CAS Tax Services Sdn Bhd
B-5-1, IOI Boulevard, Jalan Kenari 5,
Bandar Puchong Jaya, 47170 Puchong,
Selangor Darul Ehsan.

TAX UPDATE

2016

Highlights:

- Tax Deduction for Secretarial and Tax Filing Fees
- Return by Employer (Form E & EA)
- Deductibility of Goods and Services Tax (GST)
- Offence and fine for failure to furnish correct particulars
- Others

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1) Tax Deduction for Secretarial and Tax Filing Fees

The Federal Government has specifically allowed deduction of secretarial and tax filing fee via P.U. (A) 336 which was published on 17 December 2014.

i. Secretarial Fees

The scope of deduction is limit to secretarial fee charged in respect of secretarial services provided by a company secretary registered under Companies Act 1965 to comply with the statutory requirement of the Companies Act 1965.

This deduction is effective from Year of Assessment (YA) 2015. The amount of deduction is restricted to RM 5,000 for a YA and is only available when a person incurred and paid in the basis period for that YA.

ii. Tax Filing Fees

Tax filing fee charged by and approved tax agent in relation to:

(a) Preparation and submission of income tax return for the basis period for the immediately preceding YA. The income tax return includes individual, Sdn Bhd, limited liability partnerships (LLP), partnership, trust, cooperatives, societies, return of employer (s83) and amendment of return (s77B);

(b) Preparation and submission of estimates of tax for instalments payment of Sdn Bhd;

(c) Preparation and submission of GST return under s41 of GST Act 2014.

This deduction is effective from Year of Assessment (YA) 2015. The amount of deduction is restricted to RM 10,000 for a YA and is only available when a person incurred and paid in the basis period for that YA.

2) Return by Employer (Form E & EA)

Under Section 83(1) and 83(1A) of ITA 1967, every employer must furnish the return (Form E) of its employees' employment income no later than 31 March for each year.

The employer must also prepare and deliver to his employee the statement of remuneration (Form EA) on or before the last day of February for each year.

On 5th of February 2016, the Inland Revenue Board Malaysia (IRB) has issued Filing Programme for Income Tax Return Forms (ITRF) in the year 2016. It stated that dormant* companies, LLP, trust bodies and co-operative societies are required to furnish the ITRF (including Form E) with effect from YA2014.

For companies which did not employ any person is still required to complete the Form E and submit to IRB by the stipulated deadline, failing which IRB may impose penalty/fine for non-submission.

With effect from the Year of Remuneration 2016, corporate employers are compulsorily required to furnish Form E via e-filing (Form e-E).

Offenses	**Penalty**
Fails to submit the return by employer as well as prepare and deliver the statement of remuneration	*Sec 120(1)(b)* - shall be guilty of an offence and upon conviction, be liable to be fine ranging from RM200 to RM20,000 or to imprisonment for a term not exceeding 6 months or both

*Note : Dormant companies consist of:

i) Companies which have never commenced operations since the date of their incorporation; and
ii) Companies which have previously been in operation or carried on business but have now ceased operations or business
iii) Companies which there is no recording entry in the company accounts other than the minimum expenses for compliance with stipulated statutory requirement i.e. secretarial fee, tax filing fee, audit fee and accounting fee.

3) Deductibility of Goods and Services Tax (GST)

Effective YA2015, a new *Section 39(1) (o)* is introduced in the ITA to disallow a deduction for any amount paid or to be paid as GST input tax by a person if he is:

- Liable to be registered under the GST Act 2014 and has failed to do so, or
- Entitled under GST Act 2014 to credit that amount as GST input tax.

Effective YA2015, a new *Section 39(1) (p)* is proposed in the ITA to disallow a deduction for any amount of output tax paid or to be paid under the GST Act 2014 which is borne by a person who is registered or liable to be registered under the GST Act 2014.

4) Offence and fine for failure to furnish correct particulars

Any person who without reasonable excuse fails to furnish correct particulars required by the Director General under *Section 77(4) (b)* or *Section 77A (3) (b)* shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than RM 200 and not more than RM 20,000 or to imprisonment for a term not exceeding six months or to both.

5) Others

- Increase in personal income tax rate from 25% to 26% for individuals with chargeable income ranging from RM 600,001 to RM 1,000,000 and 28% for chargeable income exceeding RM 1,000,000. (w.e.f. YA2016)
- New parental relief of RM 1,500 each for father and mother (YA2016 to YA2020)
- RM 1,000 increase in spouse relief and child relief (w.e.f. YA2016)
- Relief of up to RM 250 for voluntary employee SOCSO contribution (w.e.f. YA2016)
- Final 10% withholding tax rate for REIT distributions to foreign institutional investors and non-corporate investors extended to 31 December 2019
- GST Streamlining of food products categorized under infant and children's milk, dhal, vegetables, spices, sugar and noodle products at zero rate (w.e.f. 1 January 2016)
- Widening of zero rated drugs to include controlled drugs, over the counter medicine and 128 brands of drugs which are classified as medical devices (w.e.f. 1 January 2016)
- Rebates on GST paid for prepaid mobile phone users (w.e.f. 1 January 2016 to 31 December 2016)

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