



Tax developments



15 August 2022

KPMG in Malaysia

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Income Tax



Income Tax

The relevant authorities have issued the following:

New / revised PRs

The MIRB has issued the following PRs:

| PR | Contents |
|---|--|
| PR 1/2022 – Time limit for unabsorbed adjusted business losses carried forward | The PR 1/2022 explains the tax treatment for the carry forward of unabsorbed business losses, which is in line with the latest legislation of the 10-years carry forward restriction rules. The PR is to be read together with the MIRB's guideline on carry forward of losses and capital allowance (which is only available in the Malay Language) on the concession treatment given by Ministry of Finance. |
| PR 2/2022 – Tax incentive for organising conferences in Malaysia | The PR 2/2022 explains the tax treatment relating to the income tax exemption on income derived from organising conferences held in Malaysia, which is in line with the current legislation. |
| PR 3/2022 – Taxation of foreign fund management company | The PR 3/2022 replaces the earlier PR 7/2019 to reflect the latest legislation. There are no notable changes. |

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

Administrative changes to the submission and payment of Section 107D withholding tax on payments by companies to resident individual ADDs

The MIRB has [announced](#) that, for payments made to ADDs on or after 1 July 2022, the applicable withholding tax is to be accumulated on a monthly basis and remitted to the MIRB by the end of the following month.

The MIRB has also updated the [Form CP107D – Pin 2/2022](#) ("the Form") and [Lampiran CP107D\(2\)](#) ("the Appendix") with the following notable changes:

- The earlier 20-lines limit in the Appendix has been lifted;
- The Form and Appendix are to be completed in their respective softcopy format;
- The Form and Appendix are to be emailed to the designated MIRB payment center before making payment at the MIRB payment counter or via post. The payment must be made to the MIRB payment center where the Form and Appendix are emailed to; and

- A copy of the submission email is required to be presented when making payment at the MIRB payment counter.

Source for the Announcement, Form and Appendix: Official portal of [MIRB](#)

FAQs and updated guidelines on TCGF

The MIRB has issued the [FAQs](#) and the updated [Guidelines](#) on TCGF with the following notable points:

- FAQs
 - 1) An organisation that is not selected but is interested to join the TCGF programme may contact the MIRB via the designated email address provided. Qualified organisations will be notified.
 - 2) The cost in implementing the TCGF is capital in nature and thus not allowable for a tax deduction.
 - 3) The organisation is required to publish its tax policy or tax strategy on its website, annual report or any medium that is publicly accessible.
- Guidelines
 - 1) The organisation must inform the MIRB of its intention to renew its participation in TCGF within 12 months before the status expires.
 - 2) The independent review report shall be prepared annually and shall be made available to the MIRB upon request.
 - 3) The pre-requisites to be eligible for the TCGF programme now include the requirement to publish the tax policy or tax strategy.

Source for the FAQs and Updated Guidelines on TCGF: Official portal of [MIRB](#)

Malaysia Digital

MDEC has launched the Malaysia Digital status, which is an enhanced and revamped initiative succeeding the MSC Malaysia status, in driving digital transformation and adoption in Malaysia. Further to the issuance of [FAQs](#) in January 2022, MDEC has also released the following:

- [Guidelines](#) on the eligibility criteria, application process and post approval matters;
- [Bill of Guarantees](#) for the rights and privileges which can be accessed by a Malaysia Digital status company; and
- An [Announcement](#) that the tax incentives to be granted under Item 5 of the Bill of Guarantee are being reviewed in order to align to international taxation standards.

One of the attractive points to be highlighted is that a Malaysia Digital status company is allowed to operate and undertake its approved activities in any location within Malaysia. Nevertheless, the company may still locate in the designated location to enjoy world class physical and information infrastructure as well as competitive telecommunication tariff as provided under the Bill of Guarantee

Source for the Guidelines, Bill of Guarantees and Announcement: Official portal of [MDEC](#)

Deduction for investment in a BioNexus status company

Under the [Income Tax \(Deduction for Investment in a BioNexus Status Company\) Rules 2016](#), a qualifying person is eligible for a tax deduction equivalent to the value of investment made in a BioNexus status company to finance the initiation of the commercialisation stage of a new business as approved by the Minister.

[Income Tax \(Deduction for Investment in a BioNexus Status Company\) \(Amendment\) Rules 2022](#) has been gazetted to extend the incentive period for another 2 years for investment made up to 31 December 2022. The Amendment Rules are deemed to have come into operation on 1 January 2021.

Source for the Rules: [Federal Legislation Portal of Malaysia](#)

Technical guideline on tax treatment for developers, joint management bodies and management

The MIRB has issued the above updated [Technical Guideline](#) (only available in the Malay Language) to replace the earlier [Technical Guideline](#) and [Attachment](#) dated 21 May 2012. Further clarifications on the tax treatment have been provided and there are no notable changes.

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

Indirect Tax



Indirect Tax

Service Tax Policy 1/2022

The RMCD has published the Service Tax Policy 1/2022 (dated 1 August 2022) relating to **Service Tax exemption on provision of digital payment services by local non-bank providers**. Subject to meeting conditions, local non-bank service providers are exempted from charging Service Tax due and payable on digital payment services, effective from **1 August 2022 to 31 July 2025**.

Please click [here](#) for a summary of the Policy.

Source for the Service Tax Policy: [RMCD - MySST \(Service Tax Policy\)](#) - available in Malay language only

Amendment to Service Tax Policy 10/2020 (Amendment No 2)



The RMCD has also issued the Amendment to Service Tax Policy 10/2020 (Amendment No 2) (dated 1 August 2022) in respect of **Service Tax exemption on provision of digital services related to banking/ financial services**.

The Amendment includes limiting the exemption period from **1 January 2020 to 31 July 2025**.

Please click [here](#) for more details.

Source for the Service Tax Policy: [RMCD - MySST \(Service Tax Policy\)](#) - available in Malay language only

Indirect tax amendment bills

The following indirect tax amendment bills that were tabled for first reading on 20 July 2022 have been passed at the second reading at the House of Representatives level.

- Customs (Amendment) Bill 2022
- Excise (Amendment) Bill 2022
- Free Zones (Amendment) Bill 2022
- Tourism Tax (Amendment) Bill 2022
- Windfall Profit Levy (Amendment) Bill 2022
- Departure Levy (Amendment) Bill 2022

Please click [here](#) for a copy of our earlier Tax Whiz.

Source for the Amendment Bills: [Parliament of Malaysia](#)

Sales Tax amendment bill

The Sales Tax (Amendment) Bill 2022 has been passed on 4 August 2022 at the House of Representatives level.

Of notable mention is the proposed legislation of the **Sales Tax on LVG**, which was proposed in the Budget 2022. A new Schedule has been introduced to specify modifications to the provisions of the Sales Tax Act 2018 which apply to LVG.

It appears that sellers who sell LVG on an online marketplace or operate an online marketplace for the sales and purchase of LVG need to register for Sales Tax on LVG. There is no definition or explanation of “online marketplace” yet hence, it remains to be seen whether direct sellers who do not use online marketplace to sell their goods would be liable to register for Sales Tax or such goods will be subject to Sales Tax upon importation as usual.

Please click [here](#) for the salient points from the proposed bill.

Source for the Amendment Bill: [Parliament of Malaysia](#)



Service Tax amendment bill

The Service Tax (Amendment) Bill 2022 has also been passed on 4 August 2022 at the House of Representatives level.

Amongst others, the Bill empowers the Director General to withhold Service Tax refundable to a foreign registered person to be credited to any following or subsequent taxable period and covers matters relating to a foreign registered person who ceases to be liable to be registered.

Source for the Amendment Bill: [Parliament of Malaysia](#)

Sales Tax (Amendment) Regulations 2022

The Sales Tax Regulations 2018 has been amended and comes into operation on **15 August 2022**. The amendments include:

| Regulation | Amendment |
|------------|--|
| 10 | The manner of furnishing returns is amended to be <u>through electronic service or in any manner as the Director General may determine</u> . |
| 12 | Payment of Sales Tax, surcharge, penalty, fee or any other money payable under the Sales Tax Act 2018 is amended to be made <u>by electronic banking or in any manner as the Director General may determine</u> . The provision of when payment is deemed paid and received by the Director General has also been updated to when the amount is lodged to the credit of the Director General or duly paid to the Director General. |
| 17 | For drawback of Sales Tax on locally purchased taxable goods, the period to export condition has been updated to be calculated from the date of issuance of invoice for the purchase of the taxable goods <u>from registered manufacturer</u> . The taxable goods must also not be used <u>after purchase</u> (instead of after payment of Sales Tax). |

Source for the Amendment Regulations: [Federal Legislation Portal of Malaysia](#)

Service Tax (Digital Services) (Amendment) Regulations 2022

The Service Tax (Digital Services) Regulations 2019 has been amended and comes into operation on **15 August 2022**. The amendments relating to a foreign registered person include:

| Regulation | Amendment |
|------------|--|
| 5A | Digital services provided by a foreign registered person to any company in Malaysia within the same group of companies <u>is not considered as a digital service</u> . Previously, it was still treated as a digital service but not subject to Service Tax. |
| 6A | The Director General may now, upon request in writing and subject to conditions as he deems fit, allow any prescribed particulars not to be stated in the <u>credit note</u> or <u>debit note</u> issued by a foreign registered person. |
| 9 | No late payment penalty shall be imposed if the Service Tax is proven to have been made <u>not later than</u> the prescribed date. Previously, the Service Tax needs to be proven to have been made before the prescribed date. |
| 16 | The last date to furnish returns or payment of Service Tax is still the legislated date although that date falls on a public holiday (whether in Malaysia or in the country where the foreign registered person is established). This is slightly different from the domestic Service Tax provision for a locally registered person. |

Source for the Amendment Regulations: [Federal Legislation Portal of Malaysia](#)

Revised guide

The RMCD has issued the following revised guide:

- Guide on Customs Agent Services (as at 9 August 2022)

Source for the Guides: Official portal of [RMCD – MySST \(SST Guides\)](#)

Insights on Earlier Tax Whiz

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

| No. | Subject | Date of issue |
|-----|--|---------------|
| 1 | MIRB's Media Release Dated 14 June 2022 on the Detection of Entities that have not Registered for Tax Filing nor Declared Income | 14.06.2022 |
| 2 | 2023 Pre-Budget Statement: Qualified Minimum Domestic Top-up Tax | 20.06.2022 |
| 3 | Sales Tax Exemption on Passenger Cars Ends on 30 June 2022 | 21.06.2022 |
| 4 | The Labuan International Business and Financial Centre Strategic Roadmap 2022-2026 | 27.06.2022 |
| 5 | Extension of Payment Period for Phase 1 of VA Programme | 29.06.2022 |
| 6 | Postponement of Implementation of Service Tax on Goods Delivery Services | 01.07.2022 |
| 7 | Exemption Orders for Foreign Sourced Income Received in Malaysia | 20.07.2022 |
| 8 | Indirect Tax Bills 2022 | 22.07.2022 |
| 9 | Service Tax Policies on Digital Services | 01.08.2022 |
| 10 | Sales Tax on LVG | 02.08.2022 |

The table below sets out the various abbreviations and references used in this publication.

| Abbreviation | Reference |
|--------------|---------------------------------------|
| ADD | Agent, Dealer or Distributor |
| FAQ | Frequently Asked Question |
| LVG | Low Value Goods |
| MDEC | Malaysian Digital Economy Corporation |
| MIRB | Malaysian Inland Revenue Board |
| MSC | Multimedia Super Corridor |
| PR | Public Ruling |
| RMCD | Royal Malaysian Customs Department |
| TCGF | Tax Corporate Governance Framework |

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