



MOORE Advent

# TAX FLASH

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## PR No. 4/2022 – Recovery from Persons Leaving Malaysia

The Inland Revenue Board [“IRB”] has recently issued the *Public Ruling [“PR”] No. 4/2022 – Recovery From Persons Leaving Malaysia* to explain the circumstances and procedures for recovering tax and debts due from taxpayers who will be leaving Malaysia. This new PR replaces the PR No. 12/2015 issued on 17<sup>th</sup> December 2015 with some updates as follows:-

- i. Under Section 104 of the Income Tax Act 1967 [“ITA 1967”], the Director General of Inland Revenue [“DGIR”] may issue a certificate to a Commissioner of Police or a Director of Immigration requesting for a taxpayer to be prevented from leaving Malaysia unless all the tax, sums and debts have been paid or a security for the payment is furnished to the satisfaction of the DGIR. The sums payable as referred to in the aforesaid Section 104 of the ITA 1967 has been updated as below:-
  - to exclude the increase in tax charged for late payment of tax of 5% on balance remaining unpaid after 60 days from the due date for payment of tax which was previously imposable under Sections 103(4) & 103(6) of the ITA 1967 that have been abolished with effect from 1<sup>st</sup> January 2020.
  - to include the increase in tax imposed on tax payable where:-
    - no estimate is furnished and no Notice of Instalment Payments (CP 205) is given by the DGIR to make payment by instalment under subsection 107C(8) of the ITA 1967;
    - no prosecution under paragraph 120(1)(f) of the ITA 1967 has been instituted in relation to failure to furnish such estimate; and
    - tax is payable by the company, limited liability partnership, trust body or co-operative society pursuant to an assessment for that year of assessment.
- ii. From 1<sup>st</sup> January 2021 onwards, the DGIR can submit a taxpayer travel restriction certificate to the Malaysian Immigration Department by using electronic medium; and
- iii. Update on the payment method for outstanding tax and debts which can be made via:-
  - MyTax Portal at <https://mytax.hasil.gov.my> via ‘ezHasil Services’> ‘ByrHASiL’;
  - Commercial bank internet banking portal which appointed as HASiL collection agent;
  - Pos Malaysia counters and commercial banks which appointed as HASiL collection agents;
  - Bank cash deposit machine which appointed as HASiL collection agent; or
  - The bank’s automatic teller machine [“ATM”] which appointed as the HASiL collection agent.

**Note:** For further details relating to the previous PR 12/2015 - Recovery from Persons Leaving Malaysia, kindly refer to our *Tax Flash – February 2016* issue.

## Update on Further Deduction for Expenses in Relation to the Cost of Detection Test of COVID-19 for Employees

The Income Tax (Deduction for Expenses in Relation to the Cost of Detection Test of Coronavirus Disease 2019 [“COVID-19”] for Employees) Rules 2021 [“principal Rules”] provides that the costs of COVID-19 detection tests for employees incurred by an employer resident in Malaysia within the period from 1<sup>st</sup> January 2021 to 31<sup>st</sup> December 2021 qualify for a further deduction in computing the adjusted income from business. To qualify for this claim, the employer must produce a receipt and certification issued by a medical practitioner registered with the Malaysia Medical Council or a medical practitioner register outside Malaysia that the detection test of COVID-19 has been provided to its employees.

Following the above, the *Income Tax (Deduction for Expenses in Relation to the Cost of Detection Test of COVID-19 for Employees) (Amendment) Rules 2022* [“amendment Rules”] has been gazetted to provide that an employer claiming further deduction under the principal Rules must be able to produce the supporting document as follows:-

- a receipt and certification issued by a medical practitioner registered with the Malaysia Medical Council or a medical practitioner registered outside Malaysia if expenses are incurred outside Malaysia that the detection test of COVID-19 has been provided to its employees; or
- a receipt and result of the COVID-19 detection test of its employees issued by a health facility (covering both private and public facilities) listed in the List of Laboratories Conducting RT-PCR Test for Covid-19 to the COVID-19 Management Guidelines in Malaysia No. 5/2020 issued by the Ministry of Health ["MOH"] in relation to the costs of RT-PCR detection test incurred for its employees. The list can be found on the MOH's website (<https://covid-19.moh.gov.my/>).

The amendment Rules shall have retrospective effect from the year of assessment ["YA"] 2021.

**Note:** For further information on the above, please refer to our *Tax Flash - November 2021* issue.

### Extension of Tax Exemption on Shipping Profits

A person resident in Malaysia who carries on the business of transporting passengers or cargo by sea on a Malaysian ship or letting out on charter a Malaysian ship owned by him on a voyage or time charter basis is given 100% exemption on statutory income derived from the operation of Malaysian ships pursuant to:-

- Income Tax (Exemption) Order 2018 – YA 2014 and YA 2015; and
- Income Tax (Exemption) (No.2) Order 2018 – YA 2016 to YA 2020.

Following the above, the *Income Tax (Exemption) (No.7) Order 2022* has been gazetted to extend the exemption for another 3 years i.e. up to YA 2023 subject to the person obtaining annual verification from the Ministry of Transport Malaysia that the following conditions have been fulfilled:-

- incurs annual operating expenditure of at least RM250,000 for each Malaysian ship; and
- has number of full-time employees in Malaysia for each Malaysian ship as follows:-
  - the majority of shore employees, including the chief executive officer, an administrative and finance officer, an operating officer and an officer in charge of health, protection, safety and environmental affairs, are Malaysian citizens; and
  - in the case of employees who are ship personnel as provided under Part III of the Merchant Shipping Ordinance 1952, shall be subject to the minimum requirement as specified in the Safe-Manning Certificate issued by the Marine Department Malaysia.

**Note:** For further information on the *Income Tax (Exemption) Order 2018* and *Income Tax (Exemption) (No.2) Order 2018*, kindly refer to our *Tax Flash - March 2018* issue.

### IRB's Media Release on Deferment for Payment of Small Value Withholding Tax for Royalty, Interest and Special Classes of Income and New Prescribed Forms for Small Value Withholding Tax Payments

The IRB has recently issued a *media release* dated 27<sup>th</sup> September 2022 to inform that deferment for payment of small-value withholding tax ["WT"] will be allowed, effective 1<sup>st</sup> August 2022.

Under Sections 109 and 109B of the ITA 1967, payers are required to remit the WT deducted from payments of royalty, interest and special classes of income made to non-residents to the IRB within one (1) month from the date of paying or crediting the payments, accompanied by the Form CP37 / CP37D.

For ease of administration, payers will be allowed deferment for remittance of the following categories of WT:-

- Interest or royalty under Section 109 of the ITA 1967; and
- Special classes of income under Section 109B of the ITA 1967.

The submission of WT forms and remittance of WT payment shall be made to the IRB once for every 6-monthly period as follows:-

Payments made to non-residents	Due date for remittance of WT and submission of WT forms
1 <sup>st</sup> December (of the previous year) to 30 <sup>th</sup> May (of the current year)	On or before 30 <sup>th</sup> June (of the current year)
1 <sup>st</sup> June to 30 <sup>th</sup> November (of the current year)	On or before 31 <sup>st</sup> December (of the current year)

The eligibility criteria for the deferment of small value WT payment are as follows:-

- Amount of WT involved does not exceed RM500 for each transaction; and
- Payer is aware that the relevant WT will be made more than once during the 6-month period.

Following the above, the IRB has issued a [media release](#) on 27<sup>th</sup> October 2022 to inform that new WT forms (i.e. Form CP37S for royalty and interest and Form CP37DS for special classes of income) for submission and remittance of the WT for the 6-month period have been made available and can be downloaded from the IRB's website.

### Deferment of Implementation of Imposition of Excise Duty on Pre-Mixed Preparation Products for Beverages

Subsequent to the announcement in respect of the deferment of the implementation of imposition of excise duty on pre-mixed preparation products for beverages made by the Royal Malaysian Customs Department ["RMCD"] on 31<sup>st</sup> March 2022, the RMCD has recently announced that the imposition of the excise duty will be further deferred to 1<sup>st</sup> January 2023.

**Note:** For further details, kindly refer to our [Tax Flash – April 2022 issue](#).

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