



Tax Espresso

Latest DTA, Guidelines, Gazette Orders,
FAQs and more

March 2021



Greetings from Deloitte Malaysia Tax Services

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Upcoming events:

[Investor Update Series: Malaysia Transfer Pricing amendments](#)

Important deadlines:

Task	2021 Due Date
	31 March
1. 2022 tax estimates for companies with April year-end	✓
2. 6 th month revision of tax estimates for companies with September year-end	✓
3. 9 th month revision of tax estimates for companies with June year-end	✓
4. Statutory filing of 2020 tax returns for companies with August year-end	✓
5. Maintenance of transfer pricing documentation for companies with August year-end	✓
6. Deadline for 2021 CbCR notification for companies with March year-end	✓

1. Operational Guidelines on submission of Estimate of Tax Payable under Section 107C

The Inland Revenue Board of Malaysia (IRBM) recently released the [Operational Guidelines 1/2021](#) on 'Submission of Estimate of Tax Payable under Section 107C of the Income Tax Act 1967 (ITA)' dated 22 December 2020, which is available in Bahasa Malaysia only.

The objective of these Guidelines is to explain the submission procedures for estimate of tax payable (Form CP204), revision of estimate of tax payable (Form CP204A), and notification of change of accounting period (Form CP204B) which are applicable to:

- I. Companies, co-operative societies, trust bodies, and limited liability partnerships (LLPs).
- II. Companies with paid-up capital not exceeding RM2.5 million in respect of ordinary shares at the beginning of the basis period of a year of assessment [Small and Medium Enterprises (SMEs)] under Section 107C(4A) of the ITA.
- III. Non-resident companies that are fully subject to withholding tax under Section 107A of the ITA.

These Guidelines cover the following topics:

- (i) ITA provisions
- (ii) Notification of change of accounting period (Form CP 204B)
- (iii) Failure to notify change of accounting period
- (iv) Increase relating to tax instalment payments and revision of estimate of tax payable
- (v) Payment methods
- (vi) Disclaimer

Remarks:

- In the Operational Guidelines, it is stated that an SME that commences operation is required to submit the Form CP204. However, it is not required to provide the quantum of estimate of tax payable for the first two years of assessment (YAs).
- The IRBM has stated in its Operational Guidelines [webpage](#) that Paragraph 6 'Computation of Revised Tax Instalment After Change of Accounting Period' in [Public Ruling \(PR\) 8/2019](#): "Notification Of Change Of Accounting Period By A Company / Limited Liability Partnership / Trust Body / Co-operative Society" does not apply from 3 February 2021 onwards. PR 8/2019 is being updated and amended in accordance with the above Operational Guidelines.

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2. Tax Collection Framework 2021

The IRBM has recently uploaded the [Tax Collection Framework 2021](#) which is dated 3 February 2021 (*available in Bahasa Malaysia only*) and effective on the same date, to replace the Tax Collection Framework issued on 20 April 2016.

The Tax Collection Framework 2021 aims to provide guidance to IRBM officers, taxpayers, employers, and appointed IRBM collection agents on the following:

- I. Collection procedures to ensure the implementation of tax collection can be carried out more efficiently and effectively;
- II. Rules of payment and payment options that can be used according to the classes of income; and
- III. Refund mechanism.

The Framework provides guidance on the following topics:

- (i) Chapter A: Tax Estimates and Monthly Tax Deductions - Income Tax Act 1967 (ITA)
- (ii) Chapter B: Tax Estimates - Petroleum (Income Tax) Act 1967 [PITA]
- (iii) Chapter C: Real Property Gains Tax - Real Property Gains Tax Act 1976 (RPGTA)
- (iv) Chapter D: Taxation of Labuan Business Activities - Labuan Business Activity Tax Act 1990 (LBATA)
- (v) Chapter E: Withholding Tax
- (vi) Chapter F: Payment Facilities
- (vii) Chapter G: Collection
- (viii) Chapter H: Refund
- (ix) Appendix 1: List of Payment Facilities via IRBM Collection Agents
- (x) Appendix 2: List of Payment Code

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3. IRBM updated Chapter 11 of the Transfer Pricing Guidelines, Paragraphs 11.2.3, and 11.3.5

Further to the introduction of Section 113B of the ITA which came into operation on 1 January 2021, the IRBM has updated Chapter 11 of the Transfer Pricing Guidelines, Paragraphs [11.2.3](#) and [11.3.5](#) [see sentences in blue fonts therein], where the timeframe for submission of the Transfer Pricing Documentation upon request by the IRBM has been shortened from 30 days to 14 days.

The revised timeframe of 14 days for submission of the Transfer Pricing Documentation upon request by the IRBM applies to transfer pricing audit cases which have commenced on or after 1 January 2021. In regards to transfer pricing audit cases which have commenced before 1 January 2021, the Transfer Pricing Documentation should be submitted within 30 days upon request by the IRBM.

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4. Real Property Gains Tax Return Form for Year of Assessment (YA) 2021

The IRBM has uploaded the Real Property Gains Tax (RPGT) Return Form for the YA 2021 for the reporting on disposal and acquisition of assets which are subject to the RPGT Act 1976 (RPGTA) for YA 2021.

Nevertheless, the disposal and acquisition of assets which are subject to the RPGTA prior to YA 2021 are to be reported in the RPGT Return Form applicable for YA 2020 and prior YAs.

The above RPGT Return Forms can be accessed and downloaded through the following:

- (i) Visit the LHDNM Official Portal at www.hasil.gov.my and click on Forms > Download Forms > RPGT > All.
- (ii) Or quick access at the following link:

http://www.hasil.gov.my/bt_goindex.php?bt_jborang=7&bt_tahunbor=Semua%7Call&bt_kump=2&bt_skum=3&bt_posi=1&Submit=Cari

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5. Double Taxation Avoidance Agreement between Malaysia and Cambodia

The [Double Taxation Avoidance Agreement \(DTA\) between Malaysia and Cambodia](#) was signed on 3 September 2019 and enforced on 28 December 2020. With this, the provisions listed in the DTA can be applied in Malaysia effective 1 January 2021.

Note: The IRBM [announced](#) the DTA is effective from 5 February 2021.

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6. Income Tax (Deduction for Employment of Senior Citizen, Ex-Convict, Parolee, Supervised Person and Ex-Drug Dependant) (Amendment) Rules 2021 [P. U. (A) 47/2021]

[P. U. \(A\) 47/2021](#) (the Amendment Rules) was gazetted on 9 February 2021.

The Amendment Rules extend the deduction under the Income Tax (Deduction for Employment of Senior Citizen, Ex-Convict, Parolee, Supervised Person and Ex-Drug Dependant) Rules 2019 [[P. U. \(A\) 164/2019](#)] by another 5 YAs, i.e. from the YA 2021 to YA 2025.

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7. Real Property Gains Tax (Exemption) 2018 (Amendment) Order 2021 [P.U.(A) 48/2021]

[P.U.\(A\) 48/2021](#) was gazetted on 9 February 2021 and amends Paragraph 2(2) of the Real Property Gains Tax (Exemption) Order 2018 [[P.U.\(A\) 360/2018](#)] for clarity purpose. Amendments are highlighted in green fonts, words replaced / deleted are marked with a strikethrough.

Amendment of Paragraph 2(2) of P.U.(A) 360/2018

“2(2) The exemption referred to in Subparagraph (1) shall apply to any individual who is a citizen who disposes of a chargeable asset, other than shares, on the condition that —

- (a) the disposal of the chargeable asset is made in the sixth year after the date of acquisition of such chargeable asset or any year thereafter; ~~and~~
- (b) the consideration **or market value, or whichever is the higher** for the disposal of the chargeable asset, is not more than two hundred thousand ringgit (RM200,000.00); ~~and~~
- (c) **the total consideration or market value, or whichever is the higher for a chargeable asset as a whole, is not more than two hundred thousand ringgit (RM200,000.00)."**

Note: The [P.U.\(A\) 360/2018](#) which came into operation on 1 January 2019 exempts an individual, who is a citizen, from the payment of RPGT on a chargeable gain accruing on the disposal of a chargeable asset (other than shares), on or after 1 January 2019, provided qualifying conditions are met.

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8. Stamp Duty (Exemption) Order 2021 [P.U.(A) 53/2021]

[P.U.\(A\) 53/2021](#) (the Order) was gazetted on 10 February 2021 and is deemed to have come into operation on 1 January 2021 to legislate the full stamp duty exemption on **instrument of transfer** for the purchase of the first residential property by a Malaysian citizen worth up to RM500,000, as proposed in the Budget 2021 [reported in [Tax Espresso \(Special Edition\) – Highlights of Budget 2021*: Part I](#)].

The Order exempts from stamp duty all instrument of transfer for the purchase of only one unit of residential property, the value of which is not more than RM500,000.00 executed by an individual if—

- (a) the sale and purchase agreement for the purchase of the residential property is executed between the period 1 January 2021 to 31 December 2025; and
- (b) the individual has never owned any residential property including a residential property which is obtained by way of inheritance or gift, which is held either individually or jointly.

The Order states that:

- The value of the residential property shall be based on the market value.
- The application for the exemption shall be accompanied by a statutory declaration under the Statutory Declarations Act 1960 [Act 783] by the individual confirming that the individual has never owned any residential property, including a residential property which is obtained by way of inheritance or gift, which is held either individually or jointly.

For the purpose of the Order:

“*Residential property*” means a house, a condominium unit, an apartment or a flat purchased or obtained solely to be used as a dwelling house.

“*Individual*” means a purchaser of a residential property who is a Malaysian citizen or co-purchaser of a residential property who is a Malaysian citizen.

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9. Stamp Duty (Exemption) (No. 2) Order 2021 [P.U.(A) 54/2021]

[P.U.\(A\) 54/2021](#) (the Order) was gazetted on 10 February 2021 and is deemed to have come into operation on 1 January 2021 to legislate the full stamp duty exemption on a **loan agreement** for the purchase of the first residential property by a Malaysian citizen worth up to RM500,000, as proposed in the Budget 2021 [reported in [Tax Espresso \(Special Edition\) – Highlights of Budget 2021: Part I](#)].

The Order exempts from stamp duty any loan agreement to finance the purchase of only one unit of residential property, the value of which is not more than RM500,000.00 executed between an individual named in the sale and purchase agreement and—

- (a) a licensed bank under the Financial Services Act 2013 [Act 758];
- (b) a licensed Islamic bank under the Islamic Financial Services Act 2013 [Act 759];
- (c) a development financial institution prescribed under the Development Financial Institutions Act 2002 [Act 618];
- (d) a licensed insurer under the Financial Services Act 2013;
- (e) a licensed takaful operator under the Islamic Financial Services Act 2013;
- (f) a co-operative society registered under the Co-operative Societies Act 1993 [Act 502];
- (g) any employer who provides an employee housing loan scheme;
- (h) the Borneo Housing Mortgage Finance Berhad (Company Registration Number: 25457-V) incorporated under the Companies Act 2016 [Act 777]; or
- (i) the Mutiara Mortgage and Credit Sdn Bhd (Company Registration Number: 257663-T) incorporated under the Companies Act 2016.

The stamp duty exemption shall only apply if—

- (a) the sale and purchase agreement for the purchase of the residential property is executed between the period 1 January 2021 to 31 December 2025; and
- (b) the individual has never owned any residential property including a residential property which is obtained by way of inheritance or gift, which is held either individually or jointly.

For the purpose of the Order:

“Residential property” means a house, a condominium unit, an apartment, or a flat purchased or obtained solely to be used as a dwelling house.

“Individual” means a purchaser of a residential property who is a Malaysian citizen or co-purchaser of a residential property who is a Malaysian citizen.

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10. Loans Guarantee (Bodies Corporate) (Remission of Tax and Stamp Duty) Order 2021 [P.U.(A) 71/2021]

The [P.U.\(A\) 71/2021](#) (the Order) was gazetted on 24 February 2021 and came into operation on 25 February 2021. The Order provides for a full remission of tax payable under the ITA and a full remission of stamp duty payable under the Stamp Act 1949 in relation to:

- (a) the Islamic Medium Term Notes issued by MKD Kencana Sdn Bhd pursuant to the Islamic Medium Term Notes Programme (referred to as the “Sukuk Murabahah”), in nominal value of up to one billion ringgit (RM1,000,000,000); and
- (b) the guarantee given by the Government of Malaysia relating to the Sukuk Murabahah.

Please refer to [P.U.\(A\) 71/2021](#) for the full details and conditions.

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11. Stamp Duty (Exemption) (No. 3) Order 2021 [P.U.(A) 73/2021]

[P. U. \(A\) 73/2021](#) (the Order) was gazetted on 25 February 2021 and is deemed to have come into operation on 1 July 2020 to legislate the stamp duty exemption given on instruments in relation to an approved merger or acquisition executed by SMEs, as announced by the Government through PENJANA on 5 June 2020 [reported in [Deloitte Malaysia Tax Espresso - Special Alert - PENJANA: Appendices on Tax-Related Measures](#)].

Below are the qualifying conditions for an exemption under the Order:

- The stamp duty exemption shall be subject to the condition that the merger or acquisition is approved by the Ministry of Entrepreneur Development and Cooperatives from 1 July 2020, but not later than 30 June 2021.
- The exemption from stamp duty shall apply to instruments in relation to an approved merger or acquisition executed by the SMEs on or after 1 July 2020 but not later than 31 December 2021.

For the purpose of the Order:

"Instruments in relation to an approved merger or acquisition" means -

- (i) contract or agreement for the sale or leasing of property (land, building, machinery, and equipment);
- (ii) instrument of transfer and memorandum of understanding;
- (iii) loan or financing agreement; and
- (iv) first leasing agreement.

"Small and medium enterprises" has the same meaning assigned to it in Section 2 of the Small and Medium Industries Development Corporation Act 1995 [Act 539].

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12. FAQs on international tax issues due to COVID-19 travel restrictions (updated as at 9 February 2021)

The IRBM has updated the Frequently Asked Questions ([FAQs](#)) on international tax issues due to COVID-19 travel restrictions (updated as at 9 February 2021).

The key amendments are as follow:

Changes

- The movement control order (MCO) period is from 18 March 2020 as prescribed and extended by the Ministerial order made under Section 11 of the Prevention and Control of Infectious Diseases Act 1988 [Act 342] as gazetted from time to time. In the superseded FAQs, the stipulated MCO period was from 18 March 2020 until 31 December 2020. [Refer to FAQs #4]
- Examples of relevant documentations and information that must be kept and submitted to the IRBM upon request now include documents that prove taxpayer's effort to leave or return to Malaysia (responses from the Immigration Department of Malaysia/ airline company) during the MCO period. [FAQs #2]

Addition

- Any applications for tax treatment based on the FAQs must be referred to the branch that handles the taxpayer's income tax file. If an income tax file has not been registered, an application should be made to the Non-Resident Branch. Every application for the tax treatment will be reviewed according to the merit of the case. Confirmation of taxability from foreign tax authorities involved may be requested if the need arises. [FAQs #5]

Please refer to the [FAQs](#) for the full details.

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13. FAQs on rental reduction to SMEs and non-SMEs (updated as at 19 February 2021)

The IRBM has updated the [FAQs](#) on rental reduction to SMEs and non-SMEs (updated as at 19 February 2021) (*) to address concerns taxpayers may have pertaining to the special deduction on rental reduction on business premise, which

was announced and extended under the Economic Stimulus Package, PRIHATIN and Perlindungan Ekonomi Dan Rakyat Malaysia (PERMAI) assistance package. [You may refer to [Deloitte Malaysia Tax Espresso - Special Alert - PERMAI Assistance Package – Tax-related measures](#) for details of the special deduction.]

**Available in Bahasa Malaysia only*

The FAQs are updated mainly to clarify that landlords of business premises who provide reduction or relief of rental to tenants of business premises consisting of:

- **SMEs** are allowed to claim a special deduction equivalent to the amount of rental reduction for **April 2020 to June 2021**; and
- **Non-SMEs** are allowed to claim a special deduction equivalent to the amount of the rental reduction for the month of **January 2021 to June 2021**.

The special deduction is given subject to the condition of rental reduction of at least 30% of the existing rental rate of the determined period.

The FAQs also clarified that the Working Sheet (Helaian Kerja) of the Income Tax Return Form (ITRF) is currently being updated where the taxpayer would need to provide the tenant details, rental details, and rental reduction method in the Working Sheet (Helaian Kerja) of the taxpayer's ITRF. It is also clarified that the SME Status Certificate issued by SME Corp is required in the case of a SME tenant.

Please refer to the [updated FAQs](#) for the full details.

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We invite you to explore other tax-related information at:

<http://www2.deloitte.com/my/en/services/tax.html>

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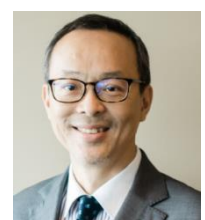
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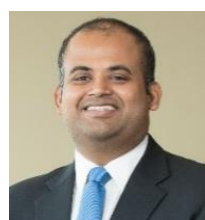
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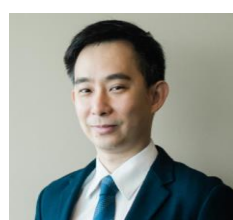
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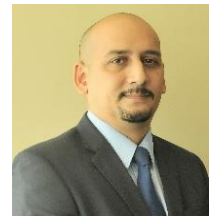
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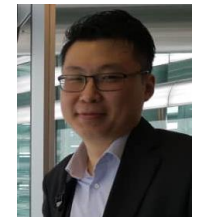
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