



Tax developments



15 July 2024

KPMG in Malaysia

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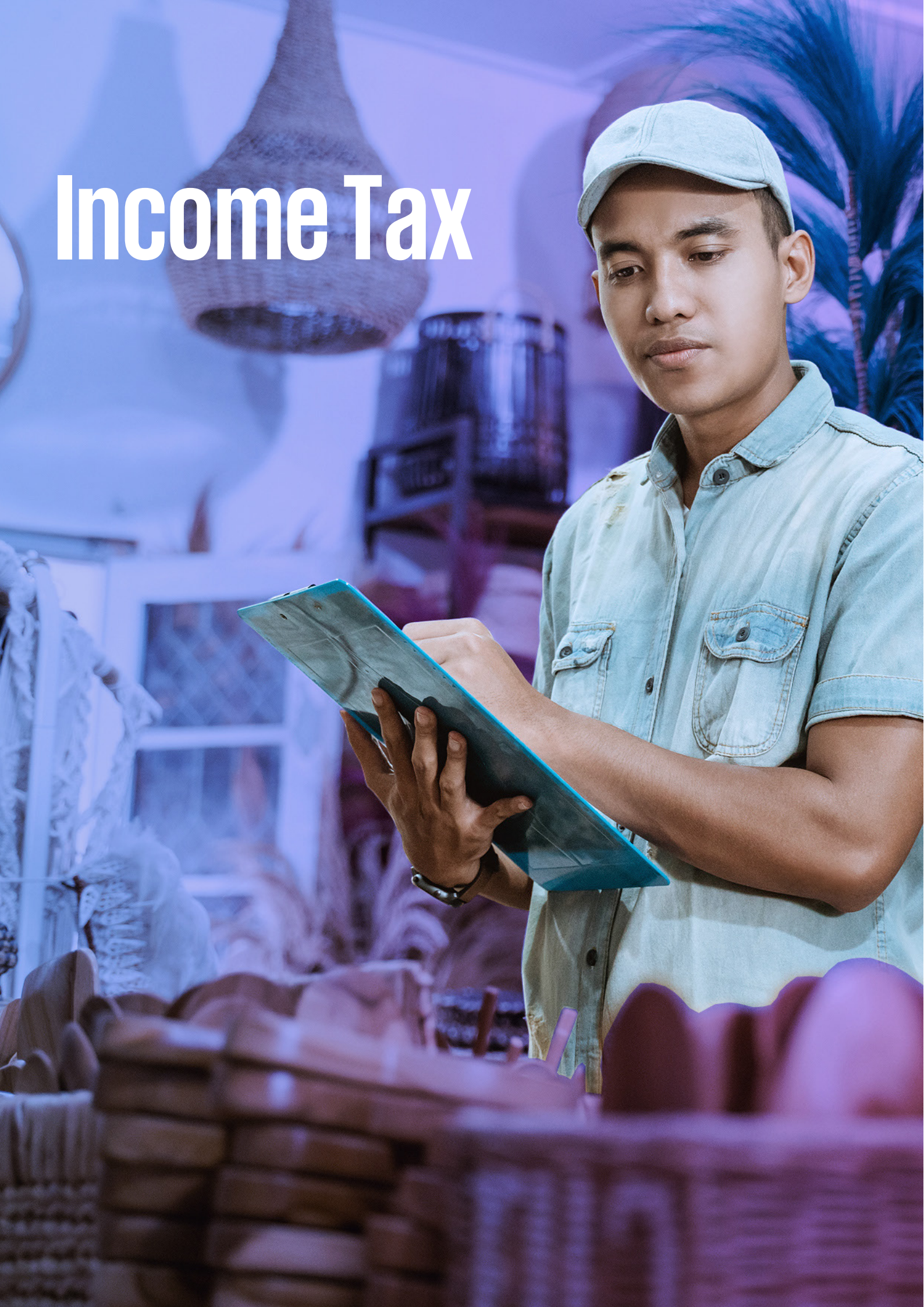
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Income Tax



Income Tax

Guideline on tax treatment of hybrid instrument

Generally, the tax treatment of distributions or profits from a financial instrument depends on the nature of the instrument held. Any payment arising from a financial instrument of an equity nature is treated as profit distribution (commonly in the form of dividend by a company or income distribution by a unit trust), whereas payment arising from a financial instrument of a debt nature is treated as interest.

The MIRB has released the above guideline to explain the key features of a hybrid instrument, the factors to determine a hybrid instrument as an equity or debt instrument for tax purposes and the tax treatment relating to the distribution or profit from a hybrid instrument for both the instrument holder and the instrument issuer.

Amongst others, we wish to highlight the factors in classifying a hybrid instrument as an equity or debt instrument for tax purposes, which are to be considered in the following order of priority:

1. The source of repayment of principal and payment of the distributions or profits, and the order in which they will be repaid in case of liquidation or dissolution.
2. The right to enforce payment of distributions or profits and repayment of principal by the instrument holder.
3. The right to recover the principal or accumulated distributions or profits in the event of default.
4. The presence of maturity date of the instrument.
5. The ability of the instrument issuer to secure a loan and fulfill the payment obligations at arm's length.
6. Involvement in the management.
7. Benefit to the instrument holder.

Point 1 above is not applicable to Islamic hybrid instruments where the payment of distributions or profits from the Profit Equalization Reserve to the sukuk holder is from the current profit of the sukuk.

Nonetheless, the above factors are non-exhaustive and non-conclusive when examined in a standalone manner. The combination of factors as well as the merits and circumstances of each case shall therefore be considered holistically.

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

MIDA's guideline and procedures for automation capital allowance for manufacturing and services sector

In line with the adaptation of Industry 4.0 elements in the 2023 Budget, MIDA has issued the above to clarify on the eligibility criteria and application procedures for the tax incentive for the manufacturing and services sectors. Applications shall be made to MIDA from 1 January 2023 to 31 December 2027.

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

Extension of income tax exemption for Malaysian shipping companies

The Income Tax (Exemption for Malaysian Ship) Order 2024 has been gazetted to extend the 100% income tax exemption to a resident person carrying on the business of transporting passengers or cargo by sea on a Malaysian ship or letting out on charter a Malaysian ship on a voyage or time charter basis for another 3 years until YA 2026. The incentive was previously available up to YA 2023 under the Income Tax (Exemption) (No. 7) Order 2022.

The exemption is subject to an annual verification from the Ministry of Transport Malaysia that the substantial requirements prescribed in the Exemption Order have been fulfilled.



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

MGTC's guideline on further tax deduction for carbon projects



It was proposed in the 2024 Budget that a further tax deduction of up to RM300,000 is given on expenditure related to Measurement, Reporting and Verification and development of qualifying carbon projects incurred by carbon credit trading companies.

Pending the gazettment of the Deduction Rules, the above was issued to explain the eligibility criteria, qualifying costs and the application procedure for the tax incentive. The further tax deduction can only be deducted against the income from carbon credits trading on the Bursa Carbon Exchange for 3 years.

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](#)

MAFS's guideline for application of tax deduction for approved food production project

The above was issued to explain the eligibility criteria and application procedure for the tax incentive. Applications shall be made to MAFS by 31 December 2025.

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



Indirect Tax

Indirect Tax

New forms

The RMCD has issued the following application form for cancellation of exemption certification under Schedule A, Sales Tax (Persons Exempted from Payment of Tax) Order 2018 which has been uploaded onto the MySST Portal:

- Application form for cancellation of exemption certification under Schedule A

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

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:
 - Guide on Hire Passenger Vehicle Services dated 14 June 2024
2. The RMCD has also issued the following system guide:
 - User Manual for Online Return and Payment Submission (Same Service Different Tax Rate)

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

e-Invoicing



e-Invoicing

e-Invoicing Specific Industry FAQ - Aviation

The MIRB has issued the updated FAQ for the Aviation Industry as at 9 July 2024. The notable changes are as of the following:

- i) The MIRB has clarified that the concession temporarily provided to the Suppliers in relation to Buyer's details in the e-Invoice are for Buyers of flight tickets or private air charters that do not require an e-Invoice.
- ii) Further concession has been provided for the Buyer's Business Registration Number, regardless if the Buyer is an individual or business, where the Supplier is allowed to input "NA" in the e-Invoice.

Source for the 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	3 July 2024
2	Customs Compliance Verification Audit Programme (“AViP”)	11 July 2024

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

	Reference
FAQ	Frequently-Asked Questions
MAFS	Ministry of Agriculture and Food Security
MGTC	Malaysian Green Technology and Climate Change Corporation
MIDA	Malaysian Investment Development Authority
MIRB	Malaysian Inland Revenue Board
RMCD	Royal Malaysian Customs Department
YA	Year of assessment

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