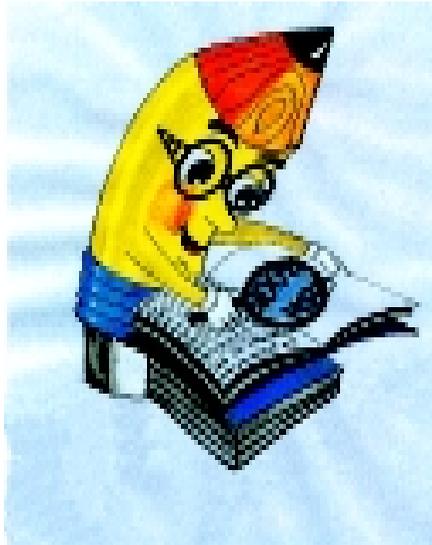


SELF ASSESSMENT SYSTEM

IRB Guide on Tax Audit



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IRB Guide on Tax Audit

FOREWORD

Audit is a routine activity of the IRB under the self-assessment system. It is aimed at promoting voluntary compliance with tax laws and regulations. The ultimate objective is for a just and equitable tax administration so that taxpayers will only have to pay their fair share of tax.

A taxpayer can be selected for audit at any time. Being selected for an audit does not in any way indicate that an offence has been committed.

This booklet provides an explanation on the implementation of audit on taxpayers. The rights and responsibilities of taxpayers and audit officers, and what generally is expected of them during the course of an audit are also mentioned.

This booklet is intended to help taxpayers understand better the procedures and requirements of a tax audit and the rights and responsibilities of those who are selected for an audit.

INLAND REVENUE BOARD MALAYSIA
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1. What Is A Tax Audit?

A tax audit is an examination of a taxpayer's business accounts and financial affairs to ascertain that tax reported and paid are correct and are in compliance with tax laws and regulations.

IRB carries out 2 types of audit, namely desk audit and field audit.

- **Desk Audit**

A desk audit is held at IRB office. Desk audits are normally concerned with straightforward issues or tax adjustments, which are easily dealt with via correspondence. A taxpayer may be called for an interview at IRB office if further information is required.

- **Field Audit**

A field audit is one that takes place at a taxpayer's premise. It involves the checking of the taxpayer's business as well as non-business records. Normally, a taxpayer will be given prior notice of a field audit.

2. How Taxpayers Are Selected for Audit

There are several ways in which a taxpayer may be selected for audit. These include:

- Selection through risk analysis;
- Manual checking of Return Forms;
- Examination of third party records, normally arising from audit or investigation of other taxpayers;
- Previous records on Return Form compliance;
- Selection based on specific industries;
- Selection based on specific issues peculiar to a particular group of taxpayers;
- Selection based on locality.

The basis and criteria of selection will be reviewed periodically. Reasons as to why a taxpayer is chosen for audit will not be disclosed.

3. How A Field Audit Is Carried Out

3.1 Audit Venue

A field audit is carried out at a taxpayer's business premise. If the business premise is not suitable, the taxpayer may suggest a suitable alternative.

3.2 Preliminaries

A taxpayer who is selected for audit will be notified by IRB through the mail. A letter confirming the visit is usually preceded by a phone call. Other than the intended date of visit, the letter will indicate the records that should be made available for audit and the names of officers who will conduct the audit.

3.3 The Visit

The audit normally starts off with a brief interview. This is to enable the officers to meet the taxpayer and generally discuss the audit. The taxpayer will be asked to explain his business activities, accounting and record keeping system. The person in charge of handling the taxpayer's business records may also be interviewed.

The IRB is aware that a taxpayer may have to devote some time attending to audit officers.

In this regard, IRB will do its utmost to ensure that such disruptions are minimal. This will be more readily achieved if the taxpayer is fully cooperative throughout the audit.

3.4 Examination of Records

The main activity in audit is examining the taxpayer's business records. Details on records and record keeping are explained in the following:

- IRB Public Ruling No. 4/2000: Keeping Sufficient Records (Companies & Co-operatives)
- IRB Public Ruling No. 5/2000: Keeping Sufficient Records (Individuals & Partnerships)
- IRB Public Ruling No. 6/2000: Keeping Sufficient Records (Persons Other Than Companies or Individuals)
- IRB - STS-BK 4: Self-Assessment - A Guide To Record Keeping For Business

The time taken to examine records largely depends on volume; the greater the volume the longer it takes to complete the examination. In the course of an audit, IRB will not search for or take possession of any record unless

absolutely necessary. Under such circumstances, the officer will request for the taxpayer's permission and provide him with a list of the records taken. The taxpayer will be allowed to check and make copies of such records.

However, the audit officer must be allowed to physically view stocks and equipment to ascertain that claims made are genuine.

3.5 Settlement And Appeal

An audit settlement involves a final evaluation of all findings. This will normally be followed by an interview to discuss ensuing tax adjustments. If there are no adjustments, a letter will be issued to inform that the audit has been finalised without any adjustments.

If there are adjustments, a tax computation with details of adjustments will be issued. A note together with the tax computation will also indicate a time period whereby the taxpayer is allowed to file an objection if he disagrees with the adjustments, before any assessment is raised. If there is no objection within the specified time, an assessment will be raised with appropriate penalty where applicable.

The taxpayer may still appeal against an assessment after a notice of assessment has

been served on him. This appeal must be made to the Special Commissioners of Income Tax within 30 days by filing in a prescribed Form Q. Notwithstanding the appeal, tax due as indicated in the amended notice of assessment must be paid within the stipulated time.

3.6 Audit Timeframe

There is no fixed timeframe for field audits. Generally, the time required to complete an audit would depend on the following factors:

- The size of business and complexity of business transactions;
- The type or manner in which records are kept;
- The degree of cooperation from the taxpayer.
- With the co-operation of the taxpayer the IRB will conclude the audit in the shortest possible time.

4 The Rights And Responsibilities Of Audit Officers And Taxpayers

4.1 Secrecy

IRB will ensure that all information obtained from the taxpayer during an interview, discussion, through correspondence or examination of records are used only for tax purposes and will remain confidential.

The law requires that the taxpayer provides all information requested. A taxpayer who fails to do so may be prosecuted and fined on conviction.

4.2 Audit Officer

4.2.1 Responsibilities of Audit Officer

An audit officer is expected to carry out his duties in the following manner:

- Professional and courteous;
- Knowledgeable and fair in administering tax laws, honest and trustworthy;
- Cooperative and possess a willingness to give advice and guidance to the taxpayer;

- Ensure that the audit is carried out smoothly with minimum disruption to the taxpayer;
- Request for documents, books of accounts and information that are relevant to the audit only;
- Ensure that the rights and interest of taxpayers, tax agents and documents are safeguarded.

4.2.2 Identification Of Officer

Each audit officer is issued with an authority card bearing his name and photograph. The card also carries a statement that the officer is authorized to examine books of accounts, documents and records at the taxpayers' premises. Taxpayers are advised to view the authority cards before divulging any information. Taxpayers are advised to check with the Branch Head of the nearest tax office.

4.3 Taxpayer

4.3.1 Responsibilities Of Taxpayer

A taxpayer is expected to be courteous, fair and honest, and must provide

reasonable facilities and assistance during an audit. This includes giving access to IRB officers to his business premises, providing information and making available documents and records required for examination.

The taxpayer must respond to all queries. If questions posed are ambiguous, he must seek clarification from the audit officer. Questions posed normally relate to the business carried out. However, the taxpayer may also be queried on personal matters such as personal expenses, savings, bank accounts, assets etc. Taxpayers can request for their tax agents to be present during an interview especially if it facilitates the audit process.

The taxpayer is not expected to suspend business activities during an audit. However, giving full cooperation will ensure that the audit will not be unnecessarily prolonged and consequently, any disruption to the business will be kept at a minimum.

Taxpayers should not at any time transact any business with an audit officer other than on normal terms.

4.3.2 Providing Reasonable Facilities and Assistance

The taxpayer must provide reasonable facilities and assistance to enable the audit officer to carry out this duties.

Reasonable facilities and assistance refer to the following:

- Giving access to premises;
- Giving explanation regarding business, accounting and information systems;
- Giving permission to check and make copies of records, documents and books of accounts in the physical or electronic medium;
- Assisting in the preparation of records, documents, books of accounts and providing access to information systems;
- Allowing the use of copiers, telephone or other communication equipment, lighting and power, office space and furniture as well as providing facilities for copying of electronic records onto tapes, disks or diskettes;

- Taxpayers are not expected to provide food, refreshments and any form of gifts to audit officers.

For more details on **Providing Reasonable Facilities and Assistance**, please refer to IRB Public Ruling No.7/2000.

4.3.3 *Payments of Tax*

Taxpayers should not make any payment to audit officers. Any tax to be paid arising out of an audit adjustment must be made to the Director General of Inland Revenue through an appointed bank or any Collection Branch of the IRB.

4.4 *Obstruction of Audit Officers*

Obstruction of or hindrance to audit officers is a serious offence and a taxpayer can be fined if convicted.

Obstruction refers to the following:

- Preventing an audit officer from entering the premise to perform his duties;
- Failing to provide reasonable assistance to the audit officer in carrying out his duties;

- Destroying relevant documents;
- Giving false statements;
- Deliberately delaying the audit.

4.5 Problem Settlement

If a problem arises during an audit, the taxpayer must first refer to the audit officer. If a settlement could not be reached, the taxpayer may then refer to a senior officer at the relevant IRB branch.

5 Penalty

If it is discovered during an audit that there has been an understatement or omission of income, a penalty will be imposed under subsection 113(2) of the ITA 1967.

The taxpayer is encouraged to make a voluntary disclosure regarding the omitted income. This disclosure must be made in writing to the Head of Branch. The penalty rates are dependent on the time that has lapsed between omission and voluntary disclosure as shown below:

	Period	Rate
• Voluntary disclosure before case is selected for audit	< 1 year	15 %
	1-3 years	25 %
	3-5 years	40 %
	> 5 years	50 %
• Voluntary disclosure after being informed of case selection but before commencement of audit		50 %
• Non-disclosure (Discovery of omission during audit)		60 %
• Repeated offences*		60% + 10%

- * For repeated offences, the rate of penalty is 60% of tax charged plus an additional 10% for each repeated offence not exceeding 100%.