



TAX REFORM TO IMPROVE COMPLIANCE

MALAYSIA

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PRESENTATION SCOPE

- 1. TAX ADMINISTRATION AND SYSTEM – MAJOR REFORM**
- 2. KEY TAX RULES**
- 3. RECENT TAX LAW CHANGES**
- 4. THE MECHANISM TO DETECT PROBLEMS IN THE CURRENT LAW**
- 5. BEPS**

TAX ADMINISTRATION – MAJOR REFORM

JANUARY 2015 : IRBM A SELF-FINANCED AGENCY

- Financial independence - keep a fixed percentage of the revenue collected.
- Fee collected will be used to finance:
 - ✓ Operating costs and salaries.
 - ✓ Investment - to strengthen financial resources.
- Freehand to recruit staff without having to get clearance from the Public Service Department.



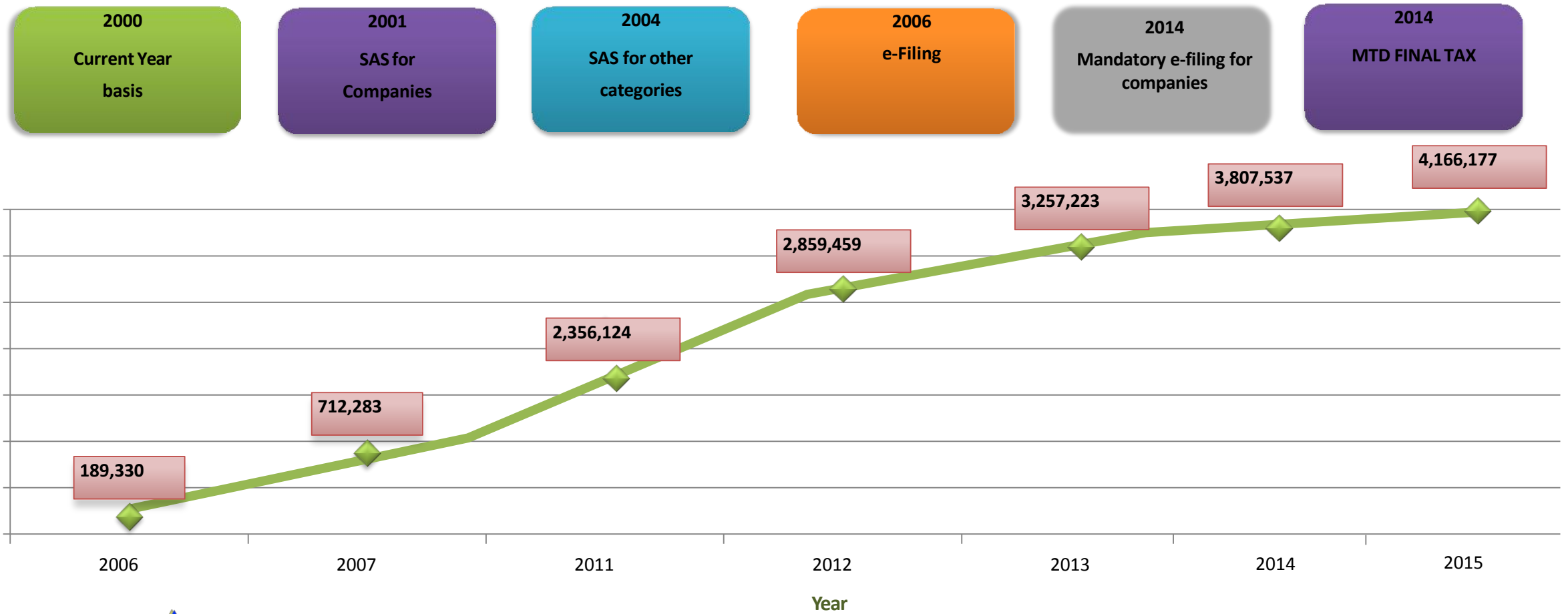
VALUE FOR MONEY

COST BENEFIT ANALYSIS

CASH AVAILABILITY

OUTCOME

REFORM OF TAX SYSTEM IN MALAYSIA: DIRECT TAX



REFORM OF TAX SYSTEM IN MALAYSIA: INDIRECT TAX



- 1st April 2015
- SST (10%) → GST (6%)
- To enhance the capability, effectiveness and transparency of tax administration and management.

2016: GST collection is projected at RM39 billion

GST Implementation
2015 - RM 27 B
(collected)

If SST had been retained
- RM 18 B
(predicted)





2. KEY TAX RULES TO COUNTER COMPLIANCE RISK

2.1 GENERAL ANTI AVOIDANCE RULES

- Power to disregard certain transactions and computing or re-computing tax liability of a taxpayer [S.140 ITA 67].
- DG may substitute the price in respect of the transaction to reflect an arm's length price for the transaction on a non-arm's length basis [S.140A ITA 67].
- Section 140A also contains thin capitalisation provisions, although the Government has delayed the implementation date to 1 January 2018



2. KEY TAX RULES TO COUNTER COMPLIANCE RISK

2.2 PREDICATE OFFENCE - Anti-Money Laundering and Anti-Terrorism Financing Act (AMLATFA)

- Serious Offences under Second Schedule of AMLATFA:
 - i. Section 112 ITA 1967: Failure to furnish return or give notice of chargeability
 - ii. Section 113 ITA 1967: Incorrect returns
 - iii. Section 114 ITA 1967: Wilful evasion



2. KEY TAX RULES TO COUNTER COMPLIANCE RISK

2.3 BEST JUDGMENT ASSESSMENT

- DG may refuse to accept the return and, according to the best of his judgment, determine the amount of the chargeable income of that person for that year and make an assessment accordingly [S.90(1) ITA 67].
- Where a person has not furnished a return, the DG may according to the best of his judgment determine the amount of the chargeable income of that person for that year and make an assessment accordingly [S.90(3) ITA 67].



2. KEY TAX RULES TO COUNTER COMPLIANCE RISK

2.4 STATUTE OF LIMITATIONS

- The general statute - five years from the end of the relevant year of assessment.
- Transfer Pricing issues - Extended by another two years to seven years.
- Where fraud, wilful default, or negligence has been committed - Statute of limitation is not applicable.
- Collection of unpaid tax - No statute of limitations.



2. KEY TAX RULES TO COUNTER COMPLIANCE RISK

2.5 REPORTING REQUIREMENTS – CORPORATE TAX

- Assessment system – Self assessment (w.e.f 2004)
- Estimate of tax payable must be made 1 month before the commencement of a year of assessment.
- Monthly instalments must be paid based on the estimate of tax payable.
- Filing due date – 7 months from the date following the close of the accounting period - Mandatory through e-Filing.



2. KEY TAX RULES TO COUNTER COMPLIANCE RISK

2.6 RECOVERING TAX AND DEBTS DUE

- Taxpayer may be prevented from leaving Malaysia until he has paid all the tax, sums and debts so payable or furnishes security for the payment [S.104 ITA 67]
- A director of a company shall be jointly and severally liable for company's tax due and payable [S.75A ITA 67].

3. RECENT TAX LAW CHANGES: 2013-2015

S.75A Director's Liability - A director of a company shall be jointly and severally liable for company's tax due and payable

- S.75A(2)(b) – Interpretation of director; direct or indirect control of ~~more than fifty~~ percent → not less than twenty percent.

S.77C Deduction of tax as final tax

- Individual may elect not to furnish a return – no assessment shall be made by IRB → amount of tax deducted shall be deemed to be the amount of tax payable.

S.39(1A) Deductions not allowed

- If a person fail to provide information required by DG – no deduction from the gross income from that source shall be allowed



3. RECENT TAX LAW CHANGES: 2013-2015

S.140B Special provision applicable to loan or advances to director

- A company makes any loan or advances from the internal funds of the company to a person who is a director of that company → the company shall be deemed to have a gross income consisting of interest from such loan or advances.

S.132B Mutual administrative assistance arrangement

- Mutual administrative assistance arrangement with other country in tax matters; simultaneous tax examinations, automatic exchange of information, tax administration abroad

4. THE MECHANISM TO DETECT PROBLEMS IN THE CURRENT LAW

- Dispute resolution issues.
- Feedback from Tax auditors on the ground – yearly convention program.
- Dialogue on technical and operational issues - Working Group (DESIRE)/Dialogue between the Inland Revenue Board (IRB) and representatives of the MICPA, CTIM, MIA, MAICSA, MATA and MICCI



5. BEPS

5.1 BEPS IMPLEMENTATION STATUS

- Malaysia is a developing country and the majority of MNEs operating in Malaysia are subsidiaries
- Transfer pricing is a great concern;
 - ✓ Action 6 Treaty abuse;
 - ✓ Action 7 Artificial avoidance of PE status;
 - ✓ Action 8-10 Transfer pricing
- However, all the BEPS Action Plan are looked into and each and every Plan is important. Study is being conducted to observe developments on all action plan.

5. BEPS

5.2 AEOI

- Malaysia signed the Multilateral Competent Authority Agreement (MCAA) - commitment to implement automatic exchange of financial account information in time to commence exchanges in 2018.
- Preparations:
 - ✓ New provision [S.132B] - Mutual administrative assistance arrangement
 - ✓ To sign Convention on Mutual Administrative Assistance (CMAA) in Tax Matters (expected May 2016)
 - ✓ New Rules & Guidelines on CbCR – 2016
 - ✓ BEPS updates shared during conferences and seminars
 - ✓ Dialogue with Financial Institutions on AEOI & CRS
 - ✓ Dialogue with ultimate parent of Malaysian companies on CbC Reporting

THANK YOU

HASIL

