SELF-ASSESSMENT SYSTEM

A. Extension of Self-Assessment System to Entities Other than Companies

While provisions are already in the ***Income Tax Act, 1967*** (the Act) to implement self-assessment for companies from January 2001, the ***Income Tax (Amendment) Act 2002 (Act A1151)*** seeks to extend the Self-Assessment System to individuals, partnerships, trust bodies, co-operative societies and executors of deceased estates.

Some of the major legislative changes affecting the taxation of the above persons under self-assessment are:-

1. Basis Periods *[Section 21]*

General Provision

In line with the shift to the Self-Assessment regime for individuals, Section 21 has been amended to simplify the determination of basis period.

The amendment provides that the basis year of a person other than a company, trust body and co-operative society for a year of assessment shall constitute the basis period for that year of assessment. The amendment reinforces the Public Ruling Nos. 4/2001 and 6/2001 issued by the Inland Revenue on 30th April 2001.

The amendment is effective from year of assessment 2004.

Specific Direction of Basis Period for Year of Assessment 2002
[Section 27 of the Amendment Act]

Currently, where any person has prepared accounts in respect of his business for a period of 12 months ending on a day other than 31st December and there is, consequent to a change of accounting year end, a failure to prepare accounts ending on a corresponding day in a year of assessment, the Director General (DG) has the authority under the existing Section 21(3) to direct the basis period for the year of assessment in which the failure occurs or for that year and the following year of assessment.

A special provision has been introduced to disregard any change of accounting period in the basis period for year of assessment 2002 where a person, other than a company, trust body or co-operative society who prepares his accounts for a period of 12 months ending on a day other than 31st December in the basis year 2001. The basis period for year of assessment 2002 shall be the basis period as if there is no change of accounting period in year 2002.

Further, the basis period for year of assessment 2003 shall be the period commencing on the day following the last day of the basis period for year of assessment 2002 to 31st December 2003.

This amendment will have effect for year of assessment 2002 only.

Example:

PC & Co., which normally makes up its accounts to 30th November, changes its financial year end to 28th February in 2003. The accounts are made up as follows:-

Accounts Period	***No. of Months***
01.12.2000 to 30.11.2001	12
01.12.2001 to 28.02.2003	15
01.03.2003 to 28.02.2004	12

As the failure year is year 2002, the DG will direct the basis period for years of assessment 2002 and 2003 in accordance with the existing Section 21(3). However, there is a special provision introduced in the Amendment Act to disregard any change of accounting period in year 2002 so as to prevent that person from avoiding to pay tax by taking advantage of the provision for determining the basis period for year of assessment 2003 as provided in the transitional provisions. The direction of basis period considered in the Public Ruling No. 6/2001 is ignored and the basis period for the respective years of assessment 2002 and 2003 shall be as follows:-

Year of Assessment	***Basis Period (Public Ruling No. 6/2001*)***	***Basis Period (Special Provision)***
2002	01.12.2001 to 31.07.2002	01.12.2001 to 30.11.2002
2003	01.08.2002 to 28.02.2003	01.12.2002 to 31.12.2003
2004	01.03.2003 to 28.02.2004	01.01.2004 to 31.12.2004

**** Public Ruling direction disregarded.***

Basis Period for Year of Assessment 2003
[Section 29 of the Amendment Act]

For year of assessment 2003 only, the amendment in the transitional provisions varies the direction of basis period considered in the Public Ruling No. 6/2001 issued by the Inland Revenue on 30th April 2001.

(a) The basis year for year of assessment 2003 for a source of income shall constitute the basis period for that year of assessment.

Example :

AB & Co. prepares its accounts from 01.01.2003 to 31.12.2003.

The basis year ending 31.12.2003 is the basis period for the year of assessment 2003 for a source of income of AB & Co.

(b) Where the accounts are prepared in respect of his business for a period of 12 months ending on a day other than 31st December in the basis year 2003, the period which begins from the first day of that accounting period to 31st December 2003 shall form the basis period for that business of that person for year of assessment 2003.

Example :

Accounts prepared from 01.07.2002 to 30.06.2003 (12 months).

The basis period of that business for year of assessment 2003 is from 01.07.2002 to 31.12.2003.

(c) Where a person commences a business in the basis year of 2002 and the first set of accounts prepared in respect of that business ends on a day other than 31st December 2002, the basis year of 2003 shall be the basis period for year of assessment 2003.

(d) Where a person becomes a partner in an existing partnership or a partner of a person who is carrying on a business as a sole proprietor on a day in the basis year of 2002 or 2003 and that day falls within the period where the accounts of the business of the existing partnership or of the business of the sole proprietor have been made up to its normal accounting date ending on a day in the basis year of 2003, the period which begins from the day that person becomes a partner to 31st December 2003 shall constitute for that business of that person the basis period for year of assessment 2003.

(e) Where a person has made up the accounts of his business for a period of 12 months ending on a day other than 31st December in the basis year of 2002 and that period constitutes the basis period for year of assessment 2002, and there is a failure to make up the accounts of that business ending on a corresponding day in the following basis year, the period which begins on the day after the end of that basis period to 31st December, 2003 shall constitute for that business of that person the basis period for year of assessment 2003.

Example:

PC & Co., which normally makes up its accounts to 30th September, changes its financial year end to 31st March in 2003. The accounts are made up as follows:-

Accounts Period	***No. of Months***
01.10.2001 to 30.09.2002	12
01.10.2002 to 31.03.2003	6
01.04.2003 to 31.03.2004	12

The direction of basis period considered in the Public Ruling No. 6/2001 is disregarded and the basis period for year of assessment 2003 shall in accordance with the transitional provisions be directed as follows:-

Year of Assessment	***Basis Period (Public Ruling No. 6/2001*)***	***Basis Period (Transitional Provision)***
2003	01.10.2002 to 31.03.2003	01.10.2002 to 31.12.2003

**** Public Ruling direction disregarded.***

2. Deduction for Children *[Section 48(4)]*

Currently, where 2 or more individuals are entitled to claim relief in respect of the same child, the child relief due is apportioned between the claimants in the ratio of each individual's share of payment of maintenance over the total payments of maintenance made by the claimants :-

$$\text{Child relief} \quad \times \quad \frac{\text{Payment by a claimant}}{\text{Total payments by the claimants}}$$

It has been amended that where 2 or more individuals are each entitled to claim a deduction for relief in respect of the same child, the allowance given to each of those individuals is now 50% of the appropriate deduction. This will simplify the amount to be claimed by each.

The amendment is effective from year of assessment 2004.

3. Submission of Income Tax Return *[Section 77 and New Section 77A]*

Presently, a person other than a company, is required to furnish a return in the prescribed form to the DG within a time specified in the notice (not being less than 30 days from the date of service of the notice) for the purpose of ascertaining the chargeable income for that year.

The new Section 77(1) requires every person other than a company, trust body or co-operative society, chargeable to tax for a year of assessment or if he does not have chargeable income but has chargeable income or has filed a return in the immediately preceding year of assessment, to furnish to the DG a tax return in the prescribed form before 30th April in the year following the year of assessment unless specifically waived by the DG.

The new Section 77A requires every trust body or co-operative society to furnish to the DG a return in a prescribed form for each year of assessment within 6 months from the date following the close of the accounting period which constitutes the basis period for the year of assessment.

Example :

Financial year end (of trust or co-operative society)	31st December 2004
Return Form due by	30th June 2005

Where there is a change in the accounting period of a trust body or co-operative society such that the accounts are not closed on any date in a particular year, resulting in the trust body or co-operative society being unable to comply with the above requirement, a return for the year and the year of assessment in which the accounts are closed shall be furnished within 6 months from the date of the close of the accounting period.

The amendment further provides that the returns furnished shall specify the chargeable income and the amount of tax payable on the chargeable income as well as particulars as may be required by the DG.

The amendments are effective from year of assessment 2004.

4. Individuals – New Arrivals *[Section 77(3)]*

The above Section is amended to require an individual who arrives in Malaysia during a year of assessment if he is chargeable to tax in that year or if he is not so chargeable but is chargeable to tax in the following year of assessment to submit a notification of chargeability to the DG within 2 months of his arrival in Malaysia.

The above amendment is effective from year of assessment 2004.

5. Return by Partnership *[Section 86]*

Currently, a partnership is required to file a tax return in the prescribed form to the DG within a time frame specified in the notice (not being less than 30 days from the date of service of the notice) or which has not been required within 3 months after the beginning of that year to furnish a return, shall within 14 days after the said period submit a return to the DG.

It is amended that a partnership shall furnish to the DG a return in a prescribed form for each year of assessment not later than 30th April in the year following that year of assessment.

The amendment is effective from year of assessment 2004.

6. Raising of an Assessment *[Section 90]*

Currently, for an individual, trust body or co-operative society, the DG will issue a notice of assessment after reviewing the tax returns filed by them.

Under the amendment to Section 90, the DG shall be deemed to have made an assessment in respect of an individual, trust body or co-operative society on the day the return is furnished. The chargeable income and the tax shall be the respective amounts as specified on the said return furnished and deemed to have been served on the day on which the DG is deemed to have made the assessment.

In addition, the DG is empowered under this section to determine the amount of the chargeable income and to raise a best judgement assessment where a person has not furnished a return. The above assessment does not affect any liability otherwise incurred by that person by reason of its failure to deliver the return.

The amendment is effective from year of assessment 2004.

7. Payment of Tax *[Section 103]*

Presently, for a person other than a company, the balance of tax payable on an assessment raised under a notice of assessment after deducting the tax instalments paid shall be settled within 30 days from the date of notice.

It has been amended that the said balance of tax payable must be settled by the following due dates:-

For trust body of co-operative society	-	The last day of the sixth month from the date following the close of the accounting period.
For individual or partnership	-	30th April in the year following the year of assessment.

Where any tax is not paid by the due date, a penalty of 10% is imposed on the unpaid tax and if any balance of the tax so increased by the penalty remains unpaid upon expiration of 60 days from the due date, an additional penalty of 5% is imposed on the balance unpaid.

Assessments, additional, advance and composite assessments may continue to be issued to trust body, co-operative society, partnership or individual. The present due date of payment and penalty for late payment continue to apply.

The DG may in his discretion for any good cause shown remit penalty wholly or partially.

The amendment is effective from year of assessment 2004.

8. Payment by Instalments for Individuals *[Section 107B]*

Currently, every person chargeable to tax for a year of assessment, other than an individual to whom Section 107 applies, shall make payment by instalments on account of tax which is or may be payable at such times and in such amount as the DG may direct, whether or not the tax has been assessed.

Under the amendment, individuals shall be required to make payments by instalment at such time and amount as the DG directs on account of tax payable, excluding tax in respect of gains or profits from an employment.

Under the existing subsection 107B(4), where an individual requests to revise the instalment payment issued by the DG and the tax payable under an assessment exceeds the total of the revised instalments payable by an amount greater than 30% of the tax payable under the assessment, a penalty of 10% shall be imposed on the excess over 30% of the tax payable under the assessment. A proviso is introduced so that in computing the tax payable of an individual whose income includes gains or profits from an employment, for the purposes of Section 107B(4), the tax payable under an assessment for that year of assessment shall be reduced by the amount of tax which is attributable to those gains or profits and determined in accordance with the formula :-

$$\frac{A}{B} \times C$$

where A is his statutory income in respect of gains or profits from employment for a year of assessment;

B is his total income for that year of assessment;

C is his tax payable for that year of assessment.

The above takes into consideration that compulsory schedular tax deductions are made and remitted to the Inland Revenue by employers on behalf of their employees in respect of those gains or profits from the employment.

Example:

An individual is assessed to tax for year of assessment 2004 on his income from employment and rental source as follows:-

		RM
Statutory income		
- Employment		113,000
- Rental		50,000

Total income		163,000
		====
Tax assessed		27,975
		====
Estimated tax paid by instalments under Section 107B(1)	A	4,000
		====

Calculation of tax attributable to employment income under Section 107B(4A) is:

$\frac{113,000}{163,000} \times 27,975$	B	19,394
		====

Total tax assessed [A + B]	27,975
Less: Tax attributable to employment income	19,394

	8,581
Less: Estimated tax paid by instalments	4,000

Difference	4,581
30% of RM8,581 (on rental income)	2,574

Excess	2,007
	====
Penalty of 10% on excess under Section 107B(4)	200.70
	====

The amendments are effective from year of assessment 2004.

9. Estimate of Tax Payable and Payment by Instalments Extended to Trust Bodies and Co-operative Societies *[Section 107C]*

Furnish Estimate of Tax Payable

Currently, every company shall for each year of assessment, furnish to the DG an estimate of its tax payable. The estimate of tax payable shall be made in the relevant prescribed form and furnished to the DG not later than 30 days before the beginning of the basis period for a year of assessment. The estimate of tax payable for a year of assessment shall not be less than the revised estimate or where no revision is made, the estimate of tax payable for the preceding year of assessment. The estimated tax payable for a year of assessment must be paid in equal monthly instalments depending on the number of months in the basis period, by the tenth day of a calendar month beginning from the second month of the basis period.

It has been amended that the application of the provisions under Section 107C on the requirement to furnish estimate of tax payable and payment by instalments for companies be extended to trust bodies and co-operative societies. The amendment will have effect from year of assessment 2004.

Amount of Estimated Tax Payable

Currently, the estimate of income tax payable by a trust body and co-operative society is based on the tax payable for the preceding year i.e. estimate for year of assessment 2001 is based on the tax payable for year of assessment 2000 (current year basis).

For year of assessment 2004, a special provision has been included in Section 26 of the Amendment Act that the estimate of tax payable to be furnished by trust bodies and co-operative societies shall not be less than the tax payable for year of assessment 2002. However, if the tax for year of assessment 2002 has yet to be determined, then the estimate of tax payable for year of assessment 2004 to be furnished to the DG shall not be less than the tax payable for year of assessment 2001. Pending the implementation of the Self-Assessment System in year of assessment 2004, trust bodies and co-operative societies will continue to pay tax in advance based on the instalment scheme issued by the Inland Revenue.

The above amendment will apply to year of assessment 2004 only.

Balance of Tax Instalments Subsequent to Revision of Estimate

Previously, the remaining instalments after a revision of the estimate is made in the sixth month of the basis period for a year of assessment shall be the difference between that revised estimate and the amount of instalments that have been paid for a year of assessment.

It has been amended that the remaining instalments after revision of the estimate shall be the difference between that revised estimate and the amount of instalments that is payable in a year of assessment prior to the revised estimate.

In addition, a new subsection 107C(11A) is introduced to make it clear that tax can be collected under Section 103 and the payment of that tax can be enforced by way of civil suit under Section 106 against a person to whom Section 107C applies.

These amendments have effect from year of assessment 2001.

10. Tax Charged where Basis Period Exceeds 12 Months
Transitional Provisions [Section 30 of the Amendment Act]

The basis period for year of assessment 2003 for a person other than a company, trust body and co-operative society shall begin on the day after the end of the basis period for year of assessment 2002 to 31st December 2003 and hence having a basis period exceeding 12 months as illustrated in examples to item 1 above, if that person prepares the accounts in respect of his business:-

(a) for a period of 12 months ending on a day other than 31st December in the basis year 2003; or

(b) for a period of 12 months ending on a day other than 31st December in the basis year 2002 and that period constitutes the basis period for year of assessment 2002 and there is a failure to make up the accounts of that business ending on a corresponding day in the following basis year.

It has been amended that where the basis period of that person from any source or sources consisting of a business for year of assessment 2003 is more than 12 months and that business has statutory income, the tax charged on the chargeable income of that person for year of assessment 2003 shall be the total of:-

(a) the tax charged on the chargeable income from all sources of income of that person for a period of 12 months; and

(b) the tax charged on the chargeable income from all sources consisting of a business of that person in respect of the remaining months (which is the number of months in the basis period from a source or sources consisting of a business for year of assessment 2003 reduced by 12 months).

The amendment will apply to year of assessment 2003 only.

11. Tax Rebate for Individuals
Transitional Provisions [Section 31 of the Amendment Act]

Currently, a tax rebate is given to an individual with a chargeable income of RM35,000 and below. The tax rebate is RM350 for the individual and RM350 for his wife who is not assessed separately.

It has been amended that where the basis period of a person from any source consisting of a business for year of assessment 2003 is more than 12 months and the chargeable income of that person for a period of 12 months does not exceed the ceiling of RM35,000, the tax rebate of RM350 will be deducted against the tax charged on the individual's chargeable income for that year of assessment. In addition, since the basis period for that year of assessment is more than 12 months, a proportion of the tax rebate would also be granted where the chargeable income of the remaining months (i.e. number of months in the basis period from a source or sources consisting of a business for year of assessment 2003 reduced by 12 months) does not exceed RM35,000 and is determined as follows:-

$$\frac{A}{12} \times B$$

where A is the remaining months, or in the case of 2 or more businesses, whichever of those businesses that has the longer remaining months;

B is the amount of rebate under Section 6A(2).

However, the proportion of rebate shall not exceed the amount of tax charged for the remaining months.

Example :

An individual has a business source and closes his accounts on 30th June. His basis period for year of assessment 2003 as determined under Section 29 of the Amendment Act is 01.07.2002 to 31.12.2003 (18 months) and the chargeable income for the period is RM65,000. The chargeable income for a period of 12 months (determined in the manner under Section 30 of the Amendment Act) is RM34,000.

Tax Payable	**RM**	**RM**
12 - month period (01.07.2002 – 30.06.2003)		
Income tax of first	20,000	475.00
Income tax on balance of	14,000 @ 7%	980.00
Chargeable income for 12 months period	34,000	1,455.00
Remaining months (01.07.2003 – 31.12.2003)		
Income tax of first	20,000	475.00
Income tax on balance of	11,000 @ 7%	770.00
Chargeable income in respect of remaining months	31,000	1,245.00
Tax charged for 12 - month period		1,455.00
Tax charged for remaining months		1,245.00
		2,700.00
Less : Rebate under Section 6A(2)	350.00	
Rebate in respect to remaining months 6/12 x RM350.00	175.00	(525.00)
Total tax payable for year of assessment 2003		2,175.00

This amendment will have effect for year of assessment 2003 only.

B. Section 108 Credit Account

A new Section 108 was introduced in the ***Income Tax (Amendment) Act 2000*** so that the requirements under Section 108 are in accord with the basis period and the Self-Assessment System. The new Section 108 credit account consists of :-

RM

Balance at beginning of basis period		X
Add	: Tax paid in the basis period for a year of assessment	X
	Amount of tax set-off under Section 110 in the basis period for a year of assessment (subject to certain restriction)	X

		XX
Less	: Tax refunded in the basis period for a year of assessment	X

Net tax paid		XX
Add	: Balance of Section 108 credit brought forward	X
Balance at end of basis period		XX
		=====

In the above, “tax refunded” refers to the refund of overpayment made to the company under Section 111 of the Act which may include penalty discharged.

The definition of “tax refunded” was introduced in the ***Income Tax (Amendment) Act 2002***. Under the amended Section 108(14A), “tax refunded” or “a refund of tax” is a reference to :-

(a) the amount of instalments that has been paid under Section 107C for a year of assessment less the amount of tax payable (excluding any penalty imposed under Section 112 or 113) for that year of assessment; or

(b) the amount of tax payable (excluding any penalty imposed under Section 112 or 113) discharged by virtue of the assessment that has been reduced or discharged;

provided that the amount of tax payable (excluding any penalty imposed under Section 112 or 113) under that assessment has been paid.

The above amendment is effective from year of assessment 2001.