KPMG

Tax Compliance Certificate: Tailoring the Audit Microscope

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KPMG in Malaysia

Overview and Commentary

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Key Message

"…to provide a platform where the taxpayer is able to secure a TCC on a proactive approach while reducing exposure to future unexpected tax audits (and not only limited to the participation in government procurement as it is presently being proposed), the government should look into allowing taxpayers to voluntarily subject themselves to a voluntary coordinated audit review ("VCAR") with the IRB. In the event of tax adjustments arising from the VCAR, perhaps a lower penalty rate of no more than 10% should be imposed. "

Budget 2022 was announced on 29 October 2021 by the Honorable Minister of Finance, YB Senator Tengku Datuk Seri Utama Zafrul with the theme "Keluarga Malaysia, Makmur Sejahtera" reflects an inclusive "Keluarga Malaysia" approach in line with the policies and strategies outlined in the 12th Malaysia Plan. It has a total allocation of RM332.1 billion for Budget 2022, surpassing Budget 2021 allocation of RM322.5 billion.

As the Government is considering measures to increase tax revenue through increased tax compliance, the Government is now proposing for the introduction of a Tax Compliance Certificate ("TCC") as a prerequisite for companies to participate in government procurement beginning 1 January 2023. This raises questions on the conditions and the extent of the process towards securing the TCC. There is a limited scope process similar to the proposed TCC implemented overseas in countries such as the United States, South Africa, Cambodia and Philippines where compliance generally encompasses the requirement that tax returns and payment of tax liabilities have been made as provided by the Law.

In Malaysia, under the self-assessment regime, the mere compliance with tax filing obligations and timely payment of tax labilities clearly is insufficient to grant a taxpayer the privilege of falling outside the microscope of the IRB's tax audits. The taxpayers must be prepared to face tax audits with the current discretionary penalty at the rate of 45%. The finalisation of the tax audits can also be a long process. It is highly expected that the country would see more tax audit activities being deployed to close the revenue gap. In such trying times, this added pressure from the tax authorities would be a heavy one on the compliant taxpayer. Emphasis on enforcement of such activities should focus on errant taxpayers, tax evaders and cases involving fraud instead.

Hence, to provide a platform where the taxpayer is able to secure TCC on a proactive approach while reducing exposure to future unexpected tax audits (and not only limited to the participation in government procurement as it is presently being proposed), the government should look into allowing taxpayers to voluntarily subject themselves to a voluntary coordinated audit review ("VCAR") with the IRB. In the event of tax adjustments arising from the VCAR, perhaps a lower penalty rate of no more than 10% should be imposed.

This initiative would educate and incentivise taxpayers on greater compliance adherence with the goal of securing the TCC while promoting the voluntary declaration to enhance tax compliance. With this, it is hoped that the perception of tax audits are no longer looked upon as a bane to business operations and individuals but a mutual win to reinforce the responsibilities of both the IRB and the taxpayer in a self-assessment regime.

Those who have experienced a tax audit commonly testify of the strain and disruption the process can cause to one's business operations. Should a taxpayer find itself under the IRB's microscope, the stress of a protracted resolution process may be avoided if the taxpayer ensures that protocols are in place to actively manage and address tax risks to avoid tax disputes and exposures, proactively document tax transactions and engage with IRB in the most effective manner possible. Being able to identify tax issues in advance will be beneficial as the taxpayer takes control and manages the tax controversy and resolution process toward its best possible outcome in a VCAR towards attaining the TCC.

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