

Penalty for evasion of tax, fraud

89. (1) Any person who with intent to evade or to assist any other person to evade tax—

- (a) omits from a return any information in relation to any matter affecting the amount of his or the other person's chargeability to tax;
- (b) makes any false statement or entry in any return;
- (c) gives any false answer whether in writing or otherwise to any question asked or request for information made in accordance with the provisions of this Act;
- (d) prepares or maintains or authorizes the preparation or maintenance of any false books of account, false invoices or other false records, or falsifies or authorizes the falsification of any books of accounts, invoices or records; or
- (e) makes, uses or authorizes the use of any fraud, artifice or contrivance,

commits an offence and shall, on conviction, be liable—

- (A) for the first offence, to a fine of not less than ten times and not more than twenty times the amount of tax or to imprisonment for a term not exceeding five years or to both; and
- (B) for a second or subsequent offence, to a fine of not less than twenty times and not more than forty times the amount of tax or to imprisonment for a term not exceeding seven years or to both:

Provided that where the amount of tax cannot be ascertained, the person shall be liable to a fine of not less than fifty thousand ringgit and not more than five hundred thousand ringgit or to imprisonment for a term not exceeding seven years or to both.

(2) Any person who assists in, or advises with respect to, the preparation of any return where the return results in an understatement of the liability for tax of another person shall, unless he satisfies the court that the assistance or advice was given with reasonable care, commits an offence and shall, on conviction, be liable to a fine of not less than two thousand ringgit and not more than twenty thousand ringgit or to imprisonment for a term not exceeding three years or to both.

(3) Any reference in this section in relation to a person who makes, uses or authorizes the use of any fraud, artifice or contrivance includes a reference to a person who, without the authority of the officer of goods and services tax—

- (a) destroys, damages, erases, alters or manipulates data stored in, or used in connection with, a computer; or
- (b) introduces into, or records or stores in, a computer by any means data for the purpose of—

- (i) destroying, damaging, erasing, altering or manipulating data stored in, or used in connection with, a computer; or
- (ii) interfering with, interrupting or obstructing the lawful use of the computer, or the data stored in, or used in connection with, a computer; or

(c) otherwise uses a computer,

the purpose or effect of which is to evade tax.

(4) For the purposes of subsection (3), “data” includes any computer programme or part of a computer programme.

(5) Any reference in this section relating to evading tax includes a reference to obtaining any of the following:

- (a) credit for input tax against output tax under section 38;
- (b) relief for bad debt under section 58; and
- (c) claim under the Tourist Refund Scheme under section 61,

where the person concerned is not entitled to the credit, relief or claim.

(6) In any prosecution under this section or section 95, any evasion of tax shall be deemed to be with the knowledge of the accused unless the contrary be proved by the accused.