



FREQUENTLY ASKED QUESTIONS

TAX CORPORATE GOVERNANCE FRAMEWORK AND GUIDELINES

Date: 27/07/2022

NO.	QUESTION	ANSWER
1	What is Tax Corporate Governance Framework (TCGF)?	Tax Corporate Governance Framework establishes the techniques and processes within the organisation to identify tax risks, assess risks, and sets out the appropriate actions to mitigate the impact of those tax risks. An effective tax corporate governance framework can cultivate a level of confidence that the organisation is reporting and paying the right amount of tax, enabling organisations to achieve greater certainty in relation to their tax affairs.
2.	What are the purpose/objectives of TCGF?	<p>TCGF sets out the IRBM's expectation on the application of the principles of Tax Corporate Governance within an organisational setting. <i>Organisation for Economic Co-operation and Development (OECD)</i> through its publication on Co-operative Tax Compliance identifies the following six principles in developing a good TCGF which are as follows:-</p> <ul style="list-style-type: none"> a) Tax strategy established b) Applied comprehensively c) Responsibility assigned d) Governance documented e) Testing performed f) Assurance provided <p>This document aims to help organisations understand the focus areas of the IRBM concerning tax corporate governance to enable businesses to:</p> <ul style="list-style-type: none"> a) Develop or improve an organisation's tax governance and internal control framework; b) Promote tax compliance and reduce tax risks;

		<ul style="list-style-type: none"> c) Test the robustness of an organisation's framework; d) Understand how to demonstrate the operational effectiveness of an organisation's key internal controls to its stakeholders, including the IRBM; and e) To ensure that the financial, regulatory, and reputational risks associated with taxation are fully identified and evaluated.
3.	<p>Who can implement Tax Corporate Governance (TCG)?</p> <p>Is TCG only suitable for listed companies?</p>	TCG is suitable for all sizes and types of businesses that give priorities and resources to corporate governance matters.
4.	How will the TCG Programme be implemented in Malaysia?	TCG Programme is currently being implemented as a pilot project. The programme will be open to all organisation once the pilot project phase is over. (Refer Q6). However, the interested organisations are advised to adopt and execute the framework as soon as possible in order to be prepared and meet the prerequisite.
5.	Who can join the TCG programme?	TCG in Malaysia is currently being implemented as a pilot project. Therefore, selected organisation will receive an invitation from IRBM to join the programme. Other interested organisations may contact IRBM via tcg@hasil.gov.my to communicate their interest or to obtain further information on the Programme. A qualified organisation will be notified.
6.	Is there any implementation phase for the programme?	<p>Yes, the TCG programme will be implemented in two phases.</p> <p>During the first phase (pilot project), IRBM will focus on communicating our standards to the public with the aim of creating awareness and educating the organisation. We look forward to gaining any valuable feedback from organisations to further improve our framework (if necessary).</p>

		<p>At this point, IRBM will conduct the pilot project with the organisations. The pilot project phase will begin in June 2022 and is expected to end in June 2024.</p> <p>The programme will be open to everyone during the second phase (post-pilot).</p>
7.	Is the programme similar to the voluntary disclosure programme?	No.
8.	How long will the programme be offered once an organisation is accepted?	Once an organisation is accepted into the programme, the TCG status will be valid for 3 years subject to terms and conditions stated in the offer.
9.	Would there be any fee charged to participate in the programme?	There will be no fees charged to participate in the programme.
10.	Is the programme similar to Cooperative Compliance?	TCG is part and parcel of the Cooperative Compliance initiative. It is an integral component of Cooperative Compliance.
11.	Will the taxpayer receive any letter/certificate as proof of participation?	An Authentication Letter (surat pengesahan) will be given to taxpayers once the IRBM is satisfied with the organisation's TCGF and Tax Control Framework after performing the review and assessment process.
12.	What is the benefit of TCG?	<p>TCG can benefit both the taxpayers and the tax authority in terms of:</p> <ul style="list-style-type: none"> I. Providing Greater Certainty With the implementation of TCG, tax-related issues can be identified earlier and mitigation action can be taken properly. A well-functioned TCG will provide greater certainty to the tax authority in terms of tax risk management and reporting by the business entity. It supports the idea that sufficient action has been taken to ensure tax compliance. II. Earlier Resolution of Tax Issues With better certainty, the tax authority can make a better judgment and this implies earlier resolution of tax issues.

		<p>III. Better Transparency</p> <p>Tax transparency can be achieved primarily through tax returns and information disclosure. Organisations can develop tax transparency as a parameter that need to be taken into account, which requires them to beready and prepared to be transparent. The need to understand a taxpayer's overall tax situation applies to all taxpayers (natural persons and companies). However, a high degree of transparency is needed in the case of businesses operating in several jurisdictions.</p> <p>Owners or managers should be able to form a view that the financial records of the business, including tax reporting, reflect a true and fair view of that business. In the end, effective tax governance is demonstrated by meeting obligations including lodgment and payment obligations in full and on time.</p>
<p>13.</p>	<p>What is the advantage or benefit offered by the IRBM to the organisation that participates in the TCG programme?</p>	<p>Organisations will be able to enjoy the following benefits upon their participation in the TCG Programme :</p> <p>I. Reduced scrutinization of compliance activities.</p> <ul style="list-style-type: none"> • Lesser tax audits will be conducted. • Higher materiality or reduced sample size. <p>II. Expedite tax refunds.</p> <ul style="list-style-type: none"> • Accelerate tax refund process for compliant participants, provided no anomalies are noted the best endeavour will be given to expedite refunds. <p>III. Appointment of a dedicated tax officer.</p> <ul style="list-style-type: none"> • A single point of contact between taxpayer and the IRBM. <p>IV. Expedite any ongoing dialogue on technical matters.</p> <ul style="list-style-type: none"> • Priority consideration • Eligible to be granted priority consideration for compliant participants, which are: <ul style="list-style-type: none"> - Consideration will be given accordingly in respect of tax penalty rates. - Step down of compliance activities.

		Note: Terms apply (The Authentication Letter attachment contains the programme's terms and conditions).
14.	The implementation of TCG will incur costs to the business. Will these expenses be allowed for relief/deduction?	These expenses are capital in nature and not allowable for tax deduction under subsection 33(1) ITA 1967.
15.	As mentioned in the framework, one of the benefits of TCG is lesser audits. Will the organisation who do not participate in the TCG programme be targeted for an audit?	No. The case selection for tax audit will be based on risk assessment and the current Tax Audit Framework.
16.	Can I subsequently withdraw from the TCG programme? What is the implication?	A request to withdraw from the TCG programme should be made in writing. As the adoption of TCG-demonstrates your willingness and commitment to establish good tax governance standards in your organisation, we will assess your reasons for withdrawal from the programme and take this into account in your compliance risk profile with IRBM.
17.	What is the penalty rate for an organisation with TCG in case of tax audit findings?	For compliant organisation, priority consideration will be given for lower penalty rates in accordance with IRBM Tax Audit Framework which is currently in effect.
18.	How long is the time taken for the TCG process?	The proposed timeframe from the date of acceptance of the participant by the IRBM to the award of participation status is 8 - 12 months , with a potential extension of time application subject to IRBM's approval. Other consideration: Since the TCG are subjected to steady and consistent reporting, a renewal process is necessary from time to time to ensure that the organisation's TCG continues to meet the standards for the programme.

		The validity of the IRBM's Authentication Letter is subjected to the above process.
19.	Will the organisation that participate in the TCG programme be subject to audit/ investigation?	Organisations that participated in the programme can benefit from reduced scrutinization of compliance activities such as lesser tax audit. Qualified organisation <u>that fulfil the requirement and criteria</u> listed by IRBM <u>shall not be subject to audit / investigation.</u>
20.	If the organisation / company is under investigation by IRBM, can they participate?	The organisation may participate in the programme only after the issues are resolved. (grace period may apply subject to compliance risk assessment). An organisation will be notified of any status regarding their application for the programme.
21.	What is the document to be submitted for the programme?	Please refer to TCGF / IRBM TCGF Guidelines
22.	What are the criteria for IRBM Review on Organisation's TCG?	Refer to Paragraphs 9 of IRBM TCGF Guidelines
23.	Are there any standards for disclosure?	The organisation may refer to any tax governance, internal control frameworks, or generally accepted risk management principles which are applicable to tax matters. When reporting how compliance with the tax governance and control framework is evaluated, the organisation can describe the process through which the tax governance and control framework is monitored, tested, and maintained.
24.	Is the organisation required to publish its tax policy /tax strategy? Where shall the organisation publish?	Yes The organisation may publish it on its website/annual report/ any medium that is publicly accessible.
25.	Is there a penalty if the tax policy or strategy is not published?	No. However, this will affect our review and assessment of the organisation's TCG.

26.	Do I have to inform IRBM of any changes in my tax governance policy?	<p>There is no need to inform IRBM if your tax governance policy continues to adhere to the principles of TCGF. However, IRBM may request information on your tax governance structure periodically to ensure that it is still adhering to the TCGF.</p> <p>If the organisation's tax governance policy/strategy no longer adheres to the principles of TCGF or does not meet the requirements of the TCGF, the organisation is required to inform IRBM in writing.</p>
27.	<p>I am part of a foreign multinational and hence I have to adhere to the global tax governance policy that is published by my foreign parent company on the global corporate website. I am unable to publish my local governance policy. Can I still apply for TCG?</p>	<p>If your global tax governance strategy aligns with the TCGF's direction and you have a tax governance structure in place that follows the TCGF, you can apply for TCG.</p> <p>Instead of publicising your tax governance policy, you could state on your website that you follow your organisation's global policy and give the source. You should include information about your tax governance structure and practices in your application because they may not be reflected in the global tax governance policy.</p>
28.	Is a Tax Compliance Certificate (TCC) the same as a Tax Corporate Governance (TCG)?	No.
29.	Who can be the Independent Reviewer?	<p>a) Approved tax agent b) Internal auditor with suitable qualification c) Qualified independent person</p>
30.	How does IRBM undertake a review of organisation's submissions before issuing a certificate?	<p>The review will be carried out by focusing on the adequacy of the organisation's tax governance framework and the effectiveness of its control framework.</p> <p>In terms of method, we may perform inquiries, observations, tests, and inspections as well as reassessment.</p>
31.	Can the independent reviewer be the tax advisor	Yes, the independent reviewer can advise the taxpayer on its TCGF.

	who advises the organisation on its TCGF?	However, for greater independence, it is better for the organisation to appoint different parties to act as a consultant to advise the organisation in terms of the adequacy and effectiveness of its TCGF.
32.	If the organisation already has an internal control framework/tax control framework, will that be sufficient to join the program?	The organisation shall satisfy the pre-requisite TCGF requirements before entering the programme. The Fulfilment of the pre-requisite TCGF requirements will be easier if the organisation have an internal control or tax control system in place.