

eNewsletter 03/2022

Deferment of Tax Payments



Inside this eNewsletter:-

We will cover the deferment of the following tax payments (including latest updates on these deferment) granted by the Inland Revenue Board:

- Deferment of CP204 and CP500 Instalment Payments for Micro, Small and Medium Enterprises
- Deferment of Remittance of Withholding Tax on Payments made to Agents, Dealers or Distributors



eNewsletter 03/2022

Deferment of Tax Payments

Deferment of CP204 and CP500 Instalment Payments for Micro, Small and Medium Enterprises (“MSMEs”)

On 3 December 2021, the Inland Revenue Board (“IRB”) has updated its Frequently Asked Questions (“FAQ”) on the deferment of tax instalment payments for 6 months from 1 January 2022 to 30 June 2022 for MSMEs.

The IRB has further provided responses to the Chartered Tax Institute of Malaysia (“CTIM”) on 10 January 2022 on clarification sought by CTIM – reference is made to the e-Circular issued by CTIM dated 11 January 2022.

Salient points of the FAQ (including IRB’s clarification)

CATEGORIES	QUALIFYING CONDITIONS
<p>MSME’s (including Limited Liability Partnership) criteria for deferment</p> 	<p>Paid up capital not exceeding RM 2.5 million at the beginning of the basis period for a year of assessment (“YA”); and Gross business income not exceeding RM 50 million for a YA.</p> <p>Note: The IRB has clarified that the deferment of tax instalments from 1 January 2022 to 30 June 2022 is also applicable to the subsidiary of a company with paid up capital in respect of ordinary shares of more than RM 2.5 million at the beginning of the basis period, provided that the respective subsidiary fulfills the above criteria.</p> <p>Similarly, investment holding companies (“IHCs”) and companies within a large MNE that fulfill the above criteria would also be allowed to defer their instalment payments.</p> <p>As IHCs under Section 60F of the Income Tax Act 1967 (“ITA”) do not have income from business source, CTIM will seek further clarification from the IRB.</p>
<p>Eligibility for deferment</p>	<p>Determined based on the criteria for MSME per latest Income Tax Return Form (“ITRF”) submitted to the IRB.</p>
<p>Notification of deferment</p> 	<p>For CP204 payments, eligible taxpayers will be notified via e-mail (registered with the IRB).</p> <p>Note: The IRB has clarified that taxpayers do not need to wait for the IRB’s notification for the purposes of this deferment if they had fulfilled the above criteria.</p> <p>For CP500 taxpayers, no notification will be issued as the deferment is granted automatically.</p>

Deferment of CP204 and CP500 Instalment Payments for Micro, Small and Medium Enterprises (“MSMEs”) (Cont.)

CATEGORIES	QUALIFYING CONDITIONS
<p>Deferment period</p> 	<p>Payments due during the period from 1 January 2022 to 30 June 2022. This may cover payments fall within different YAs, as illustrated below:</p> <p>For CP204 / CP204A / CP205 payments</p> <p>For e.g., a company with financial year end (“FYE”) on 31 December:-</p> <ul style="list-style-type: none"> ▶ For YA 2021 (FYE 31 December 2021) – January 2022 instalment payment; and ▶ For YA 2022 (FYE 31 December 2022) – February 2022 to June 2022 instalment payments. <p>For CP500 / CP502 / CP503X payments</p> <ul style="list-style-type: none"> ▶ For YA 2021 (calendar year 2021) – January 2022 instalment payment; and ▶ For YA 2022 (calendar year 2022) – March 2022 and May 2022 instalment payments. <div style="border: 1px dashed blue; padding: 5px;"> <p>Note Eligible taxpayers still have to submit CP204 / CP204A to the IRB or will still receive CP500 from the IRB even though not required to make payments during the deferment period.</p> </div> <ul style="list-style-type: none"> ▶ Nevertheless, eligible taxpayers can opt to continue to make instalment payments according to the stipulated due dates under the original instalment payments schedule without having to inform the IRB.
<p>Deadline for settlement of deferment payments</p>	<p>By the submission deadline of the relevant ITRF for that YA if taxpayer still has balance of tax payable.</p>
<p>Imposition of increase in taxes on late / no payment of instalments</p>	<p>Increase in taxes would not be imposed on eligible taxpayers, as follows:</p> <p>For CP204 / CP204A / CP205 payments</p> <ul style="list-style-type: none"> ▶ Increase in tax under Section 107C(9) of the ITA <p>For CP500 / CP502 / CP503X payments</p> <ul style="list-style-type: none"> ▶ Increase in tax under Section 107B(3) of the ITA

RSM comments

It is advisable for taxpayers who are eligible for the above deferment, but yet to receive IRB's notification to inform the IRB on their intention to defer the CP204 payments. This can be done by emailing IRB at penangguhancp204@hasil.gov.my. This will minimise unnecessary administrative matters in the event that the IRB imposes an increase in tax under Section 107C(9) of the ITA to the taxpayer.

Deferment of Remittance of Withholding Tax on Payments made to Agents, Dealers or Distributors

Background

It was proposed in Budget 2022 that withholding tax ("WHT") at the rate of 2% be imposed on certain payments made to agents, dealers or distributors. Some of the key notes of this proposal are as follows:

- The payment refers to gross payment in monetary form made to agents, dealers or distributors, arising from sales, transactions or schemes carried out.
- The WHT is only applicable where the payments are made to agents, dealers or distributors fulfilling the following conditions:
 - ▶ Individuals who are Malaysian Residents; and
 - ▶ Have received more than RM 100,000 of such payments in monetary form and/or non-monetary form from the same company in the immediately preceding year.
- The WHT is to be remitted to the IRB within 30 days from date of payment or crediting the payment to the agent, dealer or distributor.
- An increase of tax at the rate of 10% of the outstanding WHT would be imposed on companies which fail to comply with the WHT requirements. In addition, the expense incurred would not be qualified for tax deduction.
- The WHT deducted can be used to offset against the tax payable by the agent, dealer or distributor.

Updates

According to the Finance Act 2021, the following Sections have been added to the ITA:

1. **Section 39(1)(s)** stipulates that any payment from which tax (and its related increase in tax) is deductible under Section 107D, if the tax and increase in tax has not been deducted therefrom and paid to the Director General ("DG") in accordance with that section, a deduction is not allowed.
2. **Section 107D** – Where a company ("or payer") is liable to make payments in monetary form to an agent, a dealer or a distributor at any time in a basis year for a YA arising from sales, transactions or schemes carried out, the payer shall upon paying or crediting such payments deduct therefrom tax at the rate of 2% of the payments on account of tax which is or may be payable by that agent, dealer or distributor for any YA and, whether or not that tax is so deducted, shall within 30 days after paying or crediting such payments render an account and pay the amount of that tax to the DG.



Deferment of Remittance of Withholding Tax on Payments made to Agents, Dealers or Distributors (Cont.)

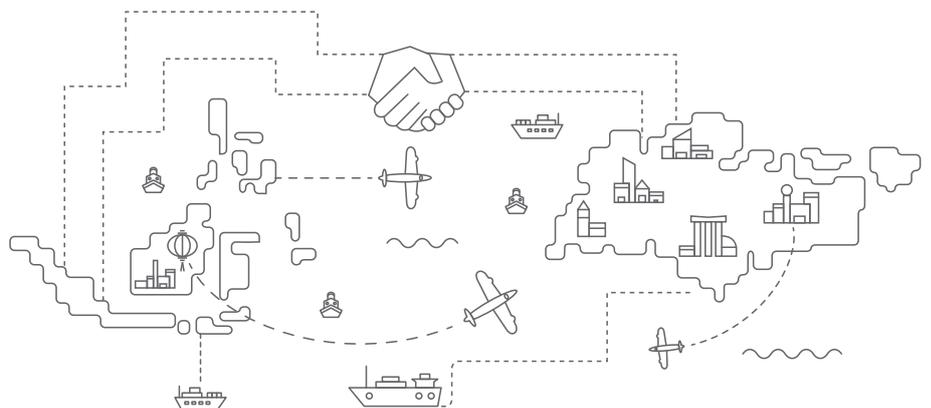
These Sections were effective from 1 January 2022.

Nevertheless, the IRB has, on 12 January 2022, issued a Media Release to announce that the implementation of the above WHT deduction under Section 107D of ITA be deferred until **31 March 2022** (further details to be issued by the IRB).

Accordingly, a company is allowed to remit the 2% WHT from 1 April 2022 onwards for applicable payments made to agents, dealers or distributors for the months of January 2022 to March 2022 and no late payment penalty to be imposed.

RSM comments

Pending the issuance of IRB's FAQ or further clarification on the valuation of payments in non-monetary form, the basis of valuation should follow the existing guidance provided in year 2013 for the preparation of Form CP58.



COMMUNICATION



Dato' Robert Teo
Managing Partner
T +603 2610 2886
E robertteo@rsmmalaysia.my



Ng Ah Bah
Executive Tax Director
T +603 2610 2827
E ngab@rsmmalaysia.my

Corporate Tax



Anston Cheah
Executive Tax Director
T +603 2610 2829
E anston.cheah@rsmmalaysia.my



Nicole Chong
Tax Director
T +603 2610 2830
E nicole.chong@rsmmalaysia.my

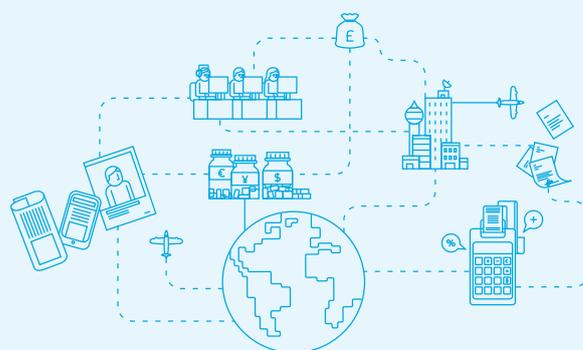


Lim Sok Juan
Associate Tax Director
T +603 2610 2842
E limsj@rsmmalaysia.my

Transfer Pricing



Selvi Permal
Tax Director
T +603 2610 2828
E selvi@rsmmalaysia.my



Indirect Tax



Mayadevi Karpayah
Tax Director
T +603 2610 2831
E mayadevi@rsmmalaysia.my



Kalvinder Singh
Senior Tax Manager
T +603 2610 2863
E kalvindes@rsmmalaysia.my

Field Audit and Investigation



Ng Ah Bah
Executive Tax Director
T +603 2610 2827
E ngab@rsmmalaysia.my



Chang Suang Yue
Tax Manager
T +603 2610 2862
E changsy@rsmmalaysia.my

Personal Tax



Mayadevi Karpayah
Tax Director
T +603 2610 2831
E mayadevi@rsmmalaysia.my



Lynda Harun
Senior Tax Manager
T +603 2610 2832
E lynda@rsmmalaysia.my



RSM Tax Consultants (Malaysia) Sdn Bhd

5th Floor, Penthouse, Wisma RKT,
Block A, No.2 Jalan Raja Abdullah Off Jalan Sultan Ismail,
50300 Kuala Lumpur,
Malaysia

Johor Bahru Office

Suite 16-02, Level 16, Menara Landmark,
No. 12, Jalan Ngee Heng,
80000 Johor Bahru,
Malaysia

General Email askus@rsmmalaysia.my
Website www.rsmmalaysia.my

RSM Tax Consultants (Malaysia) Sdn Bhd is a member of the RSM network and trades as RSM. RSM is the trading name used by the members of the RSM network.

Each member of the RSM network is an independent accounting and advisory firm each of which practices in its own right. The RSM network is not itself a separate legal entity of any description in any jurisdiction. The RSM network is administered by RSM International Limited, a company registered in England and Wales (company number 4040598) whose registered office is at 50 Cannon Street, London, EC4N 6JJ.

The brand and trademark RSM and other intellectual property rights used by members of the network are owned by RSM International Association, an association governed by article 60 et seq of the Civil Code of Switzerland whose seat is in Zug.

This article is not intended to provide specific business or investment advice. No responsibility for any errors or omissions nor loss occasioned to any person or organisation acting or refraining from acting as a result of any material in this website can, however, be accepted by the author(s) or RSM International. You should take specific independent advice before making any business or investment decision.