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Gazette Orders, HASiL Media Release, Guidelines, Public Ruling, Tax Cases and more

March 2025

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Greetings from Deloitte Malaysia Tax Services

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Deloitte Malaysia
Inland Revenue Board of Malaysia

Takeaways:

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Upcoming events:

10 April 2025 – A conversation with IRBM: Decoding the new Transfer Pricing Guidelines and Transfer Pricing Tax Audit Framework

Important deadlines:

Task	Deadline
	31 March 2025
1. 2026 tax estimates for companies with April year-end	√
2. 6th month revision of tax estimates for companies with September year-end	√
3. 9th month revision of tax estimates for companies with June year-end	√
4. 11th month revision of tax estimates for companies with April year-end	√
5. Statutory filing of 2024 tax returns for companies with August year-end	√
6. Maintenance of transfer pricing documentation for companies with August year-end	√
7. 2025 CbCR notification for applicable entities with March year-end	√

1. Income Tax (Exemption) Order 2025 [*P.U.(A) 59/2025*] in relation to Labuan Entities

The Income Tax (Exemption) Order 2025 [*P.U.(A) 59/2025*] (Exemption Order) was gazetted on 13 February 2025 and **has effect from the years of assessment (YA) 2023 to 2027**. Following the gazette of this Exemption Order, the Income Tax (Exemption) (No. 22) Order 2007 [*P.U.(A) 437/2007*] is revoked with effect from YA 2023.

Exemption

The Minister exempts—

1) a Labuan company from the payment of income tax in respect of chargeable income from:

   - dividends received;
   - interest received from another Labuan company **(Note 3)**;
   - royalties received from another Labuan company **(Note 3)**; and
   - amounts received from another Labuan company in consideration of services, advice or assistance as specified in Sections 4A(i) and 4A(ii) of the Income Tax Act 1967 (ITA) **(Note 4)**.

2) any person from the payment of income tax in respect of chargeable income from dividends received from a Labuan company which are paid, credited or distributed out of income derived from a Labuan business activity or income exempted from tax **(Note 1 & 2)**.

3) a non-resident person from the payment of income tax in respect of chargeable income from:

   - interest received from a Labuan company other than interest accruing to a business carried on by a non-resident person in Malaysia if that non-resident person is licensed to carry on a business under the Financial Services Act 2013 [*Act 758*] or the Islamic Financial Services Act 2013 [*Act 759*] **(Note 3)**;
   - royalties received from a Labuan company **(Note 3)**; and
   - amount received from a Labuan company in consideration of services, advice or assistance as specified in Sections 4A(i) and 4A(ii) of the ITA **(Note 4)**.

4) a resident person other than a licensed person to carry on a business under the Financial Services Act 2013 [*Act 758*] or the Islamic Financial Services Act 2013 [*Act 759*] from payment of income tax in respect of chargeable income from interest received from a Labuan company **(Note 5)**.

5) a beneficiary from the payment of income tax in respect of chargeable income from distributions received from a Labuan trust or Labuan Islamic trust.

6) a partner of a Labuan limited partnership, a Labuan limited liability partnership, a Labuan Islamic limited partnership or a Labuan Islamic limited liability partnership from the payment of income tax in respect of chargeable income from distributions of profit after tax paid, credited or distributed by the Labuan limited partnership, Labuan limited liability partnership, Labuan Islamic limited partnership or Labuan Islamic limited liability partnership.

7) a member of a Labuan foundation or a Labuan Islamic foundation from the payment of income tax in respect of chargeable income from distributions of profit after tax received from the Labuan foundation or Labuan Islamic foundation.

Note 1:
Dividend income received by resident individuals from Labuan entities are exempted from the 2% tax as announced in the National Budget 2025.

Note 2:
Paragraphs 5 and 6, Schedule 7A of the ITA shall apply, *mutatis mutandis*, to the amount of income exempted to a company incorporated under the Companies Act 2016 [Act 777] and resident in Malaysia.

Note 3:
Tax deduction under Section 109 of the ITA is not allowed.

Note 4:
Tax deduction under Section 109B of the ITA is not allowed.

Note 5:
Tax deduction under Section 109C of the ITA is not allowed.

Please refer to *P.U.(A) 59/2025* for full details.

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2. Stamp Duty (Exemption) Order 2025 [P.U.(A) 19/2025] in relation to specified instruments for purchase of flat

The Stamp Duty (Exemption) Order 2025 [*P.U.(A) 19/2025*] was gazetted on 14 January 2025 and shall have effect from 1 January 2025 to 31 December 2027.

Exemption
The instruments specified in the Schedule of this Order for the purchase of a flat under the National Economic Action Council People's Housing Programme and Kuala Lumpur City Hall Public Housing executed from 1 January 2025 to 31 December 2027 are exempted from stamp duty.

Please refer to *P.U.(A) 19/2025* for full details.

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3. HASiL – Submission of Notification of Change of Accounting Period via Form e-CP204B from 1 January 2025

The Inland Revenue Board of Malaysia (HASiL) has informed that companies, limited liability partnerships, trusts, and cooperatives can now submit their Notification of Change of Accounting Period electronically via Form e-CP204B using the e-CP204 facility, which is available in MyTax as follows:

Submission of Form e-CP204B	Availability of Form e-CP204B facility in MyTax
Cases that are submitted **within the deadline** (i.e., cases that comply with Section 21A(3A) of the ITA)	Available from 1 January 2025
Cases that are submitted **after the deadline** (i.e., cases that do not comply with Section 21A(3A) of the ITA)	Available from 6 February 2025

Manual submission of CP204B is still allowed until **30 June 2025**.

The use of the e-CP204B application will be mandatory starting from **1 July 2025**.

The functions of the Form e-CP204B facility are:

- Submission of Form CP204B
- Acknowledgement receipt of Form CP204B
- Download / print the Form e-CP204B together with the instalment schedule (Form CP205)

The Form e-CP204B is accessible by the director, director's representatives and tax agent as follows:

➢ Director / Director's representatives (through MyTax)
MyTax > ezHasil Services > e-Filing > e-Estimation > CP204B > Year of Assessment

➢ Tax agent (through TAeF)
TAeF > Integration > e-CP204B > TIN > File type > Year of Assessment > *Login*

Any feedback regarding this application can be submitted to the Customer Care Officer, Tax Operations Department.

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4. HASiL Media Release – Foreign Taxpayer Branch (CPCA) in operation starting 1 January 2025

Foreign Taxpayer Branch or *Cawangan Pembayar Cukai Asing* (CPCA) has been established and is operating at Blok 8, Kompleks Kerajaan Jalan Tuanku Abdul Halim, Kuala Lumpur, starting 1 January 2025.

The establishment of CPCA is to enhance efficiency and effectiveness of tax operations relating to foreign individual taxpayers, non-residents and withholding tax, where CPCA will also focus on handling cases involving non-resident entertainers, foreign crews, and foreign visitors.

The CPCA takes over the taxation functions related to the files of foreign taxpayers, non-residents, and withholding tax from HASiL Negeri Wilayah Persekutuan Kuala Lumpur, HASiL Negeri Wilayah Persekutuan Putrajaya, and HASiL Negeri Selangor.

Please refer to the HASiL Media Release for full details.

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5. HASiL – Stamp Duty Audit Framework

HASiL has issued a Stamp Duty Audit Framework (SDAF) which took effect from 1 January 2025. The SDAF aims to ensure that audits are carried out fairly, transparently and impartially. It outlines the rights and responsibilities of auditees and auditing officers.

The objectives of the stamp duty audit are listed below:

a) The main objective of stamp duty audit is to encourage voluntary compliance with the provisions of the law under the Stamp Act 1949 (SA). The auditor must ensure that the stamping made is correct and orderly in accordance with the provisions of the law in force.

b) The SDAF clarifies the legal provisions adopted by HASiL in conducting audits, auditee's rights and responsibilities and the ethics of parties involved in the implementation of audits.

c) The stamp duty audit activities are an approach to educate and expose auditees on their responsibilities and obligations under the provisions of the SA.

The stamp duty audits are conducted generally or comprehensively and can cover up to three calendar years. However, the limitation of the audit coverage period does not apply to cases involving fraud, duty evasion or negligence as provided under Section 63, Section 64 and Section 74 of the SA.

The SDAF also includes the following:

- Type of audits;
- Selection of cases;
- Implementation of stamp duty audit;
- Roles and responsibilities of HASiL and the auditee (duty payer and agent/representative);
- Confidentiality of information;
- Penalties and offenses; and
  Complaints, payment procedure and appeals.

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6. HASiL – Operational Guidelines No. 1/2025 – Real Property Gains Tax

HASiL has issued the Operational Guidelines No. 1/2025 on Real Property Gains Tax (RPGT), dated 13 January 2025 on its website.

The Operational Guidelines No. 1/2025 provides clarification on the responsibilities of a disposer and an acquirer in reporting gains from the disposal of chargeable assets in Malaysia to HASiL starting from 1 January 2025, in line with the implementation of the self-assessment system for RPGT. It cancels paragraphs 19 to 27 of the RPGT Guidelines dated 6 January 2023.

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7. HASiL Public Ruling No. 7/2024 – Co-Operative Society

HASiL has uploaded the Public Ruling (PR) No. 7/2024 on Co-Operative Society dated on 31 December 2024 on its website.

This PR is the 2nd edition and replaces the PR No. 9/2011, dated 16 November 2011. A list of updates and amendments can be found in paragraph 11 on page 25 of this PR.

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8. MIDA – Guidelines for Global Services Hub (GS-HUB) Tax Incentive

The Malaysian Investment Development Authority (MIDA) has issued Guidelines for Global Services Hub (GS-HUB) Tax Incentive on its website.

Key points

1) A GS-Hub is a locally incorporated company that uses Malaysia as a base for conducting its regional or global business operations to manage, control, and support its key functions. The GS-Hub tax incentive is for a new or existing company as defined in this Guideline.

2) The GS-Hub tax incentive is a 5% or 10% special tax rate on services/trading income or services/trading value-added income generated from undertaking qualifying activities. The incentive is for 5 or 10 years.

3) A maximum of 3 non-citizen employees of the eligible GS-Hub can enjoy a special individual income tax rate of 15% subject to conditions.

4) Applications received by MIDA from **14 October 2023 until 31 December 2027** are eligible to be considered.

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9. Havi Logistics (M) Sdn Bhd v Pemungut Duti Setem (FC) (2025) MSTC 30-801

This was an appeal by the duty payer, Havi Logistics (M) Sdn Bhd (HLM), against the Court of Appeal's (COA) decision allowing the Collector of Stamp Duties' (Collector) appeal. The Collector had appealed against the High Court's (HC) decision, which disallowed the Collector's assessment in imposing *ad valorem* duty on HLM's asset purchase agreement (APA).

Issues:

The issues for the Federal Court's (FC) determination were whether:

- the APA was a "conveyance on sale" as defined under Section 2 of the SA and hence chargeable with *ad valorem* duty.
- the fixed assets, as part of the acquired assets sold under the APA, fell within the term "goods" under Section 21(1) of the SA and were therefore excluded from its operation, avoiding *ad valorem* duty.

- the Collector had raised a stamp duty assessment without specifying which paragraph of Item 32 of the First Schedule of the SA was invoked.

Decision:

The FC dismissed the duty payer's appeal based on the following grounds:

- The COA correctly held that the APA constituted a conveyance on sale as it fell under the definition provided in Section 2 of the SA. However, the COA erred in holding that while the APA fell within Section 21(1) of the SA, it was not inherently a conveyance on sale but became one solely due to the deeming provision in the APA. The APA was a conveyance on sale regardless of this provision.

  When read as a whole, the APA clearly demonstrated that the sale of the business, including fixed assets, liabilities, and business contracts, constituted property within the meaning of Section 2 of the SA. The parties intended to transfer these properties to HLM upon sale without requiring any further actions. Thus, the APA fell within the second category of Section 21(1) of the SA as a contract or agreement for the sale of a legal estate or legal interest in any property.

- The COA erred in holding that the fixed assets sold under the APA fell within the meaning of "goods" under Section 21(1) of the SA and were thus excluded from *ad valorem* duty. The rule was that, in the absence of a definition in the SA, any contentious word had to be given its ordinary everyday meaning, with reference to dictionary definitions if necessary. The meaning of "goods" in various dictionaries was consistent with that of "wares" and "merchandise," these 2 words associated with "goods" in Section 21(1) of the SA. It was evident that no dictionary definition defined "goods" as capital or non-trading movable properties. Only trading goods fell under the exception to the second category of properties in Section 21(1) of the SA, while non-trading movable properties were chargeable with *ad valorem* duty under Section 21(1) of the SA, read with Item 32(a) of the First Schedule of the SA.

- Contrary to HLM's contention, there was no uncertainty regarding the applicable paragraph of Item 32 for the APA. HLM was fully aware that the stamp duty assessment was made under Paragraph (a) of item 32, which imposed *ad valorem* duty on the sale of any property other than the exceptions mentioned in the said Paragraph (a). As the APA fell under Item 32(a) of the First Schedule of the SA, it was not chargeable with a fixed RM10 duty under Item 4 of the First Schedule of the SA.

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10. Herng Joo Sdn Bhd v KPHDN (COA)

HASiL has recently uploaded a case report, "Herng Joo Sdn Bhd v KPHDN (COA)" on its website.

Facts:

The taxpayer filed an appeal under Section 99 of the ITA against the Notice of Additional Assessment for the YA 2012 dated 11 March 2016 through Form Q dated 6 April 2016.

The Special Commissioners of Income Tax (SCIT) dismissed the taxpayer's appeal on 22 September 2022. The taxpayer was dissatisfied with the SCIT's decision and proceeded to file an appeal to the HC. However, instead of filing the notice of appeal to the Secretary of the SCIT, pursuant to Paragraph 34(2), Schedule 5 of the ITA, the taxpayer filed the appeal to the HC vide notice of appeal on 4 October 2022.

On 9 December 2022, the taxpayer was notified by the SCIT that their time to file an appeal has lapsed. On 10 January 2023, during the case management before the Registrar of the HC, the taxpayer was informed that the time for filing the appeal has lapsed. The taxpayer requested for an extension of time to file the notice of appeal. On 13 February 2023, the taxpayer filed an application for extension of time to serve the notice of appeal dated 4 October 2022 to the SCIT. On 22 June 2024, the HC dismissed the taxpayer's application for an extension of time to file and serve the notice of appeal dated 4 October 2022 to the SCIT. Thereafter, the taxpayer appealed to the COA.

Taxpayer's argument:

Before the COA, the taxpayer argued that it was correct to file the notice of appeal to the HC instead of filing it to the Secretary of the SCIT and the notice of appeal was valid. The taxpayer further contended that the delay in serving the notice of appeal to the SCIT was unintentional and was in no way disrespectful of the court. With regards to the court's discretion, the provision on extension of time for filing and serving of the notice of appeal was clearly provided in the Rules of Court 2012. Therefore, there was no prejudice against the Director General of Inland Revenue (DGIR), considering that the notice of appeal and the records of appeal had been filed and served to the DGIR in time, even though it had not been served to the SCIT.

DGIR's argument:

The DGIR argued that the HC Judge had not erred in law and in facts when dismissing the taxpayer's application. The taxpayer had failed to comply with the clear statutory provision to file the notice of appeal to the Secretary of the SCIT in accordance with Paragraph 34(2), Schedule 5 of the ITA. Hence, there was no valid appeal before the HC and the COA. As there was no valid appeal, the question of extension of time to serve the notice of appeal to the SCIT did not arise and the appeal should be dismissed. Regarding the delay, the DGIR argued that there was no valid and cogent reason proffered by the taxpayer to justify the delay for court's consideration. It was not a valid reason that this was an unintentional mistake, and no prejudice was made towards the DGIR. It was further argued that the HC had observed that the taxpayer was bringing one issue before the SCIT, where it was purely a question of facts which had been determined before the SCIT. There was no question of law worth noting and there were no indications by the taxpayer in their affidavit of any question of law to be appealed at the HC.

Issue:

Whether the HC has erred in law in dismissing the taxpayer's application for an extension of time for filing the notice of appeal against the SCIT's decision.

Decision:

The COA unanimously dismissed the taxpayer's appeal with cost of RM5,000.

[*Note: In summary, the HC dismissed the taxpayer's application for an extension of time for filing an appeal against the SCIT's decision and held that there was no proper case for the extension of time to be granted. Details of the above tax case at the COA level are not available as of date of publication.]*

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11. KPHDN v Sime Darby Ara Damansara Sdn Bhd (COA)

HASiL has recently uploaded a case report, "KPHDN v Sime Darby Ara Damansara Sdn Bhd (COA)" on its website.

Facts:

The DGIR filed an appeal against the decision of the HC in allowing the taxpayers' appeal against the deciding order of the SCIT. The appeal before the SCIT emanates from an application for relief made by the taxpayer under Section 131(1) of the ITA for the YA 2010.

The taxpayer's relief was regarding the revised tax computation which was made on the basis that there was an error or mistake by treating the gains received from the compulsory acquisition of its land as part of its taxable income in YA 2010. The taxpayer had adopted this position through the declaration in the income tax return form for the YA 2010 based on the Decision Impact Statement (DIS) that was issued by the DGIR in February 2007 which distinguished the decision in "*Ketua Pengarah Hasil Dalam Negeri v Penang Realty Sdn Bhd [2006] 3 MLJ 597*" (*Penang Realty*). The DIS stated that Section 24(1)(a) of the ITA would be applicable on gains received from compulsory acquisition where the asset (i.e., land) that was compulsorily acquired was a stock in trade. Subsequently, the taxpayer sought to revise its tax computation upon the decision of the HC in "*Metacorp Development Sdn. Bhd. v Ketua Pengarah Hasil Dalam Negeri [2011] 5 MLJ 447*" (*Metacorp*) which confirmed the decision in *Penang Realty*'s case.

DGIR's argument:

The DGIR argued that no error or mistake was committed by the taxpayer since the gains had been declared as income in the tax return form after much deliberation, full awareness and consciousness of the laws, and its implication including the decision in *Penang Realty*'s case. The taxpayer ought to have filed an appeal by way of Form Q under Section 99 of the ITA if the taxpayer did not agree with the DGIR. Hence, it was a deliberate act on the part of the taxpayer by declaring the gains as taxable income. Moreover, the DGIR's prevalent practice was to tax gains from compulsory acquisition that fulfilled Section 24(1)(a) of the ITA. The DIS was the DGIR's prevailing practice under Section 131(4) of the ITA.

Taxpayer's argument:

The taxpayer argued that it had made a mistake by relying on and following the DGIR's view as contained in the DIS. The taxpayer then sought to revise its tax computation based on the decision in *Metacorp*'s case.

Issue:

Whether the taxpayer qualified for relief in respect of error or mistake under Section 131(1) of the ITA regarding the gains arising from the compulsory acquisition of its land.

Decision:

The COA unanimously dismissed the DGIR's appeal with cost of RM20,000 to the taxpayer. The COA held that the taxpayer had in good faith relied on the DIS. Thereafter, the taxpayer realised the decision of *Metacorp* and the tax paid by the taxpayer was a mistake. The DIS was not the DGIR's prevailing practice.

[*Note: In summary, the HC allowed the taxpayer's appeal and taxpayer was entitled to claim for relief under Section 131(1) of the ITA for the YA 2010 regarding the gains arising from the compulsory acquisition of its land. The majority SCIT had erred in finding that the taxpayer should have filed the appeal forms when they had earlier made a finding of fact that the appeal forms were not in question because the taxpayer believed that its decision to follow the DIS was correct and that the DGIR's view in the DIS was a mistake. Details of the above tax case at both the SCIT and COA levels are not available as of date of publication.*]

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12. Panasonic AVC Networks Johor (M) Sdn Bhd v DGIR (HC)

HASiL has recently uploaded a case report, "Panasonic AVC Networks Johor (M) Sdn Bhd v DGIR (HC)" on its website.

Facts:

The taxpayer is in a business of manufacturing and selling audio, video and electronic musical instrument products and has been granted Pioneer Status under the Promotion of Investment Act 1986 (PIA) since the YA 1998 until YA 2003. In YA 2003, the taxpayer had also enjoyed Investment Tax Allowance for the Promoted Product under the PIA. The taxpayer then claimed Reinvestment Allowance (RA) for the Non-Promoted Product under the expansion, modernisation and automation of its business in manufacturing audio and video equipment pursuant to Schedule 7A of the ITA on the basis that they did not claim for RA on the Promoted Product. The DGIR disallowed the taxpayer's claim for RA on the Non-Promoted Product in the YA 2003 as the taxpayer was still enjoying Pioneer Status in the YA 2003. This exclusion was provided under Paragraph 7(b), Schedule 7A of the ITA. The SCIT dismissed the taxpayer's appeal on 9 February 2018. Dissatisfied with the SCIT's decision, the taxpayer filed an appeal to the HC via case stated dated 19 November 2021 under Paragraph 34, Schedule 5 of the ITA.

Taxpayer's argument:

The taxpayer argued that Paragraph 7(b), Schedule 7A of the ITA (Disputed Provision) only restricts a claim for RA in respect of a Promoted Activity for which the taxpayer had already been granted Investment Tax Allowance under the PIA. The taxpayer's main argument was rooted on the fact that the additional wordings "in respect of a promoted activity or promoted product" were later added into the Disputed Provision where previously, the said wordings did not exist. There was no distinction between Promoted/Non-Promoted Product prior to the amendment, hence the taxpayer argued that the Parliament intended for the Disputed Provision to be only restricted to Promoted Activity or Promoted Product. The

taxpayer further argued that in the event of ambiguity in the interpretation of any tax provision, such ambiguity must be construed in favour of the taxpayer. Thus, the taxpayer contended that since they were only granted Investment Tax Allowance for Promoted Product for the YA 2003, they should be entitled to claim RA for the capital expenditure that they had incurred for Non-Promoted Product in the YA 2003.

DGIR's argument:

The DGIR submitted that the literal meaning of the statute was clear and unambiguous and thus the principle of strict interpretation applied. The Learned SCIT was correct in its decision when they held that a purposive approach could not be applied as there is no ambiguity in the Disputed Provision. It was following the amendment of Section 2(1) of the PIA that the subsequent amendment was inserted into Paragraph 7, Schedule 7A of the ITA to include the wordings "in respect of a promoted activity or promoted product". Consequently, the amendment did not in any way indicate any change of intention on the part of the legislature. It was merely to mirror the amendment made in the PIA. DGIR submitted that as Paragraph 7(b), Schedule 7A of the ITA had expressly excluded a company currently enjoying Investment Tax Allowance from claiming RA, the taxpayer thus cannot avail itself to the benefit of RA regardless of whether it was for Promoted product or Non-Promoted Product.

Issue:

Whether the taxpayer is eligible to claim RA for the capital expenditure incurred on the Non-Promoted Product in the YA 2003 pursuant to Schedule 7A of the ITA.

Decision:

On 9 December 2024, the HC allowed the taxpayer's appeal with costs.

[Details of the above tax case at both the SCIT and HC levels are not available as of date of publication.]

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13. THRFSB v KPHDN (SCIT)

HASiL has recently uploaded a case report, "THRFSB v KPHDN (SCIT)" on its website.

Facts:

The taxpayer was allowed to claim RA on rubber processing activities from the YA 2000. From the YA 2009, Schedule 7A of the ITA was amended by inserting the definition of "manufacturing" in Paragraph 9 and deleting the word "processing" in Paragraph 8(a). The DGIR was of the view that following the introduction of the definition of "manufacturing" in Paragraph 9, Schedule 7A of the ITA, the taxpayer was no longer eligible to claim RA for rubber processing activities with effect from the YA 2009. The introduction of the definition of "manufacturing" was also accompanied by the introduction of the Income Tax (Prescription of Activity Excluded from the Definition of "Manufacturing") Rules 2012 [*P.U.(A) 23/2012*] which had listed "cleaning, processing, packaging or freezing of manufactured goods, or any combination thereof" as activities excluded from the definition of "manufacturing". However, based on Paragraph 2, Schedule 7A of the ITA, the taxpayer's existing rights to continue claiming RA for a period of 15 years was unaffected until YA 2014. The taxpayer then claimed RA for the YAs 2016, 2017 and 2018 based on the extension period granted under Paragraph 2B, Schedule 7A of the ITA. The DGIR did not allow the claim and issued a Notice of Additional Assessment for the YAs 2016, YA 2017 and YA 2018 respectively.

Taxpayer's argument:

The taxpayer argued that since it was allowed to claim RA from YA 2000, i.e., before the definition of "manufacturing" was introduced in 2009, the existing right to claim RA was not affected. Paragraph 2B, Schedule 7A of the ITA clearly stated that the company is eligible to claim RA for 15 years and when that period ends, the company is still eligible to claim additional RA for YAs 2016 until 2018. Paragraph 2B, Schedule 7A of the ITA does not limit RA extension claims after the expiry of the 15-year period to activities that meet the definition of "manufacturing". In fact, if the SCIT was of the view that only companies meeting the definition of "manufacturing" introduced in 2009 are eligible to claim additional RA, then the taxpayer would argue that its business activities meet the meaning of "manufacturing" under Schedule 7A of the ITA.

DGIR's argument:

The DGIR argued that the taxpayer was not eligible to claim RA after the end of the 15-year period because Paragraph 2B, Schedule 7A of the ITA was only introduced in 2015, i.e., after the amendment of Paragraph 9, Schedule 7A of the ITA with effect from the YA 2009. Capital expenditure that was incurred during the YA 2016 to YA 2018 i.e., after the expiry of the 15-year period is subject to the latest legal provisions that have come into effect from the YA 2009. In addition, the product produced by the taxpayer, SMR rubber, was a product produced through a combination of cleaning, processing, and packaging activities which are activities excluded from the definition of "manufacturing" based on the Income Tax (Prescription of Activity Excluded from the Definition of "Manufacturing") Rules 2012 [*P.U.(A) 23/2012*].

Issue:

Whether the taxpayer is eligible to claim RA after the expiry of 15-year period following the introduction of the definition of "manufacturing" with effect from the YA 2009.

Decision:

On 15 November 2024, the SCIT rejected the taxpayer's appeal and upheld all the Notices of Additional Assessment for the YAs 2016, 2017 and 2018. The SCIT decided that the taxpayer failed to discharge the burden of proof under Paragraph 13, Schedule 5 of the ITA.

[Details of the above tax case at the SCIT level are not available as of date of publication.]

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http://www2.deloitte.com/my/en/services/tax.html

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