



# Tax developments



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KPMG in Malaysia

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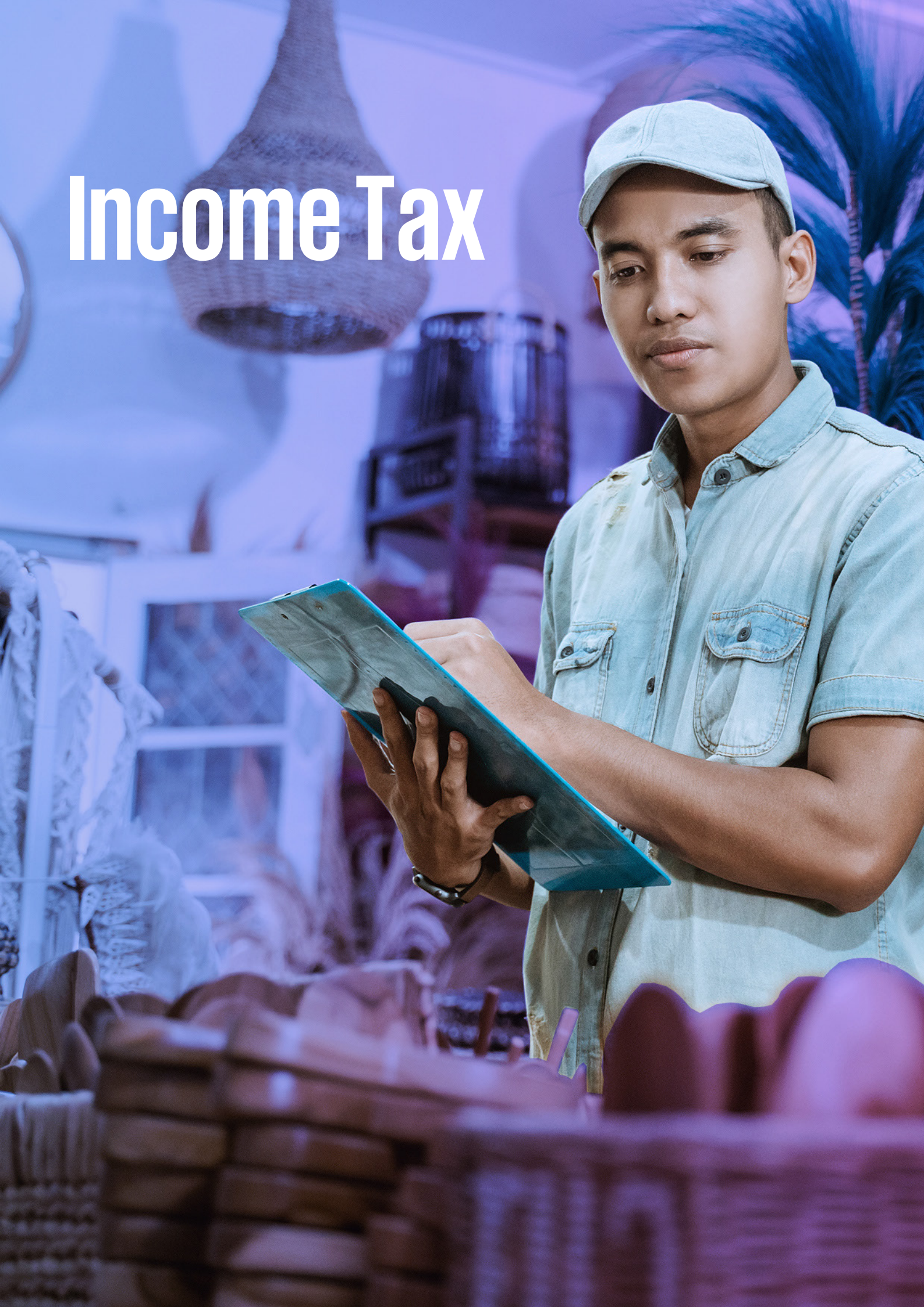
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# Income Tax



# Income Tax

## Extension of BioNexus tax incentives

A BioNexus status company which undertakes qualifying activities relating to agricultural biotechnology, industrial biotechnology and healthcare biotechnology may enjoy various tax incentives, where amongst others, include:-

- I. Income tax exemption for 10 YAs for new business / 5 YAs for expansion project;
- II. Income tax exemption equivalent to 100% of qualifying capital expenditure incurred within a period of 5 years for qualifying projects;

The exemption amount given for items (I) and (II) above shall be limited to 70% of the statutory income derived from the qualifying activity; and

- III. A concessionary income tax rate of 20% for 10 YAs upon the expiry of the incentives in items (I) and (II) above.



The application period for BioNexus incentives has expired on 31 December 2020 previously. To legislate the 2021 Budget proposal, the following have been gazetted to further extend the application window for another 2 years until 31 December 2022:

- a. The Income Tax (Exemption) (No. 4) Order 2023;
- b. Income Tax (Exemption) (No. 5) Order 2023; and
- c. The Income Tax (Exemption) (No. 6) Order 2023.

The applications shall be submitted to the Malaysian Bioeconomy Development Corporation Sdn Bhd.

The Exemption Orders are deemed to have come into operation on 1 January 2019.

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

## MIRB's filing programs for year 2024

The MIRB has published the filing programs for year 2024 on 30 December 2023 for:-

- I. Return form

An extension of time of 1 month / 15 days / 3 working days, where relevant, is given for submission of return forms. Similar grace period is also given for the payment of the balance of tax.

- II. CGT return form (subsequently removed from MIRB's portal)

The prescribed return form for declaration of CGT will be made available in the MIRB's e-filing system from 1 March 2024.

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

## PR No. 8/2023

Section 60I of the MITA provide that, where a company establishes a SPV solely for the issuance of sukuk (other than asset backed securities), any source of the SPV and any income from that source shall be treated as a source and income of that company and such company shall have the right to receive and utilise any proceeds derived from the issuance of such sukuk. The SPV is exempt from the responsibility of doing all acts and things required to be done under the MITA.

The MIRB has now issued the above PR to provide guidance on the tax treatment governed under Section 60I of the MITA.

In particular, Example 6 of the PR clarifies that the application of Section 60I is limited to a one-to-one basis relationship between the originator / obligor and the SPV. In this respect, if there are other companies involved as guarantor for the issuance of sukuk apart from the originator / obligor, Section 60I does not apply.

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

# Indirect Tax



# Indirect Tax

## Indirect tax legislation updates

The following legislations have been gazetted:

### I. Indirect tax (amendment) Regulations and Orders 2023

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

### II. Sales Tax (Compounding of Offences) (Amendment) Regulations 2024

The Sales Tax (Compounding of Offences) (Amendment) Regulations 2024 has been gazetted. Amendments are made in the First Schedule to be in line with the amendments made to the Sales Tax Act 2018 and Sales Tax Regulations 2018.

No effective date is provided in the amendment to the Regulations.

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

## Sales Tax exemption on manufacturing aids and cleanroom equipment

Following the gazette of the Sales Tax (Persons Exempted from Payment of Tax) (Amendment) (No 3) Order 2023 effective 1 January 2024, the RMCD has issued the following PR and guides:

- I. PR No. 2/2024 dated 29 December 2023 (available in Malay Language only)
- II. Guide on Sales Tax exemption under Schedule B, Sales Tax (Persons Exempted from Payment of Tax) Order 2018 dated 29 December 2023 (available in Malay Language only)
- III. Guide on Sales Tax exemption under Schedule C, Sales Tax (Persons Exempted from Payment of Tax) Order 2018 dated 29 December 2023

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

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

## PR No. 1/2024

The RMCD has issued PR No. 1/2024 in relation to the forms, returns and payment methods under the Tourism Tax Act 2017, Sales Tax Act 2018 and Service Tax Act 2018 which comes into operation on **1 January 2024**.

Amongst others, the relevant/ applicable forms are listed in Appendices 1, 2 and 3 for Tourism Tax, Sales Tax and Service Tax respectively.

For more details, please click [here](#) for the PR (available in Malay language only).

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

# e-Invoicing





# E-Invoicing

## MIRB's e-Invoicing industry specific FAQs

The MIRB has recently issued additional specific FAQs on e-Invoicing i.e. telecommunication and petroleum operations.

The current business practice / invoicing arrangement for the following transactions in both telecommunication and petroleum operations can be continued: -

- Adjustment made in relation to previous bill / statement through next cycle bill / statement or through issuance of credit / debit / refund note e-Invoice for telecommunication service provider;
- Prepaid plans sold to agent or trading company for telecommunication service provider;
- Sale of crude oil by a PSC contractor via an agent for petroleum operations; and
- Supplementary payment (increase in base price every production anniversary). (Note that for any true up or true down would be done via issuance of debit note or credit note e-Invoice.)

The MIRB has also provided exemptions from e-Invoicing for the following petroleum operations transactions until further notice: -

- Recharge of joint costs by PSC operator and / or contractor; and
- Inter-ledger transactions between PSC and operator of PSC.

Below are a few notable clarifications provided in the specific FAQs.

Subject matter	Responses from the MIRB
Telecommunication	
Third party vendor involvement in add-on service	<p>In the circumstance of add-on service where payment is made through a telecommunication service provider, the issuance of e-Invoice are as follows: -</p> <ul style="list-style-type: none"> <li>• The third party-vendor which is a local entity is to issue an e-Invoice to the customer;</li> <li>• Where the third-party vendor is a foreign entity, the customer is responsible to assume the role of issuer and issue a self-billed e-Invoice for the add-on service provided by the third-party vendor; and</li> <li>• The telecommunication service provider is to issue an e-Invoice for any platform fee charge / commission earned.</li> </ul>
Petroleum operations	
Sales	<p>Where sales are between PSC contractor and buyer: -</p> <ul style="list-style-type: none"> <li>• The contractor should issue e-Invoice and use its TIN as the Supplier's TIN.</li> </ul> <p>Note: The contractor is to input the applicable coding for classification (as outlined in the e-Invoice data catalogue) in the relevant e-invoice to indicate that the transaction is in relation to petroleum operations.</p>

Buyer's TIN

For joint costs, the PSC operator's TIN should be used as Buyer's TIN.  
For sole costs, the respective contractor's TIN should be used as Buyer's TIN.

Cash call and joint interest billing

These are methods for settlement hence, no e-Invoice is required.

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

# Insights on Earlier Tax Whiz

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

No.	Subject	Date of issue
1	Finance Act, Income Tax (Exemption) (No. 7) Order 2023	2 January 2024
2	Indirect Tax Regulations and Orders 2023	2 January 2024
3	Sales Tax Exemption for Manufacturing Aids and Cleanroom Equipment	4 January 2024

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

Abbreviation	Reference
CGT	Capital Gains Tax
FAQ	Frequently Asked Questions
MITA	Malaysian Income Tax Act, 1967
MIDA	Malaysian Investment Development Authority
MIRB	Malaysian Inland Revenue Board
PR	Public Ruling
PSC	Production Sharing Contract
RMCD	Royal Malaysian Customs Department
SPV	Special Purpose Vehicle
TIN	Tax Identification Number
YA	Year of Assessment

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