

@TAX is the infrequent newsletter from TAXSAYA that provides useful information to Malaysian Taxpayers.

We have identified the following issue with the 2010 e-Filing that may affect Taxpayers who are filing (or who have already filed) a Borang BE or Borang M with election for Joint Assessment. We therefore urge all Taxpayers that have used e-filing and elected for Joint Assessment to check their submitted returns to ensure that the correct amounts have been declared to the LHDN.

SCENARIO

A Taxpayer who is married may elect to file their return as a Joint Assessment. By doing this, the taxpayer will declare the dividends and other income received by the spouse in their Tax return, as shown below.

*Status Pada 31-12-2010
Status as at 31-12-2010

Tarikh Kahwin/Cerai/Mati
Date of Marriage/Divorce/Demise

Jenis Taksiran
Type of Assessment

KAHWIN (MARRIED) ▼

▼ / ▼ / dd/mm/yyyy

BERSAMA ATAS NAMA SUAMI (JOINT IN THE NAME OF HUSBAND) ▼ ⓘ

Figure 1: Example of a Husband claiming Joint Assessment under his return

JUMLAH PENDAPATAN YANG DIPINDAHKAN
DARI SUAMI/ISTERI* BAGI TAKSIRAN
BERSAMA
*TOTAL INCOME TRANSFERRED FROM HUSBAND / WIFE * FOR
JOINT ASSESSMENT*

HK3 Suami/Isteri

2000.00

Figure 2: Example of Taxpayer manually keying in RM2,000 to be transferred from the Spouse return

ISSUE DESCRIPTION

If a taxpayer clicks on either the 'HK3 Suami/Isteri' button, or 'HK3' button and then exits the dividend detail, the amount entered by the taxpayer will be changed to reflect the total of the dividends from the Spouse. If the Spouse has no dividends (i.e. click HK3 button then exit), then the total will be changed to 0.

This has the effect of reducing the taxable income, and leaves the taxpayer vulnerable in the event of a Tax Audit for under-declaring income, and therefore subject to penalty.



HOW TO AVOID THE ISSUE?

The simple way to avoid this issue is to enter in any Dividends prior to entering any Income related information. Once the dividends (if any have been entered), then the taxpayer can proceed with entering in the remainder of the information.

We also recommend that the Taxpayer pay special attention to this information when they are checking their returns prior to signing.

WHAT TO DO IF THE RETURN HAS ALREADY BEEN SUBMITTED?

Under the Income Tax Act (refer to Section 77B(4) of the Income Tax Act), a Taxpayer is allowed to voluntarily revise their Tax assessment, providing that the revision results in an increase of the Taxable Income. If this revision is done, the following shall apply:

1. The Taxpayer must calculate and pay the difference in tax owing between the original assessment and the revised assessment
2. If the revision is done within 60 days from the last day of submission (e.g. 30 April for Borang BE), then the Taxpayer will be subject to an additional 10% lateness penalty
3. If the revision is done later than 60 days, but before 6 months days from the last day of submission, then the Taxpayer will be subject to an additional penalty calculated as follows $B + (A + B) * 5\%$.

Where:

A = The amount of additional Tax to pay

B = 10% of the additional Tax to be paid