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Travel bans increasingly used to collect outstanding taxes

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THE Inland Revenue Board (IRB) and the Royal Malaysian Customs Department (RMCD) are increasingly using the travel ban provisions in the respective legislation to collect outstanding taxes. Travellers have been stopped for small amounts of monies and this could only run into a few hundred ringgit.

Taxpayers are shocked at being stopped from travel because they always tend to think that their tax position was clear, and all taxes have been settled. Whether the tax authorities are correct in imposing the tax, or if the tax matter is under appeal, is of no consequence to the issue of the stoppage order. If there is an outstanding assessment or a bill of demand, IRB and RMCD have the absolute right to issue a stoppage order.

To remove the stoppage order, the only avenue is to immediately settle the outstanding taxes or enter into an arrangement to partially pay the tax. If the outstanding amount is completely settled, the order will be completely removed. However, if the taxpayer partially settles the tax



TAX MATTERS
BY S. M. THANNERMALAI

that is agreeable with the authorities, there will be a temporary removal of the stoppage order. In the case of IRB, for a temporary removal of the stoppage order, it requires 50% of the outstanding taxes to be paid immediately. Similarly, RMCD requires at least 10% of the outstanding taxes for a temporary removal of 14 days, and for a longer removal, at least 30% of the outstanding taxes should be paid and an instalment arrangement entered into with RMCD. Upon obtaining the temporary removal of the stoppage order, the taxpayer must immediately negotiate an instalment plan to settle the outstanding taxes.

Taxes covered and who is affected?

Stoppage orders can be used to collect outstanding taxes arising from income tax, Real Property Gains Tax, sales tax, service tax, customs duties and excise duties.

All individual taxpayers will be affected by the stoppage order, either at your personal level, or indirectly through the positions they hold in other taxable bodies

such as companies, trusts, LLPs, and other body corporates. The most common example would be directors of companies. In the event the company's tax liabilities are not settled, the IRB can issue stoppage orders to the directors who are involved in the management of the company and own more than 20% of the company's ordinary shareholding. However, when it comes to indirect taxes such as customs duties, sales tax, service tax, GST, etc, all directors of the company can be issued a stoppage order.

It should be noted that a stoppage order can be issued to a person who is no longer a director of the company on the basis that the outstanding tax liability relates to the period when the individual was a director of the company.

What is the procedure?

It is the requirement for the Director General to issue a certificate that should be served personally or by registered post to the person to whom the certificate relates to. In many cases, since the taxpayer's addresses are not updated with IRB or RMCD, or the directors have recorded their address as the company's address, the taxpayers do not receive this

certificate.

There is a contradiction in all these provisions that says that the non-receipt of the notice by that person shall not invalidate anything done by IRB or RMCD under this section. Effectively, IRB and RMCD need not be concerned whether the certificate was delivered to the taxpayer or not.

Major concerns to taxpayers

Every taxpayer should check the immigration department portal (<https://sspi.imi.gov.my/sspi/>) on their travel status before departing Malaysia. There are cases where innocent taxpayers have been unnecessarily stopped. It is high time IRB and the RMCD ensured that the stoppage orders are communicated to the correct addresses of the individuals so that they are aware well in advance of the outstanding taxes.

If they become aware of their outstanding liabilities, there will be a tendency to settle their taxes or to ensure that its taxes are settled. This is a win-win situation for tax authorities and taxpayers.

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SUMMARIES

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