



## Deloitte Tax Challenge 2008

### Individual Category – Finals

You have been invited by Mike Caceras, the new Chief Financial Officer of a Malaysian oil and gas contractor, Oilpipes International Sdn Bhd (“OISB”), which was acquired on 1 January 2008 by Oilpipes International Incorporated (“OII”), a US multinational corporation listed on the New York Stock Exchange, to participate in a top confidential project code named Project Beaver.

In **Project Beaver**, Mike Caceras, who is new to Malaysia, but knows OII well, having worked with them for 10 years, is concerned over certain comments in the high-level tax due diligence report received in connection with OII’s acquisition of OISB, which suggest that OISB may not have fully reported the remuneration of its US expatriates to the Malaysian Inland Revenue Board (“MIRB”). You were asked to undertake a preliminary limited review of this matter for only one pre-acquisition year i.e. 2007, using a sample of 4 US expatriates out of 100 expatriates employed and your findings are:

1. The portion of their salaries credited by an offshore payroll company into Malaysian bank accounts of the expatriates were charged to OISB and were reported to the MIRB as described in (4) below.
2. The portion of their salaries paid into overseas bank accounts in respect of their employment exercised in Malaysia was not charged to OISB and was not reported to the MIRB.
3. Accommodation provided (and paid by OISB) in serviced apartments operated as a condotel in Kertih, their employment base in Malaysia, where OISB operated a project office, was not reported as employment income.
4. The expatriates worked a 2-week on and 2-week off schedule ie they worked for 2 weeks on an oil rig in Malaysian waters offshore Terengganu and then enjoyed 2 weeks leave and so on. Only salaries paid in respect of the 2 weeks on were reported to the MIRB (and scheduler tax deduction was applied thereon) as the expatriates spent the 2 weeks off outside Malaysia, generally in Thailand or Philippines.
5. Food and accommodation provided at the oil rig were not reported as income of the expatriates.
6. When the expatriates were first mobilized from their homes to Kertih and when they were demobilized at the end of their contracts, the transport costs were not reported as their income.
7. Tax clearance was obtained for 2 expatriates when they ceased employment in Malaysia.



Mike has asked you to make a high level presentation (executive summary presentation) to the Board of Directors of OISB and his boss, Tim Contrary, the CFO of OII. Mike specifically requested that you cover the ethical, reputational, legal and financial aspects of your findings and recommend the next steps noting that OII has under its sale and purchase agreement of OISB shares till 31 March 2009 to submit claims in respect of pre-acquisition liabilities to the vendors of the OISB shares it acquired. In this connection, OII and OISB are required to cooperate with the vendors in the absence of which, claims may not be met by the vendors.

In line with Petronas licence conditions, 30% of the shares of OISB are held by a Bumiputra individual who was previously in joint venture with the foreign vendor of OISB shares to OII. This Bumiputra individual is very well connected to politicians and of royal lineage, is very skeptical of your team's findings and has the ability to influence projects which your firm may obtain. He owns many companies and appoints consultants he chooses. He may stand to lose several million Ringgit as he previously owned 51% of OISB but sold part of his stake to OII and now owns 30% of OISB.

It should be noted that the Malaysian tax of the expatriate employees of OISB is borne by OISB itself. Some of the expatriates have had grouses with the company for three years and one of them has filed a claim against OISB in a Malaysian court of law.

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