- ☐ *Refusal to give full co-operation during an audit or investigation process;*
- ☐ *Failure to give information or documents requested to assist in an audit or investigation process;*
- ☐ *Carrying out an organized tax evasion scheme;or*
- ☐ *Failure to comply with the tax law even though the tax payer has been audited or investigated before*

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Business Penalties & Offences – wilful evasion(S 114(1))	
Any person who wilfully & with intent to evade or assist any other person to evade tax	Penalty
(a) Omits from a return made under this Act any income which should be included	>= RM1,000 & <= RM20,000 or 3 years imprisonment or both; plus penalty = 3x x tax undercharged
(b) Makes a false statement /entry in a return	
© gives a false answer(orally or in writing) to a Q asked or request for info made	

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Business Penalties & Offences – wilful evasion(S 114(1))	
Any person who wilfully & with intent to evade or assist any other person to evade tax	Penalty
(d) prepares/maintains/authorise the preparation or maintenance of false books/records	
(e) Makes use or authorise the use of any fraud, art or contrivance	
(f) Falsifies or authorise the falsification of book of account/record	


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Business Penalties & Offences – wilful evasion(S 114(1A))	
Any person who assists in , or advises with respect to	Penalty
(Preparation of any return where the return results in an understatement of the liability for tax of another person unless ✓ advice was given with reasonable care	\geq RM2,000 & \leq RM20,000 or 3 years imprisonment or both;

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Business Penalties & Offences – persons leaving Malaysia		
		Penalty
DG is of the opinion that any person is about to leave Malaysia without paying taxes due to the IRB ➤May issue certificate to any Commissioner of Police or Director of Immigration to prevent the TP from leaving M until payment made or furnishes security ➤Notice to be issued under Section 104	Leaving Malaysia or attempting to leave Malaysia without payment of tax	Fine \geqRM200 to RM20,000 or imprisonment \leq 6 months or both

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 Penalties & Offences – other offences	
Offences	Penalty
Obstruction of officers in the course of their duties	>= RM1,000 & <= RM10,000 or 1 year imprisonment or both
Failure to comply with a notice (a) Calling for specific returns & production of books (b) Calling for bank statements in relation to savings, loan account, deposits etc (c) Requiring books, accounts & records to be translated into national language (d) Calling for information or particular to be given in writing (e) Requiring returns to be submitted by agents (f) Requiring returns by occupier of premises (g) Calling for further return	>= RM200 & <= RM20,000 or 6 months imprisonment or both