



Tax developments



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KPMG in Malaysia

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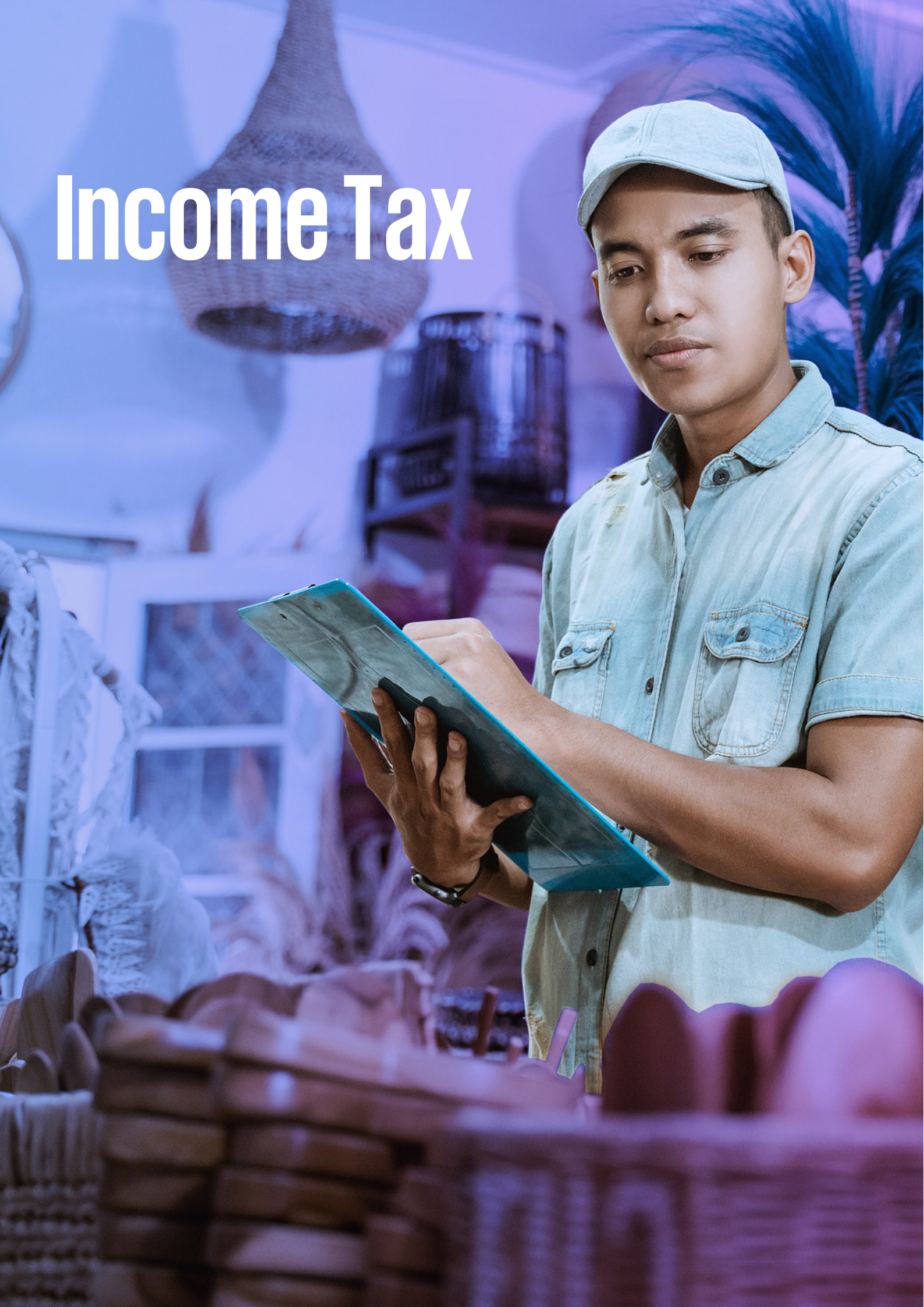
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Income Tax



Income Tax

MOF's guideline on application for tax deduction for cash contribution or financing for environmental preservation and conservation projects

In line with the 100 Million Tree Planting Campaign 2021 – 2025 to preserve and conserve the environment, it was proposed in the 2024 Budget that tax deduction be given under Section 34(6)(h) of the MITA to entities contributing or sponsoring activities related to tree planting projects or environmental preservation and conservation awareness projects verified by Forest Research Institute Malaysia (FRIM).

The MOF has issued the above guideline (only available in the Malay Language) to explain the criteria and application procedure for the tax deduction claim.



Application for the tax deduction shall be made to the MOF from 1 January 2024 to 31 December 2026.

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



Indirect Tax

Indirect Tax

Service Tax Policy 6/2024 - Exemption from payment and the imposition of Service Tax on maintenance or repair services for MRO activities

Pursuant to Section 34(3)(a) and 34(4) of the Service Tax Act 2018, the MOF has agreed to provide exemption from payment and the imposition of Service Tax on maintenance or repair services for MRO activities.

For the purposes of this exemption, MRO activities refers to any maintenance, repair and overhaul activities set by MIDA under the Malaysian Aerospace Industry Blueprint 2030 for the aerospace sector as well as under the Shipbuilding and Ship Repairing incentive for the maritime sector.

The STP sets out the following MRO activity service providers and service recipients which are exempted from the imposition/ payment of Service Tax on the MRO services provided/ acquired:

MRO Service Providers	MRO Service Recipients
<ul style="list-style-type: none"> a) Approved Maintenance Organisation registered with the CAAM; or b) Shipbuilding or Ship Repairing approved by MIDA 	<ul style="list-style-type: none"> a) Airline companies who hold an Air Operator Certificate issued by the CAAM; b) Shipping companies registered with the Malaysia Marine Department; c) Federal and state government departments such as the Malaysian Armed Forces, Royal Malaysia Police, and the Fire and Rescue Department; or d) Recipients of MRO activity service located overseas

As for overseas recipients of MRO activity services, any item/ equipment involved in the MRO activities performed in Malaysia must be brought out from Malaysia in accordance with the conditions set by RMCD.

The STP further mentions that any Service Tax amount collected must be remitted to RMCD and no Service Tax refund will be approved to any taxpayer who has paid Service Tax on MRO activities provided effective 1 March 2024.

This exemption is effective from 1 March 2024 until 31 December 2027.

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

Public Ruling 2/2024 Amendment 2024

The RMCD has issued Public Ruling 2/2024 Amendment 2024 in relation to Manufacturing Aids and Cleanroom equipment which came into operation on **24 April 2024**.

Amendments are made to Appendix 1, Schedule 1 to include the following items under the list of Manufacturing Aids which are exempted from Sales Tax:

- Perforated Kraft Paper
- Food Grade Kf-100 White Mineral Oil
- Plate Mounting Tape
- Poly Tetrafluoroetilena (PTFE)
- Paperband

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

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

Sales Tax and Service Tax guides

1. 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 Food and Beverage dated 19 April 2024

2. The RMCD has also issued the following Sales Tax guides:

Revised

- Guide on Sales Tax Exemption under Schedule C, Sales Tax (Persons Exempted from Payment of Tax) Order 2018 dated 18 April 2024
- Guide on Sales Tax Exemption under Item 33A, 33B, 55, 63, 64 & 65, Schedule A, Sales Tax (Persons Exempted from Payment of Tax) Order 2018 dated 25 April 2024

New

- Guide on Disposal dated 30 April 2024 (available in Malay language only)

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

Transfer Pricing



Transfer Pricing

Advance Pricing Arrangement Guidelines

An APA is an arrangement between a taxpayer and the Director General of Inland Revenue or between Competent Authorities that establishes the transfer pricing methodology to determine the prospective arm's length transfer prices of specified transactions between the taxpayer and its foreign affiliates over a defined period, subject to specified terms and conditions. It is a mechanism which allows taxpayers to achieve transfer pricing certainty.

The MIRB has recently updated its Advance Pricing Arrangement Guidelines ("APA Guidelines 2024") to explain the procedural and administrative requirements of Section 138C of the MITA and the Income Tax (Advance Pricing Arrangement) Rules 2023 ("APA Rules 2023").

The updated APA Guidelines 2024 primarily serve to realign the guidance on APAs to changes introduced within the APA Rules 2023, which was released back in May 2023. It is noted that additional conditions are now introduced for the APA application. The conditions for APA applications are as follows:

1. An application for APA will only be considered for cases under the following circumstances:
 - (a) Revenue in relation to business operation of covered transactions exceeding RM100 millions of its taxable business income; and
 - (b) Value of the proposed covered transaction exceeds 50% of the revenue (for sales), exceeds 50% of total purchases (for purchases), or the total value exceeds RM25 million (for other transactions).
2. In cases involving financial assistance, the threshold is provided in the MIRB's Transfer Pricing Guidelines in force.
3. All covered transactions must relate to income that is chargeable and not income which is exempted under Promotion of Investment Act 1986 (Act 327) and the MITA (Act 53), including income which is exempted in a treaty partner country. In this respect, taxpayers must maintain separate accounts for the exempt and non-exempt transactions for the purpose of an APA.
4. Taxpayer who is undergoing an audit or investigation is not allowed to apply for an APA until the audit or investigation has been settled or relevant appeals to the Special Commissioners or court have been decided.
5. A taxpayer:
 - i. who has just commenced business has to be in operation for not less than 36 months; or
 - ii. whose business activities in relation to the covered transactions has been in operation for not less than 12 months for business in operation for more than 36 months.
6. For taxpayer whose functions, assets and risks ("FAR") and business model remain the same, the proposed benchmarking analysis should not result in a reduction in operating margin that is more than 3% of the average weighted margin:
 - i. for the last five years in the case of existing business; or
 - ii. at least 3 years for taxpayers as mentioned in part (5).

7. In circumstances where there is a change in FAR, a reduction of equal to or more than 5% reduction in operating margin may not be acceptable if there is no transfer of intangible properties or major shift in FAR or transfer of significant people functions.

KPMG observations

The APA Guidelines 2024 introduces new conditions that tighten the eligibility criteria for APA applications. This includes setting out MIRB's expectations on profit margins based on the proposed benchmarking analysis. This new condition is also a very relevant consideration for companies undergoing or planning a restructuring exercise. Does this new condition seem to suggest the tax authority's tolerance towards reduction in profit margins as a result of a restructuring? For example, if an existing Malaysian distributor is being restructured to a limited risk distribution entity, if its profit margins do not reduce by more than 5%, this will be acceptable or at the very least, not considered "high risk" for transfer pricing purposes?

Please contact us if you wish to discuss further on APAs, business restructuring or any other transfer pricing matters.

For more details, please click [here](#) for a copy of the APA Guidelines 2024.

Source for the Guidelines: [MIRB](#)

e-Invoicing



e-Invoicing

SDK updates

On 10 May 2024, the MIRB provided some updates on the SDK 1.0 regarding validations, documentation and digital signature, among others. The section below highlights the key update items.

SDK Item	Description
Updated validations and documentation	<ul style="list-style-type: none"> Amended descriptions for several fields including Fee/Charge Rate, Fee/Charge Amount, Total Discount Value and Invoice Additional Fee Amount. Updated available APIs in the sandbox environment under FAQs. Updated cardinality of fields including Quantity, Measurement, Reference Number of Customs Form No. 1, 9, etc., SST Registration Number and Tourism Tax Registration Number. Updated number of characters for Measurement field to 3 characters. Refined descriptions for fields such as Tax Type, City Name, Payment Mode, and Prepayment Time.
Updates to signature	<ul style="list-style-type: none"> Removal of Timestamp Authority (TSA) requirement of XAdES for digital signature. Provided clearer guidance on hashing with SHA256 followed by HEX-to-Base64 encoding. Updated sample in SDK with RSA-SHA256.
New additions	<ul style="list-style-type: none"> Added Measurement Code Table under Codes.
Other updates	<ul style="list-style-type: none"> Improved visual for API input parameters with a new column on optional/mandatory.

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

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

	Reference
APA	Advance Pricing Arrangement
API	Application Programming Interface
CAAM	Civil Aviation Authority of Malaysia
FAQ	Frequently Asked Question
MIDA	Malaysian Investment Development Authority
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
SDK	Software Development Kit
SST	Sales and Services Tax
STP	Service Tax Policy

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