



TAX MATTERS

BY S. M. THANNEERMALAI

# Know your rights as a taxpayer

> Do not shy away from exercising them when required

JAN, 2014 signalled the beginning of another tax year and very soon you will have to file your individual tax returns: by April 30, 2014 for the year ended Dec 31, 2013.

The current tax system increasingly places greater responsibilities and burden on the taxpayer; filing obligations, self-assessing your tax liabilities and imposing penalties if taxpayers get it wrong or are late. It will appear the system is loaded against the taxpayer.

However, do not forget that the system allows taxpayers to exercise their basic rights such as the fundamental right to refund of taxes overpaid together with interest, the right to appeal and the right to be informed of the reasons for any assessment of additional taxes and to amend errors and mistakes made in the tax return.

All taxpayers need to be aware of their basic rights and please do not shy away from exercising the rights enshrined in tax legislation and the taxpayer/client charter published by the Inland Revenue Board (IRB).

Before I highlight the rights of taxpayers, a piece of advice I would give you is: settle your taxes on time because tax liabilities will never go away as there is no time bar for the government to collect from you. Even after a person dies, his/her tax

liabilities will not disappear and the administrator or executor of the estate will need to settle any outstanding tax liabilities.

It is best to visit your nearest IRB office at least once a year and sit down with the officials and reconcile the taxes you have paid in the past year via instalments, monthly deduction of taxes by your employer or through the CP 500, etc, against the ledger maintained by the IRB to avoid any potential penalties for late payment or non-filing of returns or underpayment of taxes.

Reconcile and settle your taxes yearly to avoid any confusion in reconciling your past taxes. At the same time if there are any refunds due, you have the right to make a claim for the refund under Section III of the Income Tax Act 1967 (ICTA). The claim must be made within six years after the year of assessment to which the claim for repayment relates. From 2012 interest at the rate of 2% per annum will be paid if the tax refund is made 90 days from the due date for e-filing or a 120 days in

case the return is filed manually.

The other basic rights you need to be aware of are:

**APPEAL:** As the law stands you can appeal against an assessment within 30 days of the issue of the notice of assessment and if you wish to appeal beyond the 30 days, then you need to file a Form N together with the reasons for the application for an extension of time which will be granted at the discretion of the Director General of Income Tax or special commissioners.

In a self-assessment system the tax return submitted by a taxpayer will be treated as the assessment issued on the day it is submitted. In a proposal in Budget 2014, which was expected to become law from Jan 1, 2014, the right of appeal to the special commissioners will be restricted to situations where the taxpayer has filed his/her tax return based on IRB's public ruling but does not with the views of the IRB, as expressed in the public ruling.

**ERROR OR MISTAKE:** A taxpayer has the right to correct errors and mistakes within six

years after the end of the year of assessment within which the assessment was made. Although the Budget 2014 proposal has restricted the right of the taxpayer to appeal against an assessment under the self-assessment system, the IRB has assured tax professionals that the error and mistake provisions in Section 131 can be used to rectify genuine errors and mistakes on a retrospective basis subject to the six-year time limit.

**NOTIFICATION:** You have the right to be notified before your returns are audited and given adequate opportunity and time to provide answers to the queries raised by the IRB.

**REPRESENTATION:** The taxpayer has the right to be represented by a tax agent or a lawyer: These professionals can represent the taxpayer when dealing with the IRB and be present in all meetings between the taxpayer and IRB and provide advice and guidance to the taxpayer throughout the period of the audit.

**CONFIDENTIALITY:** All information given to the IRB officers shall be dealt with in a confidential manner under Section 138 of the Act. Exceptions are where the cases are being investigated under the Anti-Money Laundering Act or where the court orders the IRB to release the information or where the Auditor General needs the information in the course of carrying out his duties.

**CLAIMS:** The right to claim the reliefs, deductions and incentives provided for in the tax legislation is always available to taxpayers and in the event these claims have been missed out an error or mistake claim under Section 131 can be made within the six-year period.

**TO BE INFORMED:** The taxpayer has the right to be informed of the reasons for the imposition of any additional taxes or penalties by the IRB.

**INSTALMENTS:** The taxpayer has the right to request payment of tax by instalments.

**TIME BAR:** Currently the IRB cannot raise assessments beyond five years unless there is fraud or negligence or wilful default involved, for example, in 2014 the IRB can only raise assessments retrospectively up to 2009.

The above rights should be invoked by taxpayers whenever needed and the IRB has time and time again reminded taxpayers that it will respect their rights.

S.M. Thanneermalai is the president of Chartered Tax Institute of Malaysia and a senior executive director of PwC

## THE YEAR OF THE HORSE BRINGS YOU GOLDEN TRIPLE REWARDS

Promotion Period: 20 January 2014 - 20 April 2014

1,000 Gold wafers while stocks last\*

Promotional Rate: **4.05%** p.a.

Interest payment in advance



MALAYSIA BUILDING SOCIETY BERHAD (9417-K)  
A Subsidiary of the EPF  
Your Financial Provider



\* Terms and conditions apply.  
\* Images shown are for illustration purpose only and may differ.



1800-88-4000



[www.mbsb.com.my](http://www.mbsb.com.my)