



Tax Developments - 3rd Quarter 2019



1 October 2019

Contents

CORPORATE TAX

- [Technical Guidelines on "Exemption based on the Incremental Amount of the Chargeable Business Income"](#)
- [Earning Stripping Rules](#)
- [Income Tax Deductions on Expenditure Incurred on Disabled Persons](#)
- [Incentives for Payment of Educational Loan](#)
- [Incentive for Women Returning to Work after Career Break](#)
- [Withdrawal of Withholding Tax Exemption of Income Received from MSC Status Companies](#)
- [Operational Guidelines on Procedure for Submission of Amended Return Form](#)
- [Technical Guidelines for Approval of Director General of Inland Revenue under Subsection 44\(6\) of the Income Tax Act 1967 \("ITA"\)](#)
- [Public Ruling on Tax Treatment of Wholly and Partly Irrecoverable Debts and Debt Recoveries](#)

INDIRECT TAX

- [Reports for Sales Tax Exemptions](#)
- [New Module for Application of Exemptions under Sales Tax \(Persons Exempted from Payment of Tax\) Order 2018](#)
- [New and Revised Guides](#)

CORPORATE TAX

The relevant authorities have issued the following:

Technical Guidelines on "Exemption based on the Incremental Amount of the Chargeable Business Income"

The above [Guidelines](#) explain the application of the [Income Tax \(Exemption\) \(No. 2\) Order 2017](#) ("the Order") that effectively provides tax exemption equivalent to a reduction in the prevailing corporate tax rate from 1% to 4% based on the incremental amount of the chargeable business income which is applicable for Years of Assessment ("YAs") 2017 and 2018.

Notable points of the Guidelines are outlined below:

- For the purpose of applying the exemption under the Order, one of the conditions is that the qualifying person must have been in operation for not less than 24 months. Based on the examples given in the Guidelines, the Malaysian Inland Revenue Board ("MIRB") has specified that the qualifying person must have been in operation for not less than 24 months on the first day of the basis period for the YA in which the exemption was claimed for;
- Where a claim for exemption under the Order has been made in YAs 2017 and 2018 but tax audit adjustments are subsequently made on the tax returns for YAs 2016 and 2017, no penalty will be imposed on the additional tax arising from the reduced incremental amount of chargeable business income for YAs 2017 and 2018.

Source for the Guidelines: Official portal of [MIRB](#)

Earning Stripping Rules ("ESR")

The [Income Tax \(Restriction on Deductibility of Interest\) Rules 2019](#) ("the Rules") has come into operation on 1 July 2019. Following the issuance of the Rules, the MIRB has also issued [Guidelines](#) and [FAQ](#) to provide further clarifications and information in applying the ESR.

(Click [here](#) for our earlier Tax Whiz on ESR and [here](#) for our earlier Tax Whiz on the ESR Guidelines for more information)

Source for the Rules: [Federal Gazette Portal of the Attorney General's Chambers](#)

Source for the Guidelines & FAQ: Official portal of [MIRB](#)

Income Tax Deductions on Expenditure Incurred on Disabled Persons

To effect the proposal in Budget 2018, [Income Tax \(Deductions for the Employment of Disabled Persons\) \(Amendment\) Rules 2019](#) have been issued to expand the scope of further deduction on remuneration paid to disabled person i.e. to include the remuneration of employees who are disabled due to an accident or critical illness.

The deduction allowed under the above Rules is subject to the following conditions:

- (a) In the case of an employee who is physically or mentally disabled, the person claiming the deduction shall prove to the satisfaction of the Director General that the employee is not able to perform the work of a normal person; or
- (b) In the case of an employee who is physically or mentally disabled due to an accident or critical illness, the person claiming the deduction shall provide a certification from the Social Security Organization certifying that the employee is able to work within his capabilities.

The Rules shall be effective from YA 2019 onwards.

In addition, [Public Ruling No.3/2019 – Business Expenses in respect of Disabled Person](#) has also been issued to explain the tax treatment of business expenses incurred by a person for employing disabled persons as employee or providing training to disabled persons who are not employees to enable them to seek employment. Various examples are set out in the Public Ruling.

Based on the Public Ruling, the types of remuneration allowable for further deduction includes gross income in respect of gains or profits from an employment which includes any wages, salary, overtime payment, commission, tips, allowance, bonus or incentives, fees, perquisite, employee's share option scheme and tax borne by the employer and shall exclude the benefits in kind as well as the living accommodation provided by the employer to his employees.

Source for the Rules: [Federal Gazette Portal of the Attorney General's Chambers](#)

Source for the Public Ruling: Official portal of [MIRB](#)

Incentives for Payment of Educational Loan

Following the proposal in Budget 2019, [Income Tax \(Deduction for Payment of Educational Loan of Perbadanan Tabung Pendidikan Tinggi Nasional by Employers on behalf of Employees\) Rules 2019](#) has been issued to allow an employer to claim a tax deduction against his business income in respect of the educational loan ("PTPTN") paid on behalf of his employee from the period from 1 January 2019 to 31 December 2019, subject to meeting the prescribed conditions.

At the same time, [Income Tax \(Exemption\) \(No.8\) Order 2019](#) has also been issued to provide income tax exemption to the eligible employees in respect of the amount of PTPTN paid by the employer for the period from 1 January 2019 to 31 December 2019 on their behalf. This exemption order shall have effect for YA 2019.

Source for the Rules and Order: [Federal Gazette Portal of the Attorney General's Chambers](#)

Incentive for Women Returning to Work after Career Break

[Income Tax \(Exemption\) \(No.9\) Order 2019](#) provides income tax exemption for up to twelve (12) consecutive months to women returning to work after a career break, subject to meeting the prescribed conditions. Among other conditions, this Order shall only be applicable to the approved individual who has ceased employment and has not derived employment income for a continuous period of at least twenty four (24) months prior to or as at 27 October 2017.

The Order is effective from YA 2018 until YA 2020 as announced in the Budget 2018 while the application for exemption is required to be made to the Minister through Talent Corporation Malaysia Berhad from 1 January 2018 to 31 December 2019.

Source for the Order: [Federal Gazette Portal of the Attorney General's Chambers](#)

Withdrawal of Withholding Tax ("WHT") Exemption of Income Received from MSC Status Companies

The Malaysia Digital Economy Corporation ("MDeC") has announced in its website that the Income Tax (Exemption) (No. 13) Order 2005 ("the Order") in respect of WHT on certain types of income received from approved MSC status companies, will only be effective until 31 December 2019. The necessary steps will be taken to revoke the Order with effect from 1 January 2020.

The types of payments made by an approved MSC status company to non-resident companies which is exempted from deducting WHT pursuant to the above Order are as follows:

- (a) Payment for technical advice or technical services;
- (b) Licensing fees in relation to technology development; and
- (c) Interest on loans for technology development.

Source: Official portal of [MDeC](#)

Operational Guidelines on Procedure for Submission of Amended Return Form

The MIRB has issued [Operational Guidelines No. 4/2019](#) (GPHDN 4/2019) relating to the amended return form under the ITA which supersede the earlier Guidelines dated 22 April 2019. The revised Guidelines have been expanded to cover the submission of amended return forms made under the Petroleum Income Tax Act 1967. Examples on the determination of the submission period for amended return form as well as the computation of tax / additional tax and increase in tax have been included in the revised Guidelines.

Source for the Guidelines: Official portal of [MIRB](#)

Technical Guidelines for Approval of Director General of Inland Revenue under Subsection 44(6) of the ITA

The above [Guidelines](#) issued earlier on 15 May 2019 have been amended on 5 September 2019. The notable change as compared to the Guidelines dated 15 May 2019 is that the donation threshold in respect of the list of donors that should be furnished to the MIRB is RM10,000 instead of RM1,000.

Source for the Guidelines: Official portal of [MIRB](#)

Public Ruling on Tax Treatment of Wholly and Partly Irrecoverable Debts and Debt Recoveries

The MIRB has issued [Public Ruling No. 4/2019 - Tax Treatment of Wholly and Partly Irrecoverable Debts and Debt Recoveries](#). This Public Ruling explains the tax treatment of:

- (a) wholly and partly irrecoverable debts as a deduction against gross income of a person from a business for the basis year for a YA; and
- (b) recoveries of wholly and partly irrecoverable debts where a deduction has been made in ascertaining the adjusted income for an earlier YA.

It replaces the Public Ruling No. 1/2002 dated 2 April 2002. There is no notable change in terms of tax treatment as compared to the earlier Public Ruling.

Source for the Public Ruling: Official portal of [MIRB](#)

INDIRECT TAX

Reports for Sales Tax Exemptions

An approved person who has been exempted from payment of Sales Tax under the Sales Tax (Persons Exempted from Payment of Tax) Order 2018 is required to prepare a report, as follows: -

1. Schedule A – Item 33A, 33B, 55, 63, 64 and 65

The report shall be prepared and sent to the controlling station at the time when purchase or importation of goods with sales tax exemption occurred.

2. Schedule A – Item 57

The report shall be prepared and sent to the controlling station along with the purchase invoice and Customs Form No.2 (K2) every three (3) months from the date of exemption certificate until the quantity of goods purchased are fully exported.

The deadline for submission is the last day of the month following after the end of each quarter.

3. Schedule B and Schedule C

The report shall be prepared for every three (3) months from the date of the exemption certificate and submitted to the Royal Malaysian Customs Department (“RMCD”) only upon request.

Please click [here](#) for more details and format of the respective reports on the RMCD’s official portal – MySST.

New Module for Application of Exemptions under Schedule A of the Sales Tax (Persons Exempted from Payment of Tax) Order 2018

The new module for application of exemptions under Schedule A goes live on MySST on 19 August 2019. Certificates which were generated using the old module can no longer be used after 31 October 2019.

Under the new module, applicants are required to sign up and seek a one-time approval from the RMCD to log in and generate the certificate of exemption.

New and Revised Guides

The RMCD issues new and revised Guides from time to time to provide further clarifications on various Sales Tax and Service Tax issues. The following Guides were issued during the third quarter of 2019:-

- Employment Services (revised as at 5 August 2019);
- Information Technology Services (revised as at 9 August 2019);
- Sales Tax Deduction Facility (revised as at 9 August 2019); and
- Digital Services (as at 20 August 2019).

A copy of each Guide is available on the RMCD’s official portal – MySST (click [here](#)).

Insights on Earlier Tax Whiz

Please refer below on our earlier Tax Whiz for more information.

| No | Subject Matter |
|----|---|
| 1 | Amendment Acts 2019 |
| 2 | Departure Levy Act 2019 |
| 3 | Revised Guide on Employment Services |
| 4 | Guide on Digital Services |
| 5 | Effective Dates of Service Tax (Amendment) Act 2019 and Amendments to Service Tax Regulations and Order |
| 6 | Service Tax Policy No. 2/2019 - Imported Taxable Services into Labuan |
| 7 | Service Tax – 12-Month "Deemed Paid" Rule |

Contact Us

Petaling Jaya Office

**Tai Lai Kok**

Executive Director – Head of Tax and
Head of Corporate Tax
ltai1@kpmg.com.my
+603 7721 7020

**Long Yen Ping**

Executive Director –
Head of Global Mobility Services
yenpinglong@kpmg.com.my
+603 7721 7018

**Bob Kee**

Executive Director – Head of Transfer
Pricing
bkee@kpmg.com.my
+603 7721 7029

**Ng Sue Lynn**

Executive Director – Head of Indirect Tax
suelynnng@kpmg.com.my
+603 7721 7271

**Soh Lian Seng**

Executive Director –
Head of Tax Dispute Resolution Practice
lsoh@kpmg.com.my
+603 7721 7019

**Nicholas Crist**

Executive Director – Corporate Tax
nicholascrist@kpmg.com.my
+ 603 7721 7022

**Dato' Leanne Koh**

Executive Director – Corporate Tax
leannekoh@kpmg.com.my
+603 7721 7026

**Neoh Beng Guan**

Executive Director – Corporate Tax
bneoh@kpmg.com.my
+ 603 7721 7025

**Ong Guan Heng**

Executive Director – Corporate Tax
guanhengong@kpmg.com.my
+ 603 7721 7027

**Chang Mei Seen**

Executive Director – Transfer Pricing
meiseenchang@kpmg.com.my
+ 603 7721 7028

**Ivan Goh**

Executive Director – Transfer Pricing
ivangoh@kpmg.com.my
+ 603 7721 7012

Outstation Offices

Penang Office**Evelyn Lee**

Executive Director – Penang Tax
evewflee@kpmg.com.my
+604 238 2288 (ext. 312)

Kuching & Miri Offices**Regina Lau**

Executive Director – Kuching Tax
reglau@kpmg.com.my
+6082 268 308 (ext. 2188)

Kota Kinabalu Office**Titus Tseu**

Executive Director – Kota Kinabalu
Tax
titustseu@kpmg.com.my
+6088 363 020 (ext. 2822)

Johor Bahru Office**Ng Fie Lih**

Executive Director – Johor Bahru Tax
flng@kpmg.com.my
+607 266 2213 (ext. 2514)

Ipoh Office**Crystal Chuah Yoke Chin**

Tax Manager – Ipoh Tax
ycchuah@kpmg.com.my
+605 253 1188 (ext. 320)

KPMG Offices

Petaling Jaya

Level 10, KPMG Tower,
8, First Avenue, Bandar Utama,
47800 Petaling Jaya, Selangor
Tel: +603 7721 3388
Fax: +603 7721 3399
Email: info@kpmg.com.my

Penang

Level 18, Hunza Tower,
163E, Jalan Kelawei,
10250 Penang
Tel: +604 238 2288
Fax: +604 238 2222
Email: info@kpmg.com.my

Kuching

Level 2, Lee Onn Building,
Jalan Lapangan Terbang,
93250 Kuching, Sarawak
Tel: +6082 268 308
Fax: +6082 530 669
Email: info@kpmg.com.my

Miri

1st Floor, Lot 2045,
Jalan MS 1/2,
Marina Square, Marina Parkcity,
98000 Miri, Sarawak
Tel: +6085 321 912
Fax: +6085 321 962
Email: info@kpmg.com.my

Kota Kinabalu

Lot 3A.01 Level 3A,
Plaza Shell,
29, Jalan Tunku Abdul Rahman,
88000 Kota Kinabalu, Sabah
Tel: +6088 363 020
Fax: +6088 363 022
Email: info@kpmg.com.my

Johor Bahru

Level 3, CIMB Leadership Academy,
No. 3, Jalan Medini Utara 1,
Medini Iskandar,
79200 Iskandar Puteri, Johor
Tel: +607 266 2213
Fax: +607 266 2214
Email: info@kpmg.com.my

Ipoh

Level 17, Ipoh Tower,
Jalan Dato' Seri Ahmad Said,
30450 Ipoh, Perak
Tel: +605 253 1188
Fax: +605 255 8818
Email: info@kpmg.com.my

kpmg.com/my

 facebook.com/KPMGMalaysia

 twitter.com/kpmg_malaysia

 linkedin.com/company/kpmg-malaysia

 instagram.com/kpmgmalaysia

© 2018 KPMG Tax Services Sdn. Bhd., a company incorporated under the Malaysian law and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved.

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

The KPMG name and logo are registered trademarks or trademarks of KPMG International.