

OTHERS LATEST DEVELOPMENT ON TENAGA NASIONAL BERHAD's REINVESTMENT ALLOWANCE CASES FOR THE YEARS OF ASSESSMENT 2013 TO 2018

TENAGA NASIONAL BHD

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| Type | Announcement |
| Subject | OTHERS |
| Description | LATEST DEVELOPMENT ON TENAGA NASIONAL BERHAD's REINVESTMENT ALLOWANCE CASES FOR THE YEARS OF ASSESSMENT 2013 TO 2018 |

We refer to the various notices of additional assessment ("Notices") for the years of assessment ("YAs") 2013 to 2018 issued by the Inland Revenue Board of Malaysia ("IRB") consequent to the disallowance of the reinvestment allowance claim by the IRB and our announcements dated 27 November 2015, 7 December 2015, 14 December 2015, 7 December 2016, 28 November 2019, 2 December 2019, 12 December 2019, 3 April 2020, 20 May 2020, 9 July 2020, 14 July 2020, 21 July 2020, 10 August 2020, 3 September 2020, 21 September 2020, 30 September 2020, 6 October 2020, 19 October 2020, 9 December 2020 and 18 December 2020.


On 29 December 2020, Tenaga Nasional Berhad and IRB signed two (2) consent orders in respect of judicial review proceedings for the YAs 2015 to 2017 and the YA 2018 with the following key terms:

- IRB agrees to immediately withdraw its objection against the judicial review application filed by Tenaga Nasional Berhad to challenge the notices of additional assessment for the YAs 2015 to 2018. Additionally, the IRB will also immediately withdraw its appeal to the Court of Appeal against the granting of leave to commence judicial review by the High Court on 30 September 2020 in favour of Tenaga Nasional Berhad in relation to the notice of additional assessment for the YA 2018;
- IRB agrees to immediately remit all penalties imposed for the YAs 2013 to 2018 amounting to RM2,438,869,963.62 and accordingly, the IRB will issue the notifications of reduced assessment within 30 days from the date of the consent orders. IRB agrees to the penalty remission notwithstanding the outcome of the court proceedings, which immediately reduces the disputed tax sum by RM2,438,869,963.62 in favour of Tenaga Nasional Berhad;
- The IRB agrees not to object to Tenaga Nasional Berhad's stay applications pending the full and final determination of Tenaga Nasional Berhad's judicial review application;
- In the event the High Court rules against Tenaga Nasional Berhad, there is no immediate liability for Tenaga Nasional Berhad to pay the disputed taxes until all appeal rights have been exhausted; and
- Tenaga Nasional Berhad will pay on a without prejudice basis a sum of RM1,757,231,332.56 out of the remaining disputed additional taxes of RM5,419,711,030.26 for the YAs 2013 to 2018. However, the said sum of RM1,757,231,332.56 shall be available to Tenaga Nasional Berhad if the High Court rules in favour of Tenaga Nasional Berhad, subject to further appeal and any order of the High Court.

The consent order for judicial review application in relation to the YAs 2015 to 2017 was recorded before the High Court on 30 December 2020 and the consent order for judicial review application in relation to the YA 2018 is awaiting to be recorded before the High Court at the earliest opportunity.

In summary, in light of the IRB withdrawing its objection, Tenaga Nasional Berhad will continue to challenge the disputed notices of additional assessment for the YAs 2015 to 2018 by way of judicial review. Tenaga Nasional Berhad has obtained professional advice from its tax advisor and tax solicitors, who maintain their stance that Tenaga Nasional Berhad has a good case to argue that it is entitled to claim reinvestment allowance under Schedule 7A of the Income Tax Act 1967 and that the IRB has no basis in law to disallow the said claim. The said sum of RM1,757,231,332.56 will be recognised as tax recoverable on the balance sheet until all legal proceedings have been exhausted.

This announcement is dated 31 December 2020.

|  Announcement Info | |
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