

Tajuk : 107C. Estimate of tax payable and payment by instalments for companies.

Tarikh Kuatkuasa :

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Part : PART VII - COLLECTION AND RECOVERY OF TAX

Chapter : PART VII - COLLECTION AND RECOVERY OF TAX

Section : 107C. Estimate of tax payable and payment by instalments for companies.

107C. (1) Every company, trust body or co-operative society shall for each year of assessment furnish to the Director General an estimate of its tax payable.

Estimate of tax payable and payment by instalments for companies.

Act 631

(2) Except as provided in subsection (4)(a) and subsection (4A), the estimate of tax payable for a year of assessment shall be made in the prescribed form and furnished to the Director General not later than thirty days before the beginning of the basis period for that year of assessment.

History

Subsection 107C(2) is amended by Act 683 of 2007 s19 (a), by inserting after the words "paragraph (4)(a)" the words "and subsection (4A)", has effect for the year of assessment 2008 and the subsequent years of assessment.

(3) The estimate of tax payable for a year of assessment shall not be less than the revised estimate of tax payable for the immediately preceding year of assessment or if no revised estimate is furnished, the estimate of tax payable for the immediately preceding year of assessment.

History

Subsection (3) introduced by Act A1069 of 1999 s12, shall have effect for the year of assessment 2002 and subsequent years of assessment.

Subsection (3) is substituted by Act 644 of 2005 s22, shall have effect for the year of assessment 2006 and subsequent years of assessment. The subsection formerly read as -

"The estimate of tax payable for a year of assessment shall not be less than the revised estimate of tax payable for the immediately preceding year of assessment or if no revised estimate is furnished, the estimate of tax payable for the immediately preceding year of assessment .".

(4) Where a company, other than a company to which subsection (4A) applies, trust body or co-operative society first commences operation in a year of assessment and the basis period for that year is not less than six months-

History

Subsection 107C(4) is amended by s10(a) Act 702 of 2010, by inserting after the words "in a year of assessment" the words "and the basis period for that year is not less than six months", has effect for the year assessment 2011 and subsequent years of assessment.

(a) the estimate of its tax payable for that year of assessment shall be made in the prescribed form and delivered to the Director General within three months from the date of commencement of operations; and

(b) subsections (2) and (3) shall apply to the company, other than a company to which subsection (4A) applies, beginning from the second year of assessment.

History

Subsection 107C(4) is amended by Act 683 of 2007 s19 (b), by inserting after the word "company" wherever appearing the words ", other than a company to which subsection (4A) applies", has effect for the year of assessment 2008 and subsequent years of assessment.

(4A) Subject to subsections (4B) and (4C), where a company first commences operation in a year of assessment, subsections (1), (2) and (3) shall not apply to the company-

History

Subsection 107C(4A) is amended by Act 693 of 2009 s32(a), by substituting for the words "Where a company" the words "Subject to subsections (4B) and (4C), where a company", has effect for the year of assessment 2010 and subsequent years of assessment.

(a) for that year of assessment and the immediate following year of assessment; or

(b) where the company has no basis period for that year of assessment, for the immediate two following years of assessment:

Provided that at the beginning of the basis period for the years of assessment referred to in paragraph (a) or for the two following years of assessment referred to in paragraph (b), the paid-up capital of that company in respect of ordinary shares is two million five hundred thousand ringgit and less.

History

Subsection 107C(4A) is inserted by Act 683 of 2007 s 19 (c), has effect for the year of assessment 2008 and subsequent years of assessment.

(4B) The provision of subsection (4A) shall not apply to a company referred to in that subsection if more than—

(a) fifty per cent of the paid up capital in respect of ordinary shares of the company is directly or indirectly owned by a related company;

(b) fifty per cent of the paid up capital in respect of ordinary shares of the related company is directly or indirectly owned by the first mentioned company; or

(c) fifty per cent of the paid up capital in respect of ordinary shares of the first mentioned company and the related company is directly or indirectly owned by another company.

(4C) For the purpose of subsection (4B), "related company" means a company which has a paid up capital

in respect of ordinary shares of more than two million and five hundred thousand ringgit at the beginning of the basis period for a year of assessment.

History

Subsection 107C(4B) and (4C) are inserted by Act 693 of 2009 s32(b), has effect for the year of assessment 2010 and subsequent years of assessment.

(5) Where an estimate of tax payable for a year of assessment has been furnished in accordance with subsection (2), that amount shall be paid to the Director General in equal monthly instalments determined according to the number of months in the basis period and each instalment shall be paid by the due date beginning from the second month of the basis period for the year of assessment in respect of which that estimate has been furnished.

(6) Where an estimate of tax payable for a year of assessment has been furnished in accordance with subsection (4)(a), that amount shall be paid to the Director General in equal monthly instalments determined according to the number of months in the basis period and each instalment shall be paid by the due date beginning from the sixth month of the basis period for the year of assessment in respect of which that estimate has been furnished.

(7) A company, trust body or co-operative society may in the sixth month "or the ninth month, or in both months"; of the basis period for a year of assessment furnish to the Director General a revised estimate of its tax payable for that year in the prescribed form and -

History

Paragraphs (7) amended by Act 631 of 2003 s16(a), by inserting the words "or the ninth month, or in both months"; with effect from year of assessment 2003 and subsequent years of assessment.

Paragraphs (7) formerly read as:

(7) A company, trust body or co-operative society may in the sixth month of the basis period for a year of assessment furnish to the Director General a revised estimate of its tax payable for that year in the prescribed form and -

(a) where the revised estimate exceeds the amount

of instalments which is payable in that year prior to that revised estimate, the difference shall be payable in the remaining instalments in equal proportion; or

(b) where the amount of instalments which is payable in that year prior to that revised estimate exceeds the revised estimate, the remaining instalments shall cease immediately.

History

Paragraphs (7)(a) and (b) amended by Act A1151 of 2002 s20(b), by substituting for the words "that have been paid for that year" the words "which is payable in that year prior to that revised estimate", shall be deemed to have effect from year of assessment 2001 and subsequent years of assessment.

(8) Notwithstanding subsections (1), (3), (4), (5), (6) and (7), the Director General may direct such company, trust body or co-operative society to make payment by instalments on account of tax which is or may be payable by that company, trust body or co-operative society for a year of assessment at such times and of such amounts as the Director General may direct and such account of tax shall be deemed for the purpose of subsection (10) to be the revised estimate of tax payable by that company, trust body or co-operative society for that year of assessment

Provided that, where the direction is made before the ninth month of the basis period for that year of assessment, that company, trust body or co-operative society may furnish a revised estimate of its tax payable for that year of assessment in accordance with subsection (7).

History

Subsection 107C(8) is substituted by Act 719 of 2011 s 19, has effect for the year of assessment 2012 and subsequent years of assessment. The Subsection previously read-

"(8) Notwithstanding subsections (1), (3), (4), (5), (6) and (7) but subject to subsection (8A), the Director General may direct any company to make payment by instalments on account of tax which is or may be payable by that company, trust body or co-operative society for a year of assessment at such times and in such amounts

as the Director General may direct."

Subsection 107C(8) is amended by Act 702 Of 2010 s10 (b), by inserting after the words "(3)," the words "(4)", has effect for the year assessment 2011 and subsequent years of assessment

Subsection 107C(8) is amended by Act 693 of 2009 s32 (c), by inserting after the word "(7)" the words "but subject to subsection (8A)", has effect for the year of assessment 2010 and subsequent years of assessment.

(8A) *[Deleted by Act 719 of 2011]*

History

Subsection 107C(8A) is deleted by Act 719 of 2011s19, has effect for the year of assessment 2012 and subsequent years of assessment. The Subsection previously read-

"Where the Director General directs a company to make payment by instalments under subsection (8) before the sixth month of the basis period for a year of assessment of that company, the total amount of that instalments shall be deemed for the purpose of this section to be the estimate of tax payable by that company for that year of assessment:

Provided that, subject to any revision under subsection (7), that instalments shall be payable in accordance with subsections (8) and (9)."

(8B) *[Deleted by Act 719 of 2011]*

History

Subsection 107C(8B) is deleted by Act 719 of 2011 s19, has effect for the year of assessment 2012 and subsequent years of assessment. The Subsection previously read-

"Where subsection (8A) applies and for a year of assessment, a company has furnished a revised

estimate under subsection (7), reference to the amount of instalments which is payable in subsection (7) shall be construed as reference to the amount of instalments which is payable under subsection (8) prior to the revised estimate."

Subsection 107C(8A) and (8B) are inserted by Act 693 of 2009 s32(d), has effect for the year of assessment 2010 and subsequent years of assessment.

(9) Where any instalment amount due and payable has not been paid by the due date or on the date specified by the Director General, the amount unpaid shall, without any further notice being served, be increased by a sum equal to ten per cent of the amount unpaid, and the amount unpaid and the increase on the amount unpaid shall be recoverable as if it were tax due and payable under this Act.

History

Subsection 107C(9) is amended by Act 1093 of 2000 s14, by substituting for the words "that sum" the words "the amount unpaid and the increase on the amount unpaid", with effect from year of assessment 2001.

(10) Where the tax payable under an assessment for a year of assessment exceeds the revised estimate under subsection (7) or deemed revised estimate under subsection (8), whichever is later, or if no such revised estimate is furnished or there is no such deemed revised estimate, the estimate of tax payable for that year of assessment, by an amount of more than thirty per cent of the tax payable under the assessment, then, without any further notice being served, the difference between that amount and thirty per cent of the tax payable under the assessment shall be increased by a sum equal to ten per cent of the amount of that difference, and that sum shall be recoverable as if it were tax due and payable under this Act.

History

Subsection 107C(10) is amended by Act 719 of 2011 s 19, by substituting for the words "revised estimate of tax payable for that year of assessment or if no revised estimate is furnished" the words "revised estimate under subsection (7) or deemed revised estimate under subsection (8), whichever is later, or if no such revised

estimate is furnished or there is no such deemed revised estimate”, has effect for the year of assessment 2012 and subsequent years of assessment.

(10A) Where for a year of assessment—

(a) no estimate is furnished by a company, trust body or co-operative society and no direction is given by the Director General to make payment by instalment under subsection (8);

(b) no prosecution under section 120 has been instituted in relation to failure to furnish such estimate; and

(c) tax is payable by that company, trust body or co-operative society pursuant to an assessment for that year of assessment,

such tax payable shall without any further notice be increased by a sum equal to ten per cent of the tax payable and that sum shall be recoverable as if it were tax due and payable under this Act:

Provided that if that company, trust body or co-operative society pays that sum or, where the sum is remitted under subsection (11), that company, trust body or cooperative society shall not be liable to be charged on the same facts with an offence under section 120.

History

Subsection 107C(10A) is inserted by Act 702 of 2010 s 10(c), has effect for the year assessment 2011 and subsequent years of assessment

(11) Notwithstanding the foregoing subsections, where the estimate of tax payable for a year of assessment is increased by a sum under subsection (9), (10) or (10A), the Director General may in his discretion for any good cause shown remit the whole or any part of that sum and, where the amount remitted has been paid, the Director General shall repay the same.

(11A) Nothing in this section shall prevent the collection of any tax from a person to whom this section applies in accordance with section 103 or the payment of that tax being enforced in accordance with section 106.

History

Subsection 107C(11) is amended by Act 702 of 2010 s10(d), by substituting for the words “or (10)” the words “, (10) or (10A)”, has effect for the year assessment 2011

and subsequent years of assessment

(12) For the purposes of this section-

“due date” means the tenth day of a calendar month;

“revised estimate” means a revised estimate made in the ninth month of the basis period or if there is no revised estimate made in the ninth month of the basis period, the revised estimate made in the sixth month of the basis period.”.

History

Subsection (12) amended by Act 631 of 2003 s16 (b), which have effect for the year of assessment 2003 and subsequent years of assessment, by deleting for the words For the purposes of this section, "due date" means the tenth day of a calendar month.

History

Section 107C amended by Act A1151 of 2002 s20(a), by inserting after the word "company" wherever it appears the words ", trust body or co-operative society", with effect from year of assessment 2004 and subsequent years of assessment.

Section 107C inserted by Act A1069 of 1999 s12, with effect from 1st January 2000 and, shall have effect for the year of assessment 2001 and subsequent years of assessment.

Subsection (11A) inserted by Act A1151 of 2002 s20(c), shall be deemed to have effect from year of assessment 2001 and subsequent years of assessment.