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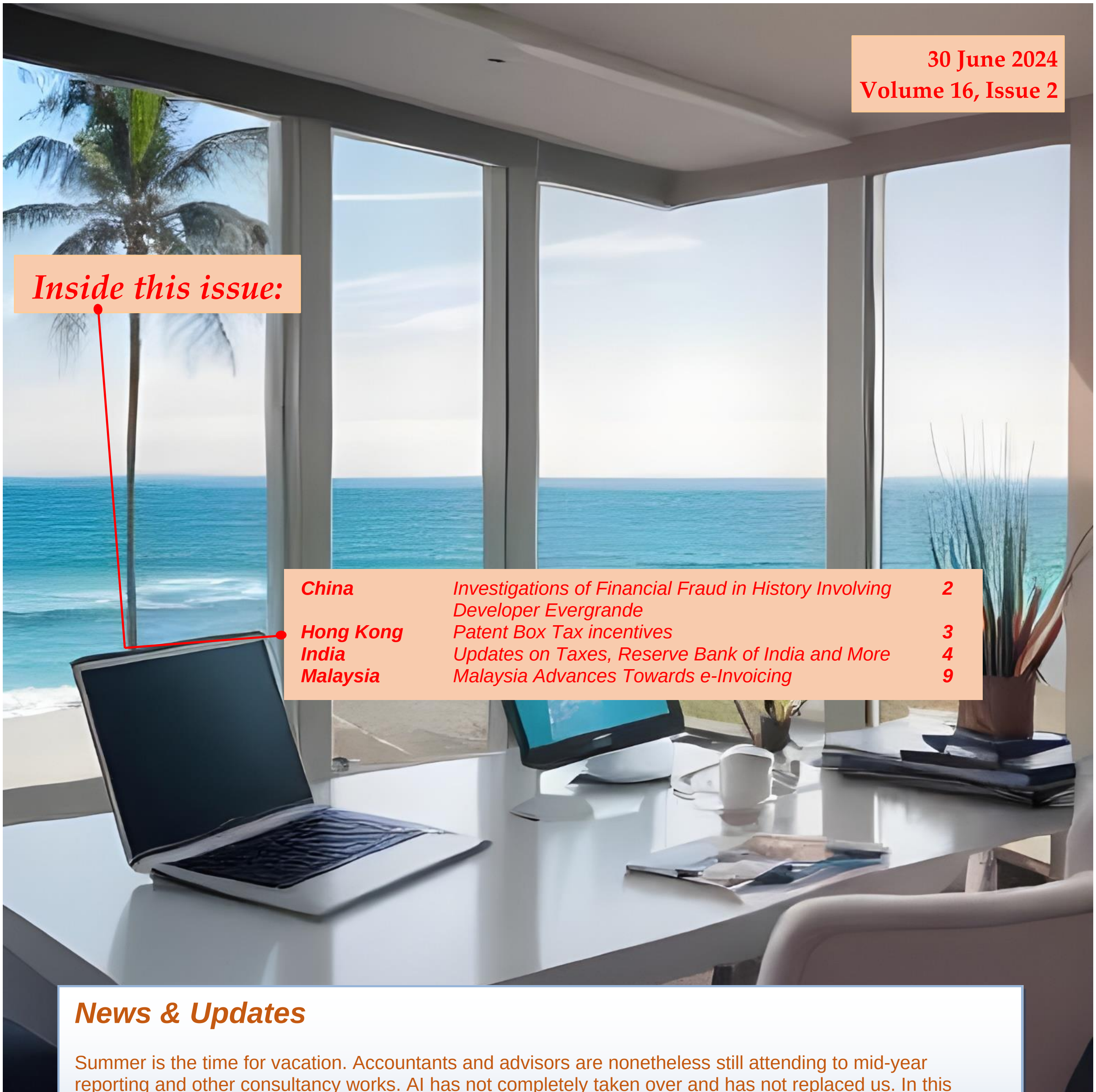
APAC News



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Inside this issue:

News & Updates

Summer is the time for vacation. Accountants and advisors are nonetheless still attending to mid-year reporting and other consultancy works. AI has not completely taken over and has not replaced us. In this edition of our newsletter, we feature an image of a work studio, facing an ocean with beautiful blue sky. This may be our dream place to work. Yet, it's only an AI generated image and yet there remains details not properly fixed. Readers with sharp eyes will notice that the notebook is without a usable keyboard. It echoes our articles which include news in China on problematic financial reporting, whilst at the horizon are newly or soon-to-be implemented measures that aim to incentivize and enhance businesses, such as patent box tax incentives in Hong Kong, rules on FinTech and Plastic Waste Management reporting in India and e-Invoicing system in Malaysia.

CHINA

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CHINA WEIGHS RECORD FINE FOR PWC OVER EVERGRANDE AUDITING WORK

China is prepared to impose a record fine on PricewaterhouseCoopers LLP (PwC) and suspend some of the global auditor's local operations over its role in one of the nation's biggest alleged financial fraud cases.

The Ministry of Finance (MOF) may announce the penalties on PwC recently over its auditing work for China Evergrande Group. PwC faces a fine of at least one billion yuan. Part of the penalties could also include a halt of operations at some of PwC's mainland offices, adding the decision isn't final and the specifics could be subject to change.

"The penalty will damage PwC's reputation and adversely affect the public confidence in accounting. And the share of the auditing market by those global franchise in China would shrink."

PwC has been under the spotlight after China launched one of the biggest investigations of financial fraud in history involving developer Evergrande. Authorities earlier this year levied a 4.18 billion yuan fine against the once high-flying real estate firm and said the company's main unit, Hengda, overstated its revenue by 564 billion yuan in the two years through 2020. The penalty will damage PwC's reputation and adversely affect the public confidence in accounting. And the share of the auditing market by those global franchise in China would shrink.

PwC already lost a handful of Chinese clients in May alone, adding to a list of more than a dozen firms it has stopped auditing in the country in the last two years. China Taiping Insurance Holdings Co, China Merchants Bank Co and People's Insurance Company (Group) of China Ltd were among them.

The penalties come as government financial regulator has increased focus on tackling financial risks and crime to stabilise economy and stock market.

PricewaterhouseCoopers Zhong Tian LLP, a Shanghai-registered firm that is part of PwC's global network, was Hengda's auditor during the period in question. The firm served as Evergrande's auditor for more than a decade until it resigned in January 2023 due to what the developer said were audit-related disagreements.

PwC's mainland Chinese arm, with more than 1,600 certified accountants, reported revenue of 7.9 billion yuan in 2022, making it the top earner among more than 9,000 local rivals, according to official data. Still, that's a fraction of its global revenue of US$50.3 billion (RM236.93 billion) during the year.

The Inland Revenue (Amendment)(Tax Concessions for Intellectual Property Income) Bill 2024 was gazetted on 28 March 2024. The Bill aims to make Hong Kong more attractive as a location for R&D and IP trading activities. It intends to introduce with effect from assessment year 2023/24 a concessionary tax rate of 5% for eligible IP income sourced in Hong Kong and derived from eligible IP developed through R&D activities.

"The Bill aims to make Hong Kong more attractive as a location for R&D and IP trading activities."

The main features of this proposed patent box tax regime can be summarized as follows:

- Eligibility for the concession is limited to eligible person who derives eligible IP income from an eligible IP.
- Eligible IP income means one or more of the following:
  - (i) Royalties or license fee from an eligible IP;
  - (ii) Income from sale of an eligible IP;
  - (iii) Income from sale of a product or service attributable to the value of embedded eligible IP;
  - (iv) Insurance, damages, or compensation derived in relation to an eligible IP.
- Eligible IP covers patents, copyrighted software and plant variety rights generated from a R&D activity, whereas it excludes marketing-related IP such as trademarks.
- There is no registration requirement for copyrighted software.
- Patents and variety rights filed after 24 months of the commencement date of the amendment ordinance must be registered under the HK registration system.
- R&D fraction shall be applied to determine the portion of IP income that shall enjoy concessionary tax treatment. R&D fraction is determined by the below formula and capped at 100%:

$$\frac{\text{Eligible R\&D expenditure (EE) x 130\%}}{\text{EE + non-eligible expenditure (NE)}}$$

- The following table shows how EE and NE are differentiated:

R&D expenditures incurred in respect of eligible IP	Location where R&D activities took place	EE	NE
R&D activities undertaken by the taxpayer	In or outside HK	✓	
R&D activities outsourced to unrelated party	In or outside HK	✓	
R&D activities outsourced to HK resident related party	In HK	✓	
R&D activities outsourced to HK resident related party	Outside HK		✓
R&D activities outsourced to non-HK resident related party	In or outside HK		✓
Acquisition cost of an eligible IP asset	In or outside HK		✓

HONG KONG

(Continued)

"Where the application or grant of an eligible IP is subsequently abandoned, cancelled, declined, lapsed, revoked, or withdrawn, the tax concessions previously granted will be withdrawn."

- Interest payments and payments for land or building are specifically excluded from being EE or NE.
- The eligible person is required to calculate the R&D fraction based on the cumulative expenditure starting from the beginning of development of the eligible IP.
- For expenditure incurred prior to 1 April 2023, taxpayers are allowed to apply a transitional method whereby the ratio of EE to the total EE and NE can be calculated on a 3-year backward roll-back basis for the initial 2 years, i.e., based on the ratio of the 3rd year.
- Eligible IP income means one of the following:
  - (i) Royalties or license fee from an eligible IP;
  - (ii) Income from sale of an eligible IP;
  - (iii) Income from sale of a product or service attributable to the value of embedded eligible IP;
  - (iv) Insurance, damages, or compensation derived in relation to an eligible IP.
- Where the application or grant of an eligible IP is subsequently abandoned, cancelled, declined, lapsed, revoked, or withdrawn, the tax concessions previously granted will be withdrawn.
- A loss incurred in relation to income benefitting from the patent box tax regime can be set off against other assessable profits. However, the amount of loss allowed shall be adjusted with reference to the tax rate difference, e.g., 16.5% vs 5%.
- Eligible person must make an irrevocable election in writing in order to enjoy the concession.

INDIA

UPDATES ON TAXES, RESERVE BANK OF INDIA AND MORE

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General elections in India

In India, general elections were conducted from 19 April 2024 to 1 June 2024 spanning seven phases to elect all 543 members of the Lok Sabha (lower house of the Parliament). The results were announced on 4 June 2024 leading to the formation of the eighteenth Lok Sabha. This time, the Bharatiya Janata Party, i.e. BJP-led NDA (National Democratic Alliance) could not achieve a stand-alone majority but will be able to form the government in alliance with the local coalition partners. On 8 June 2024 the former Prime Minister Shri Narendra Modi will take oath as the new Prime Minister for the third time in a row.

1. Direct taxes

1.1 Long-term capital gains tax: cost inflation index for FY 2024-25

Long-term capital gains ('LTCG') arise on the sale/disposal of long-term capital assets by the assessee and are subject to capital gains tax in the previous year ('PY') in which the sale/transfer takes place. The computation of such capital gains is calculated on the holding period of the asset.

To bring the cost and the sale proceeds to a comparable level in terms of time value, the assessee is given an 'indexation' benefit for the cost component in computing the gain from the sale of long-term capital assets, in respect of:

i. the cost of improvement of the asset; and
ii. its acquisition cost

The Central Board of Direct Taxes ('CBDT') annually announces the cost inflation index ('CII'), required for calculating long-term capital gains or losses. This index adjusts the cost of acquisition/improvement against the prevailing CII of the relevant year.

For the financial year ('FY') 2024-25 (i.e. assessment year 2025-26), CBDT has specified the CII as '363'. This figure will be used to compute long-term capital gains or losses on capital assets sold or intended for sale during the said financial year. In the preceding financial year, i.e., 2023-24, the CII stood at 348.

1.2 CBDT releases new real-time functionality in Annual Information System ('AIS')

The Annual Information Statement ('AIS') available to all registered Income taxpayers through the income tax compliance portal, www.incometax.gov.in provides details of a large number of financial transactions undertaken by the taxpayer having tax implications. AIS is populated based on the financial data received from multiple information sources.

In AIS, the taxpayer has been provided with a functionality to furnish feedback on every transaction displayed therein which helps the taxpayer to comment on the accuracy of the information provided by the 'Source' of such information. In case of wrong reporting, the same is taken up with the Source for their confirmation, in an automated manner. Currently, the information confirmation is made functional with regard to information furnished by 'Tax Deductors/ Collectors' and 'Reporting Entities.'

"On 8 June 2024 the former Prime Minister Shri Narendra Modi will take oath as the new Prime Minister for the third time in a row."

CBDT has recently rolled out a new functionality in AIS to display the status of the information confirmation process. This will display whether the feedback of the taxpayer has been acted upon by the Source, by either, partially or fully accepting or rejecting the same. In case of partial or full acceptance, the information is required to be corrected by filing a correction statement by the Source. The following attributes will be visible to the taxpayer for the status of feedback confirmation from Source.

- Whether feedback is shared for confirmation: This will let the taxpayer know if the feedback has been shared with the Reporting Source for confirmation or not.

- Feedback shared on: This will let the taxpayer know the date on which the feedback has been shared with the Reporting Source for confirmation.

- Source responded on: This will let the taxpayer know the date on which the Source has responded on the feedback shared with it for confirmation.

INDIA

(Continued)

- Source response: This will let the taxpayer know the response provided by the Source on the taxpayer's feedback (if any correction is required or not).

The new functionality will increase transparency by displaying such information in AIS to the taxpayer. This initiative of the Income Tax Department is a step towards ease of compliance and enhanced taxpayer services.

2. Reserve Bank of India ('RBI') updates

2.1 Framework for Self-Regulatory Organisations in the FinTech sector

2.1.1 Financial technology (FinTech) services are the services provided using technology that seek to automate and improve the delivery of conventional financial services. The emergence of financial technology companies ('FinTechs') in India has boosted the financial services industry by providing easy access to finance and a wider and cost-effective reach to customers. To regulate the FinTechs across the country, the Reserve Bank of India ('RBI') has recently issued the 'Framework for Self-regulatory Organisations in the Financial Sector'.

2.1.2 RBI believes that bringing in a self-regulatory approach will balance the benefits of the creative potential of the FinTechs and simultaneously address the risk they pose to the financial ecosystem. Hence, on 30 May 2024, the country's central bank notified the framework for Self-Regulatory Organisations for FinTechs ('SRO-FT').

"The emergence of financial technology companies ('FinTechs') in India has boosted the financial services industry by providing easy access to finance and a wider and cost-effective reach to customers."

2.1.3 The framework requires the SRO entity to be an oversight body responsible for establishing and enforcing regulatory standards, promoting ethical conduct, ensuring market integrity, resolving disputes, and fostering transparency and accountability among its members. The members of the SRO-FT will be the FinTech firms who can be domiciled within or outside India.

2.1.4 The SRO-FT would be registered as a not-for-profit company and would operate under the oversight of RBI.

2.1.5 The standard-setting function for its members will be entrusted to the SRO-FT where it specifies a 'code of conduct' and also the baseline technology standards for its members.

2.1.6 The SRO-FT thus will be a facilitator and a regulator for its members while it being itself regulated by RBI.

The role of SRO-FT is dynamic and innovative considering the ever-expanding scope and innovations in the fintech industry. While it is being regulated by the country's central bank, the SRO needs to aggregate its members fairly representing the Indian fintech industry, responsibly making constant innovations and development in the evolution of the fintech industry.

2.2 Launch of certain initiatives by RBI, viz. PRAVAAH, RBI Retail Direct App and the FinTech Repository

In May 2024, RBI launched three major initiatives discussed in brief below:

2.2.1 Launch of 'PRAVAAH' (Platform for Regulatory Application, VAlidation and AutHorisation) portal

PRAVAAH is a secure and centralised web-based portal for any individual or entity to seek authorisation, license or regulatory approval on any reference made by it to RBI. The following are some of the key features available in the portal.

- Submit the online application on the portal;
- Track and monitor the status of the application/reference;
- Respond to any clarification/query sought by the RBI in connection with the application/reference; and
- Receive a decision from the Reserve Bank in a time-bound manner.

The PRAVAAH portal will make it convenient for any individual or entity to apply online for various regulatory approvals in a seamless manner. This portal will also enhance the efficiency of various processes related to granting of regulatory approvals and clearances by RBI.

2.2.2 Mobile application for RBI Retail Direct portal

The RBI Retail Direct Portal (launched in 2021) facilitates retail investors to open their Retail Direct Gilt accounts with RBI under the Retail Direct Scheme, which allows the retail investors to buy government securities ('G-Secs') in the primary auctions as well as buy and sell G-Secs in the secondary market.

"PRAVAAH is a secure and centralised web-based portal for any individual or entity to seek authorisation, license or regulatory approval on any reference made by it to RBI."

Recently, RBI has launched the Retail Direct mobile App with which retail investors can now transact in G-Secs using the mobile app on their smartphones.

2.2.3 FinTech and EmTech Repository

'FinTech Repository' is launched by RBI to encourage FinTech companies to capture essential information about FinTech entities, their activities, technology uses, etc. Both, regulated and non-regulated FinTechs are encouraged to contribute to the said repository by accessing: https://fintechrepository.rbihub.in.

Parallelly, 'EmTech Repository' that aims to collect data from RBI-regulated entities (like banks, NBFCs, insurance companies, and capital market entities) on their adoption of emerging technologies (like AI, ML, Cloud Computing, DLT, Quantum, etc.) is being launched and can be accessed at: https://emtechrepository.rbihub.in.

3. Plastic Waste Management Rules - amendments

In March 2024, the Ministry of Environment, Forest and Climate Change, Government of India amended the Plastic Waste Management (Amendment) Rules,

INDIA

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"The amendments aim at expanding the regulatory framework, enhancing transparency, and promoting the use of sustainable alternatives, thus paving the way for a more environmentally responsible approach towards plastic waste management."

2024. The amendments aim at expanding the regulatory framework, enhancing transparency, and promoting the use of sustainable alternatives, thus paving the way for a more environmentally responsible approach towards plastic waste management. Key amendments are summarised below:

- **Definition of importer, manufacturer and producer:** The new definition of the term 'importer' encompasses a broader range of entities involved in the importation of plastic-related materials, including packaging, carry bags, sheets, and raw materials. This expansion reflects a more comprehensive approach to regulate the influx of plastic products into the country. Similarly, revisions to the definitions of 'manufacturer' and 'producer' extend the regulatory framework to cover a wider array of activities, including the production of plastic raw materials, compostable plastics, and biodegradable plastics. Including these entities within the ambit of the rules, will increase the accountability across the entire supply chain, from raw material production to end-product manufacturing.

- **Compliances:** manufacturers of compostable and biodegradable plastic products now face additional requirements, including obtaining certification from the Central Pollution Control Board ('CPCB') before marketing or selling their products. This aims to enhance transparency and accountability in the production and distribution of environmentally friendly plastic alternatives.

- **Oversight:** The local governments and municipal corporations are assigned active roles in assessing plastic waste generation and managing waste infrastructure within their jurisdictions. It is now mandatory for the local governments to make an annual report on the details of plastic waste management including:

    - the existing and new waste generated,
    - the details of infrastructure for waste collection,
    - actions taken for curbing the single-use-plastic items and
    - the future projections about waste generation.

MALAYSIA

MALAYSIA ADVANCES TOWARDS E-INVOICING

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Malaysia is making a pivotal shift towards e-Invoicing, aligning with the country's digital transformation strategy. This move signifies more than just an upgrade from traditional invoicing methods as it demands adherence to specific guidelines set by the Inland Revenue Board of Malaysia ("IRBM"), with non-compliance attracting significant penalties. While there are exceptional scenarios where e-Invoicing mandates may not apply, the directive is largely inclusive, targeting business transactions among consumers (B2C), government entities (B2G), and businesses (B2B), setting a standardized practice for all business entities operating within Malaysia.

Operational Impact of e-Invoicing

For transmission of e-Invoices, there are dual pathways. Businesses can choose between utilizing the IRBM's MyInvois Portal or opting for direct Application Programming Interface ("API") integration based on their operational needs and capacities.

Businesses are not solely limited to issuing e-Invoices to customers; specific circumstances mandate the issuance of self-billed e-Invoices to their suppliers, which can include foreign suppliers, individuals not conducting business, agents, dealers or distributors, e-commerce transactions, profit distribution and certain interest payments.

"Malaysia is making a pivotal shift towards e-Invoicing, aligning with the country's digital transformation strategy."

Process flow of an e-Invoice

Process	Details
e-Invoice issuance	Submit e-Invoice to the IRBM via the MyInvois Portal or through an API
Validation and validation notification	The IRBM performs certain validation checks and notifies the buyer and supplier of the validated e-Invoice near real time. A Unique Identifier Number, date and time of validation and validation link will be assigned to the validated e-Invoice.
e-Invoice sharing	Supplier to share the visual representation of the validated e-Invoice with a QR code embedded.
Rejection and cancellation	Optional rejection (buyer side) and optional cancellation (supplier side) requests to be made within 72-hour time limit, after which the invoice is considered valid. Any corrections or amendments made after the 72-hour limit will need to go through the same validation process using credit, debit or refund notes.

MALAYSIA

(Continued)

E-Invoicing implementation timeline

The e-Invoicing implementation in Malaysia is scheduled to begin on 1 August 2024, initially applicable to taxpayers with an annual turnover or revenue exceeding RM100 million. Starting from 1 January 2025, the e-Invoicing regime will extend to taxpayers with annual turnover or revenue ranging from more than RM25 million to RM100 million. Finally, by 1 July 2025, e-Invoicing will become mandatory for all taxpayers in Malaysia.

Parliament has passed the legislation making e-Invoicing mandatory, with the IRBM releasing several guidelines since July 2023. The latest development is the introduction of a sandbox environment in April this year, which facilitates the testing of the APIs. Starting from May 2024, businesses participating in the pilot program have started issuing e-Invoices that are validated by the IRBM to their customers.

Benefits of e-Invoicing

The key benefits of implementing e-invoicing include:

(i) Regulatory Compliance: E-invoicing enables tax authorities to gather detailed and comprehensive data on business transactions in real time. This results in a transparent and traceable trail of invoice data, which aids in identifying discrepancies and reducing the likelihood of tax fraud.

(ii) Efficiency: E-invoicing streamlines the invoice handling process. It reduces the time from issuing an invoice to receiving payment because electronic invoices can be sent instantly and processed much faster than paper invoices, which improves cash flow.

(iii) Accuracy: With e-invoicing, the likelihood of human error in data entry and processing is significantly reduced. E-Invoicing systems have validation steps that check for errors, ensuring that information is correct before the invoice validated.

(iv) Digitalise tax and financial reporting: Aligns financial reporting and processes to be digitalised with industry standards.

"Failure to adopt e-invoicing could result in a penalty ranging from MYR200 to MYR20,000 for each offence, imprisonment for up to six months, or both."

Penalty for non-compliance

Nonetheless, the change is not without its consequences for non-compliance. Failure to adopt e-invoicing could result in a penalty ranging from MYR200 to MYR20,000 for each offence, imprisonment for up to six months, or both.

Disclaimer

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