



Tax developments



15 December 2023

KPMG in Malaysia

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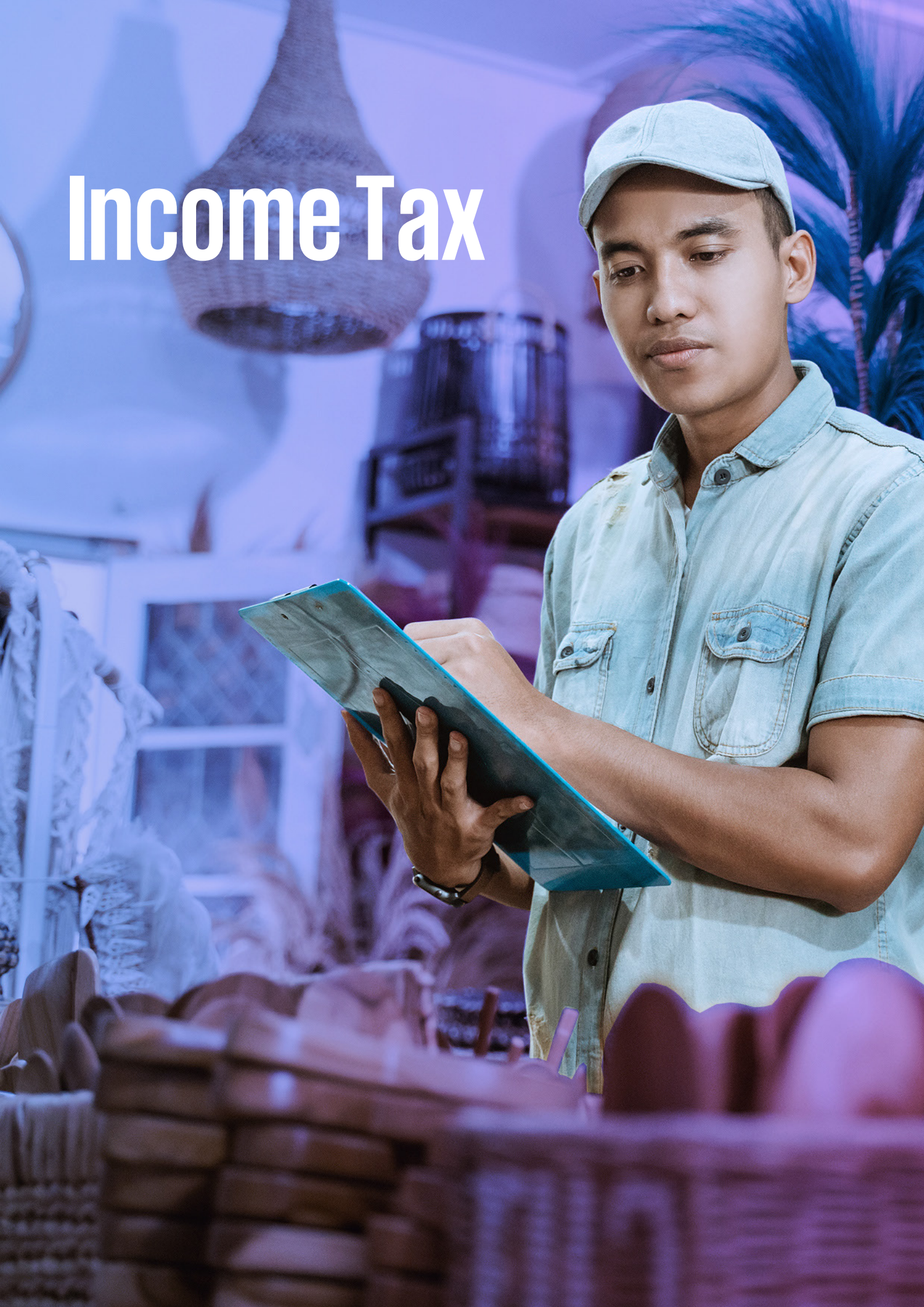
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Income Tax



Income Tax

Bill passed at Dewan Negara

The Finance (No. 2) Bill 2023 was unanimously passed at the Dewan Negara on 13 December 2023.

The Finance (No. 2) Act is currently pending Royal assent before it is gazetted and becomes law.

You may access to KPMG's [Finance \(No. 2\) Bill 2023 Highlights](#) for a recap.

Practice Note No. 3/2023 – Tax treatment on copyright and software payments by a distributor and a reseller to a non-resident

The MIRB has issued the above to clarify its tax position in respect of copyright and software payments made by distributors or resellers to non-residents who do not have a permanent establishment in Malaysia. In essence, where the ownership of the intellectual property in the software remains with the original non-resident, the payments for the purchase of software or the use of applications and content by distributors and resellers from the original owner are considered royalties which are subject to withholding tax. This is regardless of whether the distributors or resellers have the right to modify, exploit or distribute the said software.



However, the MIRB iterated that reference should be made to the definition of royalty and permanent establishment in the respective Double Taxation Agreement which may differ.

Source for the Practice Note: Official Portal of [MIRB](#)



Indirect Tax

Indirect Tax

Update on the imposition of Excise Duty on Pre-Mixed Beverages

Further to the earlier announcement on postponement of the imposition of Excise Duty on Pre-Mixed Beverages, the RMCD has announced that the new implementation date will be **1 March 2024**.

Source for the announcement: [RMCD's official website](#)

Updated application procedure for Sales Tax exemption by bus operators

The MOF has announced that starting 1 December 2023, applications for bus operators (i.e. school bus, express bus and stage bus operators) to be exempted from payment of Sales Tax on the purchase of locally assembled buses equipped with air conditioning will need to be submitted to the respective state RMCD office.

With this change in the application process, the MOF Tax Division will no longer accept or process any applications. For further details, applicants may contact the nearest state RMCD office or visit the MySST portal.

Source for the announcement: [MOF's official website](#) – available in Malay language only

RMCD guideline - Application for Sales Tax exemption certificate under items 5B, 5C, and 5D, Schedule A of the Sales Tax (Persons Exempted from Payment of Tax) Order 2018

Further to the coming into operation of the Sales Tax (Persons Exempted from Payment of Tax) (Amendment) (No. 2) Order 2023 on 1 December 2023, RMCD has since issued the guidelines for the application for the Sales Tax exemption certificate.

For more details, please click the following items for the respective guidelines (available in Malay language only):

- Item 5B
- Item 5C
- Item 5D

Source for the announcement: [Official Portal of RMCD - MySST \(News\)](#)

Appointment of effective date for charging and levying Sales Tax on low value goods

The effective date for charging and levying Sales Tax on low value goods has been gazetted and published on the federal legislation with an effective date of **1 January 2024**.

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

Extension of time for RMCD incentive programmes

Further to the launch of the following programmes by the RMCD earlier this year:

1. Bill of Demand - Penalty and surcharge reduction incentive programme 2023; and
2. Temporary relief on travel restriction,

both programme periods which had initially ended on 30 September 2023, have now been provided an extension of time by the RMCD until 31 December 2023.

You may refer to our earlier [tax developments](#) for more details (i.e. conditions and incentives provided).

Source for the announcement: [Official RMCD Facebook page](#)

e-Invoicing



MIRB's e-Invoicing Industry Specific FAQs

The MIRB has issued FAQs on e-Invoicing for specific industries. Below are some of the notable updates:

e-Invoicing FAQs for healthcare industry (issued on 16 November 2023)

Hospital is allowed to keep the current billing arrangements for the following transactions:

- Staff medical expenses paid by the hospital.
- Medical charges jointly covered by insurance / third party administrator (“TPA”) and the patients (Note : Those bills would have to be e-Invoice upon the implementation of e-Invoice).
- Professional fees billed by consultants during a month which are subsequently included in the invoice issued by the hospital to the patients.
- Cases where a patient is referred to a sister company or another private hospital and gets discharged at the referred hospital.
- Transactions involving payment from multiple payors.



The MIRB also laid out further responses for the below:

Subject matter	Responses from the MIRB
Proforma bill	<ul style="list-style-type: none"> i) The hospital is allowed to maintain its current practice of issuing proforma / draft invoices to insurance companies for the request of Final Guarantee Letter, where required; ii) An e-Invoice is to be submitted to the MIRB for validation once the invoicing/billing arrangement has been finalized.
Responsibility to issue e-Invoice in a contract for service	<p>Upon the implementation of e-Invoice, in the case of contract for service:</p> <ul style="list-style-type: none"> i) The supplier's details in an e-Invoice are the details of the individual doctor if the contract for service is between the hospital and the individual doctor; ii) The supplier's details in an e-invoice are the details of the company representing the doctors if the contract for service is between the hospital and the company representing the doctors.
Space rental	An e-Invoice is required to be issued for space rental i.e. convenience stores, cafes etc within the hospital compound.
Buyer's details involving those below 18 years of age	The buyer's details in an e-invoice are details of the parent / guardian / any other relevant party, as the case may be.

Subject matter (cont'd)	Responses from the MIRB (cont'd)
Collection of deposit upon admission	<ul style="list-style-type: none"> i) An e-Invoice is required to be issued for the receipt of a non-refundable deposit; ii) Consolidated e-Invoice treatment is allowed for buyers who do not require an e-Invoice.
Submission of bill	The hospital is required to issue a 'detailed bill' (ie. detailed breakdown of charges incurred) as opposed to a 'summary bill' as the e-Invoice for submission to MIRB for validation.

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

e-Invoicing FAQs for construction industry (issued on 30 November 2023)

Below are the salient points in relation to the construction industry:

e-Invoice for charges to sub-contractors

An e-Invoice is required to be issued by contractors (as defined in the Income Tax (Construction Contracts) Regulations 2007) for charges to sub-contractors, including penalties.

Progress claim on construction of property

Where certification of work done is not required, contractor is required to issue an e-Invoice in relation to the progress claim.

Where a certification of work done is required, the e-Invoice can be issued upon obtaining the certificate.

Main contractor purchase materials on behalf of owner

In a situation where the main contractor purchase materials on behalf of the owner and include the said purchases in its progress billing to the owner, the main contractor is allowed to continue their current billing arrangement.

With the implementation of e-Invoice, the invoices issued by the main contractor will need to be e-Invoices.

Sale of construction materials to related companies

If the company is mandated to implement e-Invoicing in Phase 1 of the implementation timeline, an e-Invoice is required to be issued upon sale of construction materials to related companies.

However, consolidated e-Invoice is not allowed for the sale of construction materials as defined under the Construction Industry Development Act 1994.

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

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

Abbreviation	Reference
FAQ	Frequently Asked Questions
MIRB	Malaysian Inland Revenue Board
MOF	Ministry of Finance
RMCD	Royal Malaysian Customs Department

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