

**Investigative powers of the Tax Authority – Inland Revenue Board of Malaysia
(IRBM)**

Can the IRBM inquire into or obtain financial information pertaining to an offshore bank account of a Malaysian citizen?

In a show of support to curb offshore tax evasion and to maintain the integrity of the tax systems, in 2009, Malaysia committed to the Internationally Agreed Standard for International Exchange of Information in Tax Matters. Effective 01.07.2013, Malaysia has taken a policy decision to allow for the exchange of bank information and affirmed its commitment to providing effective exchange of information (“Automatic Exchange of Financial Information”) (“**AEOI**”) in accordance with the standard. By reason of the aforesaid, the IRBM could inquire into or obtain financial information pertaining to the monies held and investments managed through a foreign financial account of a Malaysian citizen.

Participating Jurisdiction / Reportable Jurisdiction to the AEOI

The Automatic Exchange of Financial Information would however be limited between the participating and reportable jurisdiction which are identified in the IRBM’s published list pursuant to rule 12(2) of the Income Tax (Automatic Exchange of Financial Account Information) Rules 2016. The jurisdiction with which an agreement is in place to provide the financial information is termed as participating jurisdiction whereas the jurisdiction with which there is an obligation to provide the financial information is termed as reportable jurisdiction. All financial institutions that are resident in a participating and reporting jurisdiction would be required to furnish or report the financial information in accordance with the domestic reporting requirements.

What is the effect of implementing AEOI?

Pursuant to the AEOI rules, every financial institution in Malaysia is required to collect, undertake due diligence obligation, and furnish a yearly information report to the tax authority that contains details relating to reportable accounts of foreigners and non-

residents, including both individuals and entities. The IRBM will also automatically receive information on offshore bank accounts owned by Malaysian citizens and residents as a participating jurisdiction.

How is the AEOI regulated?

The AEOI is regulated through the Common Reporting Standards ('**CRS**'), which contains the reporting and due diligence rules for financial institutions to collect and report the financial information and specifies the financial information to be exchanged. The CRS clearly sets out the general reporting requirement and scope for the financial institutions to ensure standardised and consistent reporting by all jurisdictions.

How are the CRS obligations imposed on Malaysian Financial Institutions?

CRS obligations are imposed on Malaysian Financial Institutions ('MYFIs') through the operation of the Income Tax (Automatic Exchange of Financial Account Information) Rules 2016 (CRS Rules), Income Tax (Automatic Exchange of Financial Account Information) (Amendment) Rules 2017 (CRS (Amendment) Rules 2017) and Labuan Business Activity (Automatic Exchange of Financial Account Information) Regulations 2018 (CRS Regulations).

How can the DGIR administer and enforce compliance with these provisions?

Broad powers are vested in the Director General of Inland Revenue ('**DGIR**') of Malaysia in ensuring compliance of this rule pursuant to Sub-rule 10(1) of the Income Tax (Automatic Exchange of Financial Account Information) Rules 2016. The DGIR may exercise all the powers vested in him under the Income Tax Act 1967 for the purposes of obtaining information of an offshore bank account. A non-exhaustive list of legal provisions of the Income Tax Act 1967 applicable to tax investigations are provided in the Tax Investigation Framework, which came into force on 01.01.2020.

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Parvin & Co. | Advocates & Solicitors

admin@parvinandco.com

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