



Tax developments



13 June 2024

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KPMG in Malaysia

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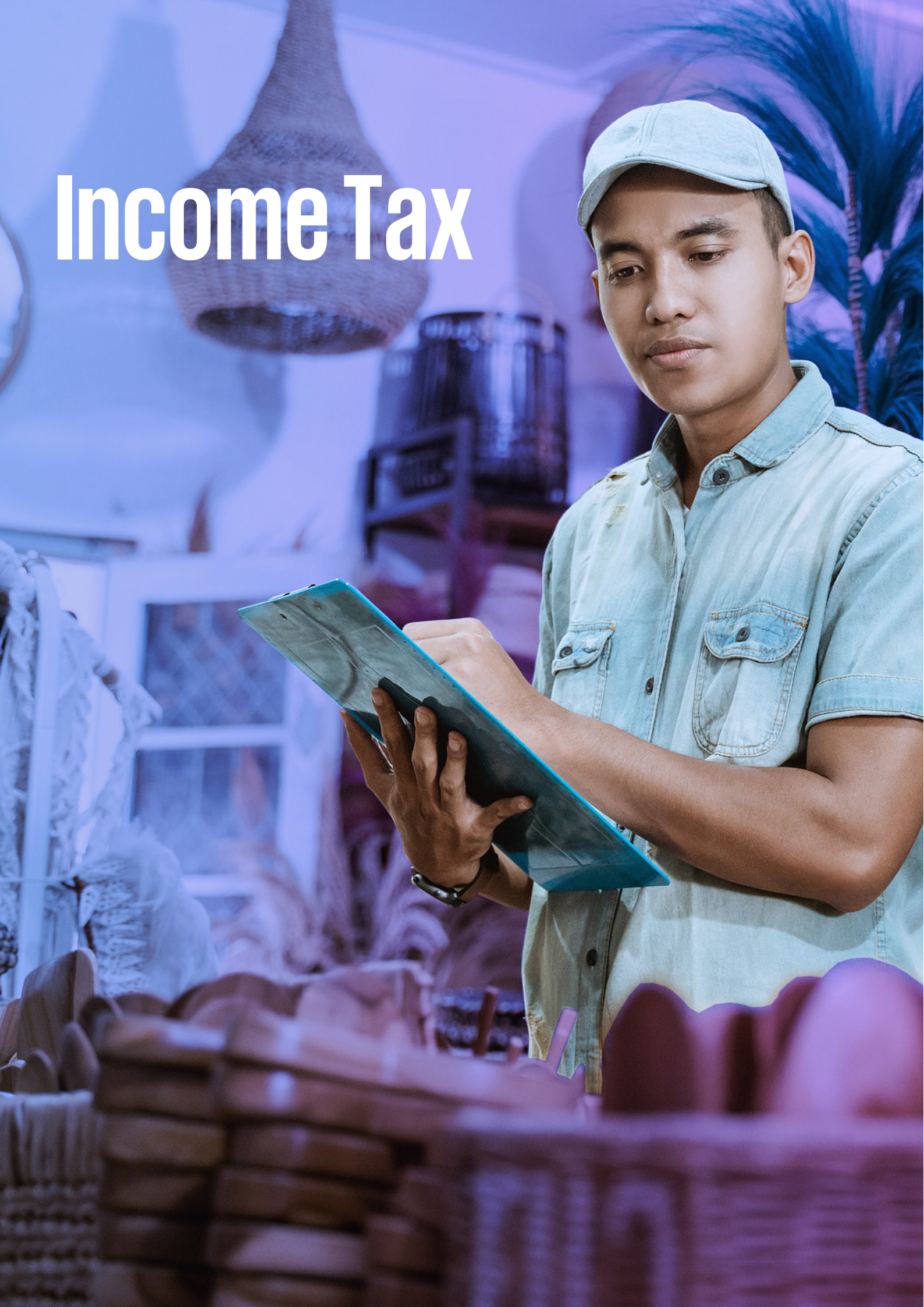
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Income Tax



Income Tax

Gazette of the Amendment Acts

The Income Tax (Amendment) Act 2024 and Labuan Business Activity Tax (Amendment) Act 2024 have been gazetted on 20 May 2024 with no changes from the Amendment Bills.

The Income Tax (Amendment) Act 2024 comes into operation on 21 May 2024, whereas the Labuan Business Activity Tax (Amendment) Act 2024 is deemed to come into operation on 1 January 2024.

You may access KPMG's [Tax Whiz](#) for a recap on the amendments.

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

Income tax exemption on foreign sourced income received in Malaysia

Effective from 1 January 2022, foreign sourced income received in Malaysia by a resident person is no longer exempted from tax. Nonetheless, Income Tax (Exemption) (No. 6) Order 2022 was gazetted to provide exemption on foreign dividend income received in Malaysia during the period from 1 January 2022 until 31 December 2026, by the following category of taxpayers (excluding those carrying on the business of banking, insurance or sea or air transport):

- A company which is incorporated or registered under the Companies Act 2016;
- A limited liability partnership which is registered under the Limited Liability Partnerships Act 2012; and
- An individual who has dividend income received in Malaysia from outside Malaysia in relation to a partnership business in Malaysia.

A company which is incorporated under the Labuan Companies Act 1990 which has made an irrevocable election to be taxed under the MITA is, however, not covered under the Exemption Order 2022.

The foreign dividend income is exempted provided that all of the below prescribed conditions are met:

- (a) The foreign dividend income has been subjected to tax of a similar character to income tax under the law of the territory which the income arises;
- (b) The highest rate of tax of a similar character to income tax charged under the law of the territory which the income arises at that time is not less than 15%; and
- (c) The qualifying person shall comply with the economic substance requirements.

Further to several rounds of discussion between the professional bodies, MOF and MIRB, the Income Tax (Exemption) (No. 6) Order 2022 (Amendment) Order 2024 has now been gazetted to provide the following:

- Expansion of the income tax exemption to a company incorporated under the Labuan Companies Act 1990 which has made an irrevocable election to be taxed under the MITA. This is deemed to have effect from YA 2022.
- Relaxation on the conditions required to qualify for exemption by having to meet only the abovementioned conditions (a) and (b) or condition (c). This comes into operation on 1 January 2024.

However, as a policy decision, the MOF has agreed that the above relaxation shall take effect from 1 January 2022. The MIRB has also issued its Guidelines on Tax Treatment in Relation to Income Received from Abroad (Amendment) on 20 June 2024 to reflect the same.

Notwithstanding the above, the MOF has also in its letter to the Chartered Tax Institute of Malaysia (CTIM) dated 11 July 2023 indicated that, where the “subject to tax” condition could not be met due to receiving foreign dividend income through multi-tier holding structures, applications for special exemption can be submitted for MOF consideration on a case-by-case basis.

The affected qualifying person may revise its tax returns for YA 2022 and YA 2023 to claim the income tax exemption by 31 December 2029.

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

Launch of the MD tax incentives

MDEC has launched the new outcome-based tax incentive scheme for eligible MD companies that undertake or propose to undertake qualifying activities leveraging on any of the following MD promoted tech enablers:

- Artificial intelligence (AI) and/or big data analytics (BDA)
- Internet of things (IOT)
- Cybersecurity
- Cloud
- Blockchain
- Drone technology
- Creative media technology including extended reality (XR) and/or mixed reality (MR)
- Integrated circuit (IC) design with embedded software
- Robotics and/or automation
- Advanced network connectivity and/or telecommunication technology

The list of qualifying activities is narrower as compared to the qualifying activities under the existing incentive scheme. Amongst others, data centre and global business services or knowledge process outsourcing have been removed from the list of qualifying activities.

The guidelines for the MD tax incentives have been released to explain the criteria and application procedures for the two categories of tax incentives offered under this scheme:

▪ New investment incentive

Reduced tax rate
(up to 10 years)

OR

Qualifying IP income

0%

Qualifying non-IP
income

5% or 10%

**Investment tax allowance
(up to 5 years)**

60% or 100%

of qualifying capital expenditure
against up to 100% of statutory income

▪ **Expansion incentive**

**Reduced tax rate
(up to 5 years)**

**Qualifying IP and non-IP
income**

15%

OR

**Investment tax allowance
(up to 5 years)**

30% or 60%

of qualifying capital expenditure
against up to 100% of statutory income

The qualifying IP income is to be determined by modified nexus approach formula prescribed in a statutory order which is pending gazettment.

A different set of eligibility criteria applies for new investment and expansion incentive, notably:

- The minimum paid-up capital for the new investment incentive is RM50,000 while the minimum is RM250,000 for the expansion incentive;
- A company must be in operations for at least 36 months to qualify for the expansion incentive; and
- For both the new and expansion incentive, a company must not issue any sales invoice for the qualifying activity in Malaysia prior to the date the tax incentive application is received. However, there is a relaxation for new investments that are at least 60% directly or indirectly owned by Malaysian persons, where the company must not issue any sales invoice for the qualifying activity in Malaysia more than 12 months prior to the date the incentive application is received.

Applications shall be submitted to MDEC by 31 December 2027.

Source for the Guidelines: Official Portal of [MDEC](#)

MGTC's guideline on GITA asset for own consumption

In line with Malaysia's aspiration to be an inclusive, sustainable and carbon neutral nation by 2050, it was proposed in the 2024 Budget that the existing green technology tax incentives be revised and given under a tiered approach.

The MGTC has issued the above guideline to explain the criteria, qualifying assets approved by the MOF and the application procedure for the tax incentive.

Applications for the tax incentive shall be made to the MGTC from 1 January 2024 to 31 December 2026.

Source for the Guideline: Official Portal of [MGTC](#)



Extension of income tax exemption for Economic Corridors

➤ IDR development managers

A qualifying company which is an IDR development manager may enjoy income tax exemption on its statutory income derived from the provision of management, supervisory or marketing services to an IDR developer, subject to meeting the conditions as set out in the Income Tax (Exemption) (No. 19) Order 2007 ("Principal Order").

The Income Tax (Exemption) (No. 19) 2007 (Amendment) Order 2024 ("Amendment Order") has been gazetted to extend the exemption period to YA 2024 (previously YA 2020). Apart from the extension, the Amendment Order also provides that the tax exemption is not applicable to an IDR development manager that has been granted an exemption under paragraph 127(3)(b) or subsection 127(3A) of the MITA in that basis period for a YA.

The Amendment Order is deemed to have come into operation from YA 2021. You may refer to KPMG's Tax Developments update dated 15 November 2023 (access from [here](#)) for further details on other IDR tax incentives.



Note:

The following tax exemptions for IDR developer under the Principal Order have expired and are not extended:-

- from YA 2016 in respect of statutory income from disposal of any right or rights over any land in an approved node; and
- from YA 2021 in respect of statutory income from rental or disposal of a building located in an approved node.

➤ SDC qualifying activities

The SDC was launched on 29 January 2008 with the objective to accelerate the growth of Sabah's economy and enhance the quality of life of the state's people, promote regional balance and bridge the rural-urban divide while ensuring sustainable management of Sabah's resources. Spanning over an 18-year period from 2008 to 2025, various incentives were introduced to position the region as an attractive destination for manufacturing, agriculture, tourism, and logistics.

Income tax exemption is given to a qualifying company that undertakes a qualifying activity in the SDC for 5 or 10 YAs, depending on the type of qualifying activity. The application window for the following tax incentives is further extended to 31 December 2024 in the Amendment Orders:

Tax incentive	Principal Order	Amendment Order
Income tax exemption equivalent to 100% of qualifying capital expenditure incurred against statutory income derived from the qualifying activity	Income Tax (Exemption) (No. 11) Order 2018	Income Tax (Exemption) (No. 11) Order 2018 (Amendment) Order 2024
Income tax exemption on statutory income (excluding IP income) derived from a qualifying activity, subject to meeting the economic substance requirement	Income Tax (Exemption) (No. 12) Order 2018	Income Tax (Exemption) (No. 12) Order 2018 (Amendment) Order 2024

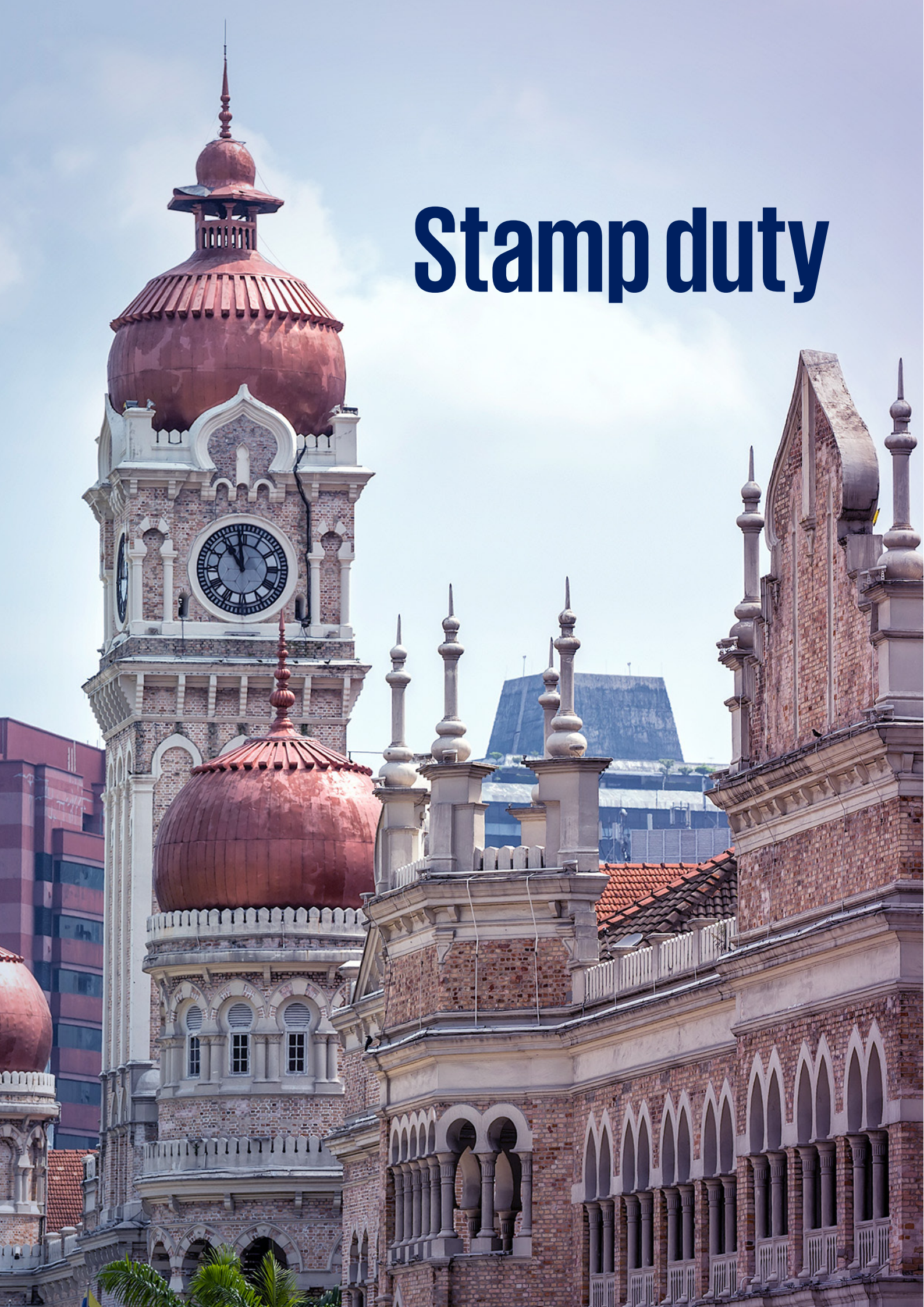
Source for the Orders: [Federal Legislation Portal of Malaysia](#)

Income tax exemption for Islamic financial-related Labuan trading activities

The Labuan Business Activity Tax (Exemption) Order 2024 was gazetted to provide income tax exemption to a qualifying Labuan entity on income derived from undertaking qualifying Islamic financial-related trading activities. The Exemption Order is effective from YA 2024 to YA 2028.

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

Stamp duty



Stamp Duty

Extension of stamp duty exemption for transfer of real properties in SDC

Under the Stamp Duty (Exemption) (No. 8) Order 2018, stamp duty exemption is given on instruments chargeable with *ad valorem* duty for the transfer of real property used in a qualifying tourism project in the SDC.

The Stamp Duty (Exemption) (No. 8) Order 2018 (Amendment) Order 2024 has been gazetted to further extend the execution period of the instruments to 31 December 2024.

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



Indirect Tax

Indirect Tax

Public Ruling 3/2024

The RMCD has issued Public Ruling 3/2024 to clarify the meaning of the phrase “used directly” or “directly used” in the Sales Tax (Persons Exempted from Payment of Tax) Order 2018. The Public Ruling came into operation on **1 June 2024**.

The Public Ruling clarifies that “used directly” or “directly used” means all goods exempted from tax as stated in Column (3), item 33A, 33B, 46, 47, 48, 55, 63 and 65, Schedule A, Sales Tax (Persons Exempted from Payment of Tax) Order 2018 or item 3, Schedule B of the same Order that is used in the manufacturing process which includes packaging, MRO activities, upstream petroleum production activities, plant construction and maintenance, hotel business or haulage operations carried out by such persons shall:

- (a) be in the premise of the person stated in column (2), Schedule A or B, Sales Tax (Persons Exempted from Payment of Tax) Order 2018 while the process or activity is being carried out;
- (b) alter or transform from raw materials or components to become finished goods until the packing and packaging process; or
- (c) be for the purpose of handling or transportation during the process or whilst the activity is being carried out.

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

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

Extension of payment period for VDP

The payment period for the VDP has been extended until **30 June 2024**. Note that this is applicable for **applications made on or before 31 May 2024**.

Source for the announcement: [Official Portal of RMCD – MySST](#)

Revised Service Tax guides

The RMCD has issued the following revised Service Tax guide (available in Malay language only) to provide further clarification on the change in Service Tax rate as well as the expansion of scope of taxable services:

- Guide on Employment Services dated 14 May 2024
- Guide on Domestic Flights dated 30 May 2024
- Guide on Customs Agent Services dated 30 May 2024

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

Tax Audit / Investigation



Tax Audit / Investigation

Tax Investigation Framework 2024

The MIRB has issued an updated Tax Investigation Framework (only available in the Malay Language) which replaces the Tax Investigation Framework dated 1 January 2023. The updated Framework comes into effect on 31 May 2024.

We wish to highlight below the notable updates to the Framework:

- Tax investigation can be carried out by issuing a letter requesting for documents and information to the taxpayer, tax agent and third party for review. Taxpayer may be requested to be present at the MIRB's office to provide information and explanation verbally or in writing. The authority to request documents, information and the presence of taxpayer to the MIRB's office is provided under section 78, 79 or 81 of the MITA.
- Tax investigation can also be carried out by conducting an inspection visit without notice to the business premise or residence of taxpayer, tax agent, third party and other premises as may be necessary. The inspection will be conducted in a professional and ethical manner.
- Subsequent to the completion of tax investigation procedures, the MIRB will issue a tax investigation findings letter to the taxpayer. If the tax investigation findings are agreeable, an agreement or letter of undertaking will be signed. The tax investigation will be considered completed after the approval by the DGIR and an assessment is raised. However, if the taxpayer does not agree with the tax investigation findings, the DGIR may:
 - (a) Raise assessment with penalty according to the DGIR's authority; or
 - (b) Drop the case if there are facts or evidence to support the taxpayer's argument.

For cases which are to be prosecuted in situation outlined in (a) above, the cases will be forwarded to the Legal Department. For compound cases that do not continue with prosecution, assessment will be raised based on the agreed tax computation.

- Taxpayer is allowed to make copies of his own documents during the investigation under the MIRB's control.
- Taxpayer is prohibited from obstructing the tax investigation officer in the exercise of his duties under the MITA.
- The MIRB will ensure the confidentiality of all information obtained from the taxpayer during the tax investigation and use the information only for the purpose of the MITA and other related tax laws in accordance with the provisions of subsection 138(5) of the MITA.
- If no prosecution commences in respect of failure to furnish the income tax return form, the DGIR may impose a penalty on the taxpayer equal to treble (3 times) the amount of tax imposed as provided under subsection 112(3) of the MITA.
- If no prosecution commences in respect of furnishing an incorrect return or information, the DGIR may impose a penalty on the taxpayer equal to the amount of the tax which has been undercharged as provided under subsection 113(2) of the MITA.

- The penalty imposed can be collected by the DGIR from the taxpayer as part of the tax payable. However, taxpayer may apply to settle the tax and penalty by installments. If the taxpayer is allowed installments, proof of an initial payment of at least twenty-five per cent (25%) of the total tax and penalty shall be submitted on the date the agreement or letter of undertaking is signed. The remaining balance shall be paid in accordance with the amount and installment period allowed by the DGIR. Taxpayers who fail to comply with the agreed installment payment schedule will be subject to increased tax as provided under subsection 103(7) of the MITA. On cases of conviction, the fine and special penalty will be decided by the court. Assessment will be raised after the judgement is obtained and the taxpayer is required to make payment of the tax due to MIRB. On another note, tax payments shall be made based on the assessment raised according to the agreed tax calculation for compound cases.
- Pursuant to subsection 97A(2) and sections 99 to 102 of the MITA, taxpayer may appeal against the assessment raised.

All appeals against the assessment must be made through a completed Form Q to the Department / State MIRB / Special Branch which raised the assessment. As provided under subsection 99(1) of the MITA, if the taxpayer disagrees with the assessment for any YA made by the DGIR, the taxpayer may appeal to the SCIT within thirty (30) days after the notice of assessment has been served. If either MIRB or taxpayer disagree with the decision of SCIT, the aggrieved party may appeal for the case to be heard by a higher court. However, section 99 of the MITA does not apply to a composite assessment which is provided under section 96A of the MITA because the assessment is issued after an agreement has been reached between the taxpayer and DGIR.

In view of the above updates, it is important to ensure compliance with the tax laws and regulations at all times. This is critical to avoid being imposed a hefty penalty.

Kindly note the following has been excluded in the latest Framework (as referred to in the Tax Investigation Framework dated 1 January 2023):

- Section 112(1A) of the MITA;
- Taxpayer can be prosecuted if there is proof that an offence has occurred in accordance with the provisions of the relevant Act;
- Taxpayer, tax agent/representative or witness may take own notes during the interview or during the giving of statements;
- Tax representative is a person who is appointed by the taxpayer throughout the tax investigation process; and
- If convicted, the court will impose sentence based on the provisions that have been set. On compound offences, the payment for the tax, special penalty and compound should be made in one payment to the DGIR. Taxpayer may also make application for installment payments on the abovementioned.

As a pre-emptive measure in mitigating the potential taxes and penalties, taxpayer may undertake Tax Risk Assessment / Tax Corporate Governance Framework for the purpose of identifying significant areas of concerns and taking corrective actions.

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

e-Invoicing



e-Invoicing

SDK updates

On 24 May 2024, the MIRB updated the SDK 1.0 on validations & documentation, digital signature and new additions, among others. The section below summarizes the key updates.

SDK Item	Description
Updated validations & documentation	<ul style="list-style-type: none"> Amended number of characters of Supplier & Buyer Contact Number. Refined note on Tax Rate. Updated percent node on Tax Rate.
Updates to signature	<ul style="list-style-type: none"> Updated sample and explanation of actual Digital Certificate JSON.
New additions	<ul style="list-style-type: none"> Added new sample XML for Foreign Currency with Tax Exchange Rate and Multi Line Item. Added X-Rate Limit Description in FAQ. Added new page for Signing Document JSON in Document Signature Creation page. Added new code 'E' under Tax Types.
Other updates	<ul style="list-style-type: none"> Included General, Signature and Postman API Guidance subpages under FAQ along with Integration Practices.

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

e-Invoicing Specific Industry FAQ - Insurance and Takaful

The MIRB has issued the FAQ for insurance and Takaful industry as of 7 June 2024. Other than the general response based on the existing e-Invoicing guidelines, the notable points include the following:-

- i) The insurance company is to provide breakdown of the premium paid in the e-Invoice (e.g. Life / Medical / Others) and include the appropriate classification code;
- ii) Generally, Buyer for e-Invoicing purpose refers to the policyholder.
 - a. However, if the policyholder is below the age of 18, Buyer's details should be the details of the parent / guardian / any other relevant parties;
 - b. If the policyholder is the employee, the insurance company should continue to issue e-Invoice to the employee. The collection of insurance contribution by the employer from the

employee for payment to insurance company is merely a settlement mechanism of the insurance policy;

- iii) In the case where the annual premium statement is only available in the following year (e.g. March 2025) and covers the full year premium paid in the current year (i.e. from January 2024 to December 2024), it is acceptable to transmit the full year data for e-Invoice purpose in March 2025. There is no requirement to exclude the period from January to December 2024 in March 2025;
- iv) Insurance companies are required to issue self-billed e-Invoice for insurance claims, insurance compensation and benefit payments to the policyholder / beneficiary;
- v) For claim against insurer in event of vehicle accident, in relation to the recoupment of claim from one insurance company (A) to another insurance Company (B), A is required to issue self-billed e-Invoice to the policyholder (i.e. driver under A) even though the payout is made to driver under B;
- vi) Insurance companies may include interest charges on policy loan / Automatic Premium Loan and late payment interest in the e-Invoice periodic statements issued to their policyholders;
- vii) An e-Invoice is not required for interfund charges as these are transactions within the same legal entity. However, if the insurance company is currently issuing invoice to record the transaction, insurance company may adopt the current practice upon implementation of e-Invoicing; and
- viii) Insurance companies are required to issue self-billed e-Invoice for bonus paid or distribution of surplus payment / investment profit to participants, in accordance with the e-Invoice treatment as mentioned under Section 11 of the e-Invoice Specific Guideline.

Source for the full FAQ: 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	e-Invoicing	17 May 2024

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

	Reference
DGIR	Director General of Inland Revenue
GITA	Green Investment Tax Allowance
FAQ	Frequently Asked Questions
IDR	Iskandar Development Region
IP	Intellectual Property
MD	Malaysia Digital
MDEC	Malaysia Digital Economy Corporation
MGTC	Malaysian Green Technology and Climate Change Corporation
MIRB	Malaysian Inland Revenue Board
MITA	Malaysian Income Tax Act, 1967
MOF	Ministry of Finance
MRO	Maintenance, Repair and Overhaul
RMCD	Royal Malaysian Customs Department
SCIT	Special Commissioners of Income Tax
SDC	Sabah Development Corridor
SDK	Software Development Kit
VDP	Voluntary Disclosure Programme
YA	Year of assessment

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