Tax assessment in malaysia essay

The functions carried out by RIB include: To act as an agent of the government and to provide services in administering, assessing, collecting and enforcing payment of various taxes; To advise the government on matters relating to taxation and to liaise with the appropriate government departments and statutory bodies on such taters; To participate in or outside Malaysia in respect of matters relating to taxation; To perform such functions as conferred on the Board by any other written law. 1. 3. 1 Scope of Charge Malaysian income tax is charged for each year of assessment on income of any person accruing in or derived from Malaysia.

However, banking institutions, insurance, sea and air transport companies are taxed on a world income basis. 1. 3. 2 Classes of Income on which tax is chargeable The Income upon which tax is chargeable is in respect Of: a) Gains or profits from a business, for whatever period of time carried on; b) Gains or profits from employment; c) Dividends, interests or discounts; d) Rents, royalties or premiums; e) Pensions, annuities or other periodical payments not falling under any of the foregoing paragraphs; f) Gains or profits not falling under any of the foregoing paragraphs.

Special classes of income The income of a person not resident in Malaysia for a basis year for a year of assessment in respect of: 2. Amounts paid in consideration of services rendered by the person or the employee in connection with the use of property rights belonging to, or the installation or operation of any plant, machinery or other apparatus purchased from, such persons;

Amounts paid in consideration of technical advice, assistance or services rendered in connection with technical management or administration of any scientific, industrial or commercial undertaking, venture, project or scheme; or Rent or other payments made under any agreement or arrangement for the use of any movable property.

TAX REFORM IN MALAYSIA The topic for this forum is tax reform and the self assessment system. First of all WHAT IS TAX REFORM.

Generally tax reform is a re-structuring and improvement in the tax system that includes: The removal of imperfections, faults, errors, or short-coming in the tax yester. The change in the distribution Of tax burden.

In short, tax reform is not merely a tax change but a series of significant changes in the tax system, coupled with objectives in addition to the need for increase in tax revenue. Tax reform may take a variety of form.

It can cover increases of decreases in tax rates, brackets or thresholds and changes in the tax base, the introduction of new taxes and the abolition of existing taxes and it can comprise changes in the mix. In Malaysia too, taxation is often used as a tool for implementing socio economic policies to meet the common goals of taxation that is: To transfer resources from private to public sector; 3 To distribute the cost of government fairly by income classes (vertical equity) and among people in approximately the same economic circumstances (horizontal equity) and To promote growth, stability and efficiency.

Over the years several changes have been introduced in the tax system with the goals that I mentioned earlier and some of the underlying themes in the reforms were: ; The introduction of various incentives to promote investment; ; The introduction of tax relief to reduce the tax burden of the lower income group; To foster caring society; ; To enhance R&D and skill training; ; TO improve the investment climate. ; To promote domestic consumption.

; To simplify the tax system and ; To modernize the tax administration. There are 2 approaches in tax reform, the incremental approach and the package approach.

The incremental approach consist a series of small steps of tax changes and directed towards a predetermined goal. The reform is undertaken gradually and easy to manage by the tax authorities as well as to withdraw the reform if unpopular. The package approach provides the opportunity for major tax changes in the tax reform.

The reform comprises a series of essentially inter-related measures affecting more than one tax. The major changes are conceived and presented together. This approach is considered difficult and too complex to undertake. It requires expertise and exceptional administrative measures to undertake.

In general Malaysia uses the incremental approach in introducing tax reforms rather than the package approach and often it is introduced through the annual Budgets.

Over the last 50 years or so we have seen a lot of changes being made to tax system. The tax rates have been restructured constantly and tax relief and rebates have also undergone changes to reduce the burden of the lower income group and to foster a caring society. Tax incentives have also been reviewed in line with the current needs to promote investment as well as to promote economic growth.

Several measures are undertaken to reflect the government's policy in recognizing the role of women in developing the country.

In recent years the currently basis of assessment and self assessment system are introduced to modernize the tax administration and promote voluntary compliance. Last year Malaysia introduced the group relief system to allow companies to transfer loses to its related companies. At the same time a new measure to curb company ices " selling" their losses and capital allowances was 4 introduced.

Companies can no longer carry forward its losses and capital allowances if there is a substantial change in its shareholding. 3 SELF ASSESSMENT 3. 1.

HOW IT STARTED The initial groundwork for the self assessment system was done way back in 1993. The RID (then) realized that a better system for tax administration was needed to deal with the increasing number of taxpayers without a repatriation increase in the number of RID staff. The limited resources available had to be allocated strategically and this provided the impetus for introducing tax reforms.

The formal system whereby the GRID had to examine all returns before making assessments had become cumbersome and less efficient. Revenue focus had also been on revenue collection rather than debt management. 3.

2 THE DECISION TO IMPLEMENT SELF ASSESSMENT Although the initial work on self assessment was done very much earlier, the push towards self assessment did not take Off until an announcement was dad in the 1999 Budget Speech by the Finance Minister that it will take effect from the year of assessment 2001 for company taxpayers.

The delay was mainly due to the preparatory work to convert the Inland Revenue from a Government department to a statutory board on 1 March 1996. As a first step towards self assessment the current year basis of assessment was introduced. The current year basis of assessment The tax assessment system based on the income derived in the preceding year is changed to the current year beginning from the year 2000. The change is aimed at increasing efficiency and responsiveness in the collection of income tax to ensure that cash flow of the Government reflects the current performance of the economy.

This measure is also aimed at improving the level of tax compliance since the new system will be able to relate directly to the economic performance and the ability to pay. Although the economic performance of the country was not encouraging as a result of the Asian financial crisis, the Government was still willing to forgo its income tax on the 1999 income to facilitate a smooth implementation of the current year basis of assessment. On hindsight it was a wise move to waive a year of tax when he county was not doing so well as the tax loss was less than it would otherwise have been.

To the taxpayers, without the waiver means two years of income tax will have to be paid in one year and the “ windfall” would have encouraged many to spend more and thus generated more economic activity with its resulting multiplier effects. Belief no country in this world have been so generous, so bold and so forward looking. 5 However income tax is not waived on the following sources: Dividend Income Income subjected to final tax Income assessed under the Income Tax (Petroleum) Act 1967

Salary/wages of non-residents (including citizens) that commence/cease employment in 1999.

Although the tax on income derived in 1999 was waived, losses incurred in that year was allowed to be carried forward for set off against income in the subsequent years. Self assessment The official assessment system practiced then is changed to a self- assessment system in stages commencing in the year 2001 for companies. This measure is expected to improve revenue collection in consonance with the increase in tax compliance amongst taxpayers.

These proposals were seen as “ bold changes” in the tax administration while mom described it as “ surprising’. RIB was relieved that taxpayers and industries generally welcomed the move, which they saw was a concerted effort to improve tax administration consequently benefiting taxpayers. 3.

3 MALAYSIAN APPROACH TO SKIFF ASSESSMENT 3. 3. 1 What is self assessment Self assessment is not a new tax rather it is a system whereby taxpayers are required to determine their own tax liabilities and make payments accordingly.

Under this system, return forms submitted by taxpayers will be accepted prima facie as correct. The onus is on the taxpayer to declare the right amount of tax.

To ensure compliance and integrity of the system a sample of taxpayers will be selected for audit examination. 3. 32 Self assessment implementation The introduction of the current year basis of assessment and the self assessment system is a huge and complex undertaking. The only consolation is, the self assessment system was implemented in stages thus allowing some time for the RIB to prepare for the change.

For the RIB this major tax reform requires: The introduction of the legislation for the current year basis of assessment, the transitional provisions as well provisions for waiver of tax on he 1999 income and the self assessment legislation.

Reengineering of work processes and procedures as the current practice is no longer suitable. 6 Redesigning the computer systems to take care of the new concept of return examination and to monitor the accounts payable more effectively.

Disseminating of information through education and publicity programs to tax agents and taxpayers so that the new requirements of the law is well understood for better compliance. Training of officers on the new law, new processes and procedures that has to be coordinated throughout all the RIB branches.

Changing the mindset had en a difficult task. The transition from ‘ tick and flick” work process to full acceptance of tax returns submitted is not and easy one. Retraining of staff for field audit is another challenge for the RIB.

The period from concept to implementation had a very short time frame and many things had to be pushed through quickly. The introduction of self assessment also posed challenges to taxpayers and tax agents as it requires: A lot of understanding and keeping up to date with the new legislation as payment of tax and filing of returns are to be made voluntarily according to the due dates. Taxpayers have to be more accountable for their own tax affairs.

Familiarization with the new forms and procedures.

For the tax agents there was definitely a change in the pattern of work as filing of returns is now based on the date of closing of accounts of the respective companies. Our approach in implementing the self assessment was by identifying the areas that requires changes and worked on them according to priorities. We formulated implementation plan to ensure all the relevant parties benefit from the new system.

We formed task force or committees to be responsible in their respective areas as follows: Drafting of self assessment legislation – responsible to draft the self assessment legislation.

Public rulings – responsible to come out with ruling on issues where the law is vague. Work procedure and process – responsible to realign work procedures and processes to suit the new system as well as redesigning new form. Computer system – responsible to develop new computer system to be in line with the new law and work procedures and processes.

Tax education and public¶y. Tax compliance (mainly tax audit). 3. 3. 3 Self assessment legislation 7 The self assessment legislation encompasses the provisions in relation to tax reoccurred of the Income Tax Act 1 967 namely the filing of return, assessment and payment of tax.

To strengthen the administration of self assessment the provisions in respect of the requirement to provide reasonable facilities and assistance to the Director General or authorized officers and the “ tax preparer penalty’ were also introduced.

It was drafted based on the following guiding principles: As the self assessment system is to be implemented in stages from year 2001 , amendments to the law were initially made in respect of companies only. This means that the “ old” provisions were still applicable for encompass sprayers. The amount of tax payable should not increase as a result of self assessment.

The provisions relating to payment of tax and furnishing of returns can be considered as the mirror image of the old provisions except that the concept of due date is introduced.

The “ penalty’ structure also does not differ from the old regime. Interest on late payment/refund is not introduced. The new provisions would not increase the cost of compliance. Below are summary of some important legislation pertaining to self assessment. (a) Filing of return Taxpayers are required to calculate their respective taxes and file a return of income for the relevant year of assessment.

A return has to be furnished to the G as per the due date mentioned in the Act according to the categories of taxpayers. For companies, cooperative societies and trust bodies it has to be filed 7 months from the date following the close of the accounting period. For other categories of taxpayers the due dates are 30th April and 30th June for those without and with business income respectively. No extension of time is allowed. If a return is not filed by the due date a penalty for late lodgment of return will be imposed.

The amount of penalty depends on the number of offences hat the taxpayer has committed.

Assessment The GRID is deemed to have made an assessment on the day the return is filed and the return is deemed to be the notice of assessment and the notice Of assessment is deemed to be served on the date the return is filed. Thus for complete return received in time, no notice of assessment will be issued. However for late return the Director General will issue an assessment with penalty for late lodgment. 8 Payment of tax Payment of estimated tax In general taxpayers are required to pay their estimated tax as and when the income is earned.

Under the previous arrangement the G will have to make an estimate of the tax payable and also determine the number of installments as well as the date of payment. Under the current provisions companies, cooperative societies and trust bodies are required to furnish to the GRID its estimate of tax payable. The estimate must not be less than 85% of the revised estimate or if none is furnished 85 % of the estimate of tax payable for the immediately preceding year of assessment. The installment payment is due on the 1 20th of each month commencing from the second month of the basis period.

A revision of the estimate is allowed in the 6th and/or 9th month of the basis period.

A penalty will be imposed if the company understates its estimated tax and for failure to pay the installments by the due date. For other categories of taxpayers the GRID will issue a notice of 6 bimonthly installments payments. If the taxpayer disagrees with the estimate, the taxpayer can appeal to the GRID to reduce the amount. The estimated tax payable must be paid within 30 days from the date of payment specified on the notice and failure to do so will attract 10 % penalty. Payment of balance of tax

The balance of tax (if any) must be paid upon filing of the return form ii. The due date for filing of return is the same as the due date for payment of the balance of tax.

If it is not paid by the due date, the amount unpaid will be increased by 10% and if it is still not paid within 60 days from the due date, a further increase of 5% will be due and payable. Appeals The appeal provision is still applicable for tax under an assessment which includes the “ self assessment”. Logically the taxpayer would not appeal against its own assessment.