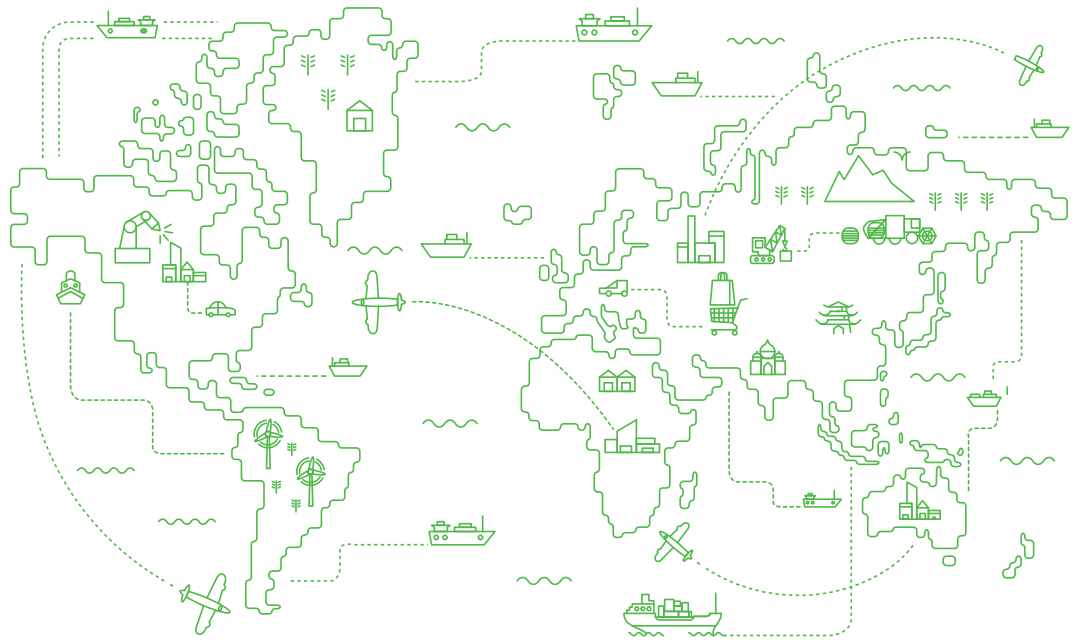




eNewsletter 01/2022

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Tax Updates



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Media Release Issued by Ministry of Finance ("MOF") on 30 December 2021

1. Tax Exemption on Foreign-Sourced Income until 31 December 2026

Background and Updates

It was proposed in Budget 2022 that the exemption on foreign-sourced income (or "foreign income") received in Malaysia pursuant to Paragraph 28, Schedule 6 of the Income Tax Act 1967 ("ITA") in respect of Malaysian tax residents be removed with effect from 1 January 2022.

Following the feedback received from various parties and after much consideration, the Malaysian Government has agreed to exempt taxation on the following types of foreign income received in Malaysia by Malaysian tax residents, subject to the eligibility conditions (*further details to be issued by the IRB*):

Category of taxpayer	Type of foreign income exempted from tax
Company / Limited Liability Partnership	Dividend income
Individual	All types of foreign income

This exemption will be effective from 1 January 2022 to 31 December 2026.

For individual taxpayers, the above exemption would apply to all individuals, except for those in a partnership business in Malaysia.

For non-resident taxpayers (i.e., individuals, companies, etc.), they remain exempted under Paragraph 28, Schedule 6 of the ITA.

Special Income Remittance Programme (PKPP)

On 17 December 2021, the IRB has issued a Frequently Asked Questions ("FAQ") on PKPP. Salient points of the PKPP are as below:

Categories	Qualifying conditions
Period of entitlement	1 January 2022 to 30 June 2022.
Definition of foreign income received in Malaysia	Income is deemed as "received" in Malaysia when the income is remitted / brought in / transferred into Malaysia physically or through banking methods.
Person eligible to participate	Individuals, companies, Limited Liability Partnerships, trust bodies, associations and others which are resident in Malaysia.
Types of income	Income that is held overseas and remitted to Malaysia by a resident i.e., business income, employment income, rental income, interest income, royalties or others including Malaysian-sourced income from the Year of Assessment ("YA") 2020 and YAs prior to 2020 which has not been reported.

Media Release Issued by Ministry of Finance (“MOF”) on 30 December 2021 (Cont.)

1. Tax Exemption on Foreign–Sourced Income until 31 December 2026 (Cont.)

Special Income Remittance Programme (PKPP) (Cont.)

Categories	Qualifying conditions
Special tax rate	3% of gross foreign income received in Malaysia.
Eligibility for foreign tax credit	For foreign income which has suffered foreign tax, taxpayers can claim foreign tax credit against the Malaysian income tax under: – <ul style="list-style-type: none">■ Section 132 of the ITA (bilateral credit) for countries which have signed double tax agreements (“DTAs”) with Malaysia; or■ Section 133 of the ITA (unilateral credit) for countries which have not signed DTAs with Malaysia.
Method of declaration	Taxpayers can submit an online declaration using a special form (Borang PKPP) which can be assessed through MyTax (https://mytax.hasil.gov.my) from 1 January 2022.
Timing of declaration	The declaration can be made: – <ul style="list-style-type: none">■ at any date upon the income is brought in / remitted to Malaysia; or■ All at once on or before 30 July 2022, provided the income must be remitted into Malaysia from 1 January 2022 to 30 June 2022.
Reporting in income tax return forms (“ITRFs”)	Taxpayers are still required to report the foreign income received in Malaysia in their respective ITRFs for YA 2022 or YA 2023, where applicable.
Payment of tax	The payment of tax for the foreign income has to be accounted for in determining the: – <ul style="list-style-type: none">■ estimate of tax payable (CP204) for that YA;■ revised estimate of tax payable in the 6th/ 9th month, or 11th month (for YA 2022 only); or■ tax payment via revised notice of tax instalment payment (CP502) for YA 2022, depending on the category of taxpayers. Please note that the foreign income will be taken into account in the determination of any underestimation of tax and also the computation of the 10% increase in tax (i.e. penalty) for underestimation of tax, if applicable.

Media Release Issued by Ministry of Finance (“MOF”) on 30 December 2021 (Cont.)

1. Tax Exemption on Foreign–Sourced Income until 31 December 2026 (Cont.)

Special Income Remittance Programme (PKPP) (Cont.)

Why should businesses consider PKPP?

Businesses that have foreign income from the YA 2020 and YAs prior to 2020 which has not been reported are encouraged to participate in the PKPP.

Amongst the following are benefits businesses can enjoy by participating in the PKPP: –

- Foreign income remitted during PKPP period is not subject to tax audit / investigation and imposition of penalties;
- IRB will accept the remittance of foreign income in good faith;
- Gross foreign income remitted during PKPP period is subject to a special tax rate of 3%; and
- In computing “*Cukai Makmur*” / Prosperity tax in respect of non–Micro Small and Medium Enterprises (“MSMEs”), foreign income received will be exempted.

To recap, a non–MSME is subject to a special one–off tax known as “*Cukai Makmur*” for chargeable income exceeding RM 100 million at the rate of 33% for YA 2022.



2) Restriction on Stamp Duty Charged on Contract Notes for Trading of Listed Shares

It was proposed in Budget 2022 that the stamp duty rate on contract notes be increased to 0.15% for every RM 1,000 and the stamp duty limit of RM 200 for each contract note be removed.

The Malaysian Government has now agreed to remove the proposed abolishment of the stamp duty limit of RM 200 and set the maximum amount of stamp duty charged for each contract note to RM 1,000. The proposed changes are as follows: –

	For every RM 1,000	Maximum limit
Existing legislation	RM 1.00 / 0.1%	RM 200
In Budget 2022	RM 1.50 / 0.15%	No limit
Media Release by MOF	RM 1.50 / 0.15%	RM 1,000

The above measure is applicable to all contract notes for the period from 1 January 2022 to 31 December 2026 for trading of listed shares on the Bursa Malaysia market approved under S.8(2) of the Capital Markets and Services Act 2007.



Latest Gazetted Legislation by Malaysian Government

1. Extension of Tax Rebates (including Additional Conditions) for Establishment of New MSMEs

The Income Tax (Conditions for the Grant of Rebate under subsection 6D(4)) Order 2021 ("the Order") was gazetted on 31 December 2021. According to the Order, a company ("qualifying company") or limited liability partnership ("qualifying LLP") shall comply with the following **additional** conditions in order to be eligible for the tax rebate of RM 20,000 per YA for the first 3 consecutive YAs:

No.	Conditions
1.	shall not own or be owned directly or indirectly by a related company or related LLP (see definition below) which has a paid-up capital in respect of ordinary shares or contribution of capital (whether in cash or in kind) of more than RM 2.5 million at the beginning of the basis period for a YA;
2.	shall carry out operations in different premises from its related company or its related LLP;
3.	shall not use the plant, equipment and facility owned by or disposed of from its related company or its related LLP;
4.	shall have different employee (except for its Chief Executive Officer and director) from its related company or its related LLP;
5.	shall carry out business activity which is: <ul style="list-style-type: none">■ different from its related company or its related LLP; or■ different from a sole proprietorship where the sole proprietorship is converted to a company or an LLP;
6.	shall not be a result of merger or acquisition of two or more companies or LLPs which have a paid-up capital in respect of ordinary shares or contribution of capital (whether in cash or in kind) of RM 2.5 million and less at the beginning of the basis period for a YA and gross income from a source or sources consisting of its business not exceeding RM 50 million in the basis period for that YA; and
7.	shall not be a partnership or company which has been converted into an LLP in accordance with section 29 or 30 of the Limited Liability Partnerships Act 2012.

Latest Gazetted Legislation by Malaysian Government (Cont.)

1. Extension of Tax Rebates (including Additional Conditions) for Establishment of New MSMEs (Cont.)

A “related company” or “related LLP” referred to in the Order means in relation to a qualifying company or qualifying LLP:

Related company or related LLP

- A company or LLP which owns directly or indirectly 50% of the paid up capital in respect of ordinary shares or contribution of capital (whether in cash or in kind) of the qualifying company or qualifying LLP;
- A company or LLP of which 50% of its paid up capital in respect of ordinary shares or contribution of its capital (whether in cash or in kind) is directly or indirectly owned by the qualifying company or qualifying LLP; or
- A company or LLP and a qualifying company or qualifying LLP of which 50% of its paid up capital in respect of ordinary shares or contribution of its capital (whether in cash or in kind) is directly or indirectly owned by another company or another LLP.

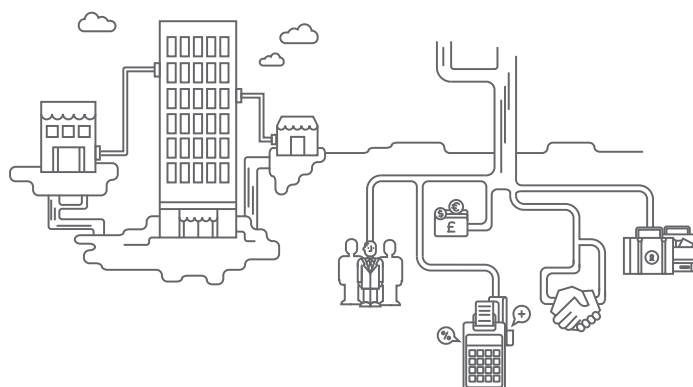
For the existing prescribed conditions, please refer to our [RSM 2022 Budget Highlights](#) for more details.

Important point to take note

The Order is effective from YA 2021. In other words, where a qualifying company or qualifying LLP first commences operation on or after 1 July 2020 and its basis period ends on or before 31 December 2020, a rebate may be granted under the Order for YAs 2021 and 2022 only.

RSM comments

In order to be eligible for the tax rebate, companies or LLPs should plan accordingly so that all the conditions are met throughout the YAs of eligibility. It should be noted that if any stipulated conditions were not met, any over-claimed of tax rebate in the YA where the failure occurs shall neither be paid nor available as credit to set off the tax liability for any subsequent YA of the company or the LLP.



Latest Gazetted Legislation by Malaysian Government (Cont.)

2. Expenditure on Provision of Employees' Accommodation

The Income Tax (Deduction for Expenditure on Provision of Employees' Accommodation) Rules 2021 ("the Rules") was gazetted on 24 December 2021. For the purpose of ascertaining the adjusted income of a company from its business in a basis period for a YA, a deduction shall be allowed for an amount equivalent to the expenses incurred by the company on rental of a premise for the purpose of employees' accommodation within the period from 1 January 2021 until 31 December 2022.

"Accommodation" and "company" have the following meaning under the Rules:

Accommodation

- has the meaning assigned to it in the Employees' Minimum Standards of Housing, Accommodations and Amenities Act 1990; and
- shall be accommodation certified with a Certificate for Accommodation as provided under section 24D of the Employees' Minimum Standards of Housing, Accommodations and Amenities Act 1990, but excludes accommodation for director.

Company

a company resident in Malaysia:

- which is incorporated under the Companies Act 2016;
- which is carrying on the business of manufacturing or manufacturing related services; and
- which has obtained an approval of compliance under the Safe@Work programme from the Ministry of International Trade and Industry (MITI).

Under the Rules:

- The amount of deduction allowed shall be in addition to any deduction allowable under Section 33 of the ITA; and
- The total amount of expenses allowed shall not exceed RM 50,000 for each company

RSM comments

For qualified applicants, you may visit the following websites for further details:

- Department of Labour Peninsular Malaysia of Ministry of Human Resources

 [Click Here](#)

- Ministry of International Trade and Industry

 [Click Here](#)



Latest Gazetted Legislation by Malaysian Government (Cont.)

3. Amendment to Tax Deduction for Expenses in relation to Secretarial Fee and Tax Filing Fee

The Income Tax (Deduction for Expenses in relation to Secretarial Fee and Tax Filing Fee) (Amendment) Rules 2021 ("the Rules") was gazetted on 24 December 2021.

To recap, pursuant to the Income Tax (Deduction for Expenses in relation to Secretarial Fee and Tax Filing Fee) Rules 2020 ("the Principal Rules"), a deduction shall be allowed for the following expenses incurred **and paid** by a person resident in Malaysia from his business in the basis period for that YA:

- a) Secretarial fee charged in respect of secretarial services provided by a company secretary registered under the Companies Act 2016 to comply with the statutory requirements under that Act; and
- b) Tax filing fee charged by:
 - (i) a tax agent approved under the ITA in respect of the preparation and submission of return in the prescribed form for the purposes of sections 77, 77A, 77B, 83 and 86 of the ITA for the basis period for the immediately preceding YA and preparation and submission of forms prescribed for the purposes of section 107C of the ITA;
 - (ii) a person who provides services in respect of the preparation and submission of return in the prescribed form for the purpose of section 26 of the Sales Tax Act 2018 or Service Tax Act 2018; or
 - (iii) a person who provides services in respect of the preparation and submission of return in the prescribed form for the purpose of section 19 of the Departure Levy Act 2019 or Tourism Tax Act 2017.

The Principal Rules has effect from YA 2020 and the total deduction is capped at a maximum amount of RM 15,000 for a YA.

Important point to take note

	Principal Rules	The Rules
Qualifying condition	Must be incurred and paid	Must be incurred
Effective YA	From YA 2020	From YA 2022

RSM comments

Please note that the fees (i.e. secretarial fee and tax filing fee) incurred in the basis period for YAs 2020 and 2021 would need to be paid before a deduction for those expenses can be allowed under the Rules.

FAQ on the Implementation of Tax Identification Number (“TIN”)

Further to the Budget 2022 announcement on 29 October 2021, the IRB has issued a FAQ on 31 December 2021 pertaining to TIN.

According to the FAQ, the following persons shall have a TIN:

- a) Any person who is assessable and chargeable to tax under the ITA;
- b) Any person who is required under the ITA to furnish a return; or
- c) Any person who is a citizen aged 18 years old and above.

“Person” includes a company, a body of persons, a LLP and a corporate sole.

Any person who has been assigned a reference number by the Director General (“DG”) in exercising his powers and functions under the ITA on or before 1 January 2022 is deemed to have been assigned a TIN under the ITA and the reference number shall be TIN of that person.

Furthermore, for the purposes of Real Property Gains Tax Act 1976 and Stamp Duty 1949, every person shall use the TIN assigned by the DG under Section 66A of the ITA.

How to apply for TIN?

Automatic registration by IRB	Self-registration
Automatic registration such as registration of income tax reference number for individuals vide monthly tax deduction	Registration vide e-Daftar at https://edaftar.hasil.gov.my/#
Automatic registration for newly incorporated companies that register with Companies Commission of Malaysia vide MyCoID portal	Manual registration at the nearest IRB branch

How to check application status of TIN?

No.	Methods
1.	Online via MyTax at https://mytax.hasil.gov.my
2.	HASiL Live Chat
3.	Hasil Care Line at +603 8911 1000 / +603 8911 1100 (overseas)
4.	Customer Feedback Portal at https://maklumbalaspelanggan.hasil.gov.my/MaklumBalas/en-US/
5.	Your nearest IRB branch

RSM comments

Once registered, this initiative seems to facilitate real-time reporting where it is difficult for anyone to avoid their tax obligations.

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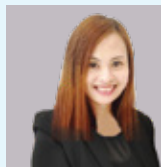


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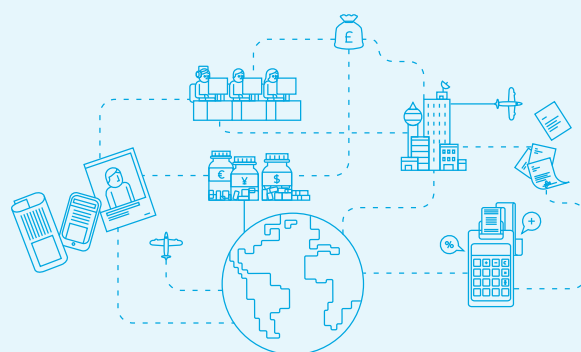


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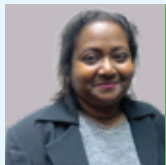
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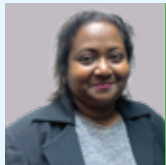


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