

WCO GUIDELINES FOR STRENGTHENING COOPERATION AND THE EXCHANGE OF INFORMATION BETWEEN CUSTOMS AND TAX AUTHORITIES AT THE NATIONAL LEVEL

V. Developing a Memorandum of Understanding/Agreement (MOU/MOA)

iii. Malaysia

CONFIDENTIAL

MEMORANDUM OF UNDERSTANDING

JOINT AUDIT

Customs and Tax Authorities hereinafter referred to as individually as the "Party" or jointly as "Parties".

WHEREAS:

- A. The Parties hereby have come together to implement a mechanism for mutual Joint Audit in line with the Ministry of Finance's objectives;
- B. The Parties desire to enter into this Memorandum and recognize the importance of strengthening cooperation and mutual assistance for the purpose of tax compliance;
- C. The Parties hereby trust the importance of cooperation in matters relating to the full application and enforcement of certain laws, respectively; and
- D. The Parties hereby confirm cooperation and mutual assistance would be beneficial to the Parties' mutual interest.

IT IS HEREBY AGREED AS FOLLOWS:

ARTICLE I

GOALS

The Parties in this Memorandum agree to strengthen, promote and develop co-operation and mutual assistance on matters relating to taxation between the Parties and to enhance mutual understanding and communication is subject to the laws, terms, rules, regulations and policies of each Party respectively

ARTICLE II

COMMENCEMENT AND DURATION

This memorandum will begin on <date> and shall be in force until the Parties by mutual agreement aims to end it.

ARTICLE III

SCOPE OF COOPERATION AND MUTUAL ASSISTANCE

1. Every Party shall agree to provide assistance and cooperation to ensure the success of the joint enforcement and compliance activities
2. Subject to Article IV of this Memorandum, the Parties agree to work together in which the collaboration would take place through the followings:-
 - a. To advise the Parties in relation to the applied legal, rules and procedures;
 - b. To share between the Parties the best practices and experiences in relation to the work procedures;
 - c. To advise on the enforcement techniques, latest trends and methods of tax non-compliance;
 - d. To exchange information to facilitate audit and investigation;
 - e. To share knowledge on the expertise and any source of audit and investigation ;
 - f. To advise the Parties in relation to any person known or suspected of violating the respective laws; and
 - g. Other matters agreed upon together by the Parties.

ARTICLE IV
IMPLEMENTATION

1. The Parties agree to establish a mechanism for discussion and communication in order to exchange information and to cooperate in relation to taxation matters.
2. The Parties agree to encourage cooperation, discussion and information sharing among members of both Parties in order to achieve an effective working process in relation to audit and investigation.
3. The Parties agree in providing the best practices among members of both Parties in relation to the development and implementation of audit and investigation.
4. The Parties agree to perform research and analysis to improve the Government's collections of revenue.

ARTICLE V
CONFIDENTIALITY

1. The Parties undertake to maintain the confidentiality of information from any party that is not concerned or related to this Memorandum.
2. Any information disclosed and shared with the other Party should not be disclosed to any third party without prior written permission from the other Party.
3. Provision of confidentiality shall be applied to all exchange of information and including any exchange done in the earlier discussion and negotiations in relation to matters and scopes in this Memorandum.
4. For the purpose of this Memorandum:
 - a. For Customs, the term "Confidential Information" means all documents, information or materials that are classified under the meaning of the Act enforced by the Customs.
 - b. For Tax Authorities, the term "Confidential Information" means a material that is classified as any return or other document made or the purposes of the Income Tax Act and related to the income of any person or partnership and any information or other matter or thing to get noticed by someone with such capabilities.
5. Responsibility to maintain confidentiality this does not apply in the following circumstances:
 - a. Confidential information was known by the receiving Party before the information is received by the Receiving Party and could be proved by the records of receipt;

- b. The information was made public either in the form of printed and published or by any means that have not violated this Memorandum; and
 - c. Confidential information which has been disclosed to the receiving Party without being restricted by the third Party that has the legal right to disclose such information.
6. The Parties agree and undertake to ensure that all employees and their agents who knowingly have the Confidential Information will comply with their obligations to maintain the confidentiality.

ARTICLE VI
NOTICES

Any notices and communications to be delivered or communicated to the Parties concerned should be sent to the address specified below or such other address as may be determined from time to time either by mail, fax or by hand and such notice shall be deemed to have been received by the recipient after the notice is acknowledged by the parties.

On behalf of the department –

<Signatories>

ARTICLE VII
AMENDMENTS

No modification, amendment or waiver of any provision of this Agreement shall be effective unless made by mutual consent and in writing by **the Supplementary Memorandum** that specifically refers to this Memorandum and properly signed by both parties.

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