



Tax Developments –

2nd Quarter 2022

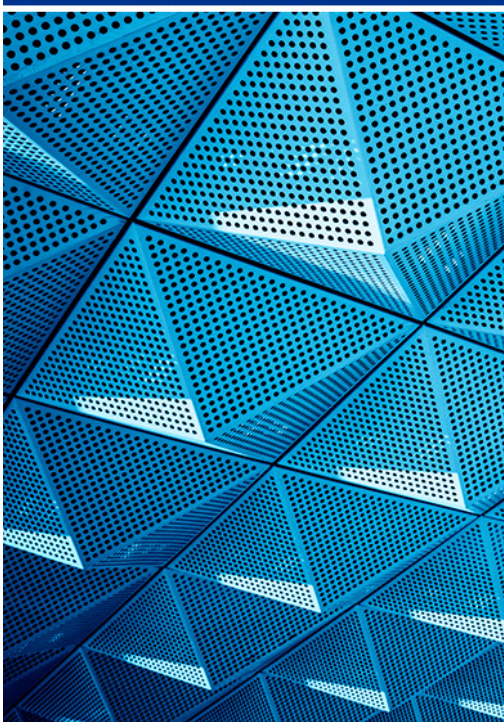


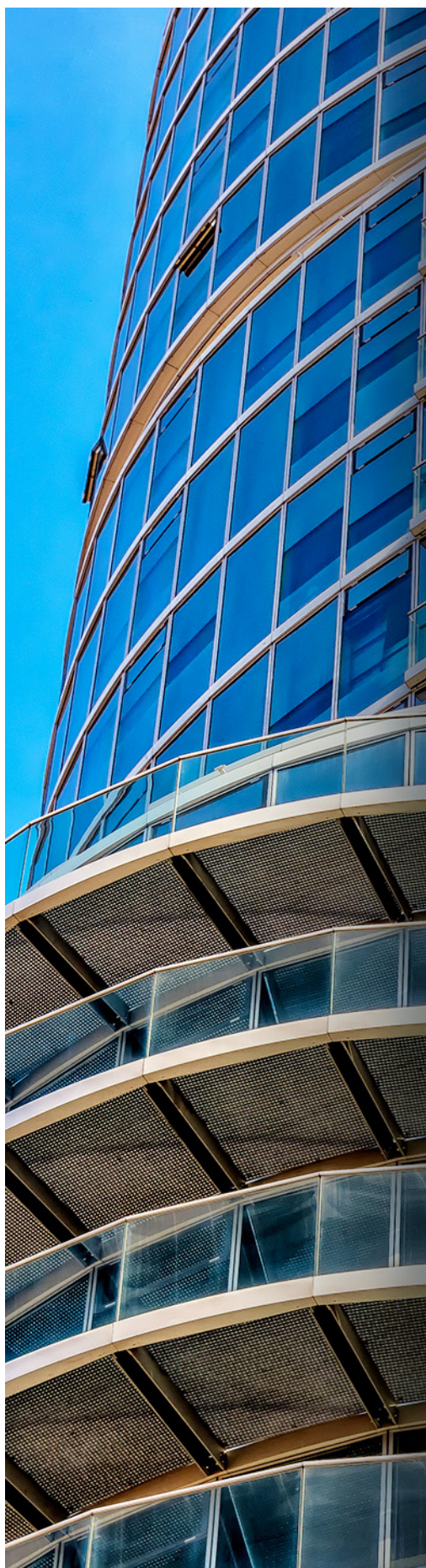
15 June 2022

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Income Tax



Income Tax

The relevant authorities have issued the following:

Labuan Amendment Acts

The following Amendment Acts have been gazetted on 9 June 2022 to amend the respective Principal Acts:

Amendment Act	Principal Act
Labuan Companies (Amendment) Act 2022	Labuan Companies Act 1990
Labuan Financial Services and Securities (Amendment) Act 2022	Labuan Financial Services and Securities Act 2010
Labuan Islamic Financial Services and Securities (Amendment) Act 2022	Labuan Islamic Financial Services and Securities Act 2010

Some of the notable changes in the Labuan Companies (Amendment) Act 2022 include:

- Removal of ring-fencing features on restriction from dealing with residents and in Ringgit;
- At least one director of a Labuan company must be a resident person;
- Any person convicted of a criminal offence is forbidden to be appointed as a director of a Labuan company;
- New provisions on beneficial ownership;
- Widened powers of the authority to strike off a Labuan company from the register;
- Increased penalties for offences or non-compliance; and
- Notification of change of auditor to be lodged with the Authority within 30 days of the change, accompanied by the consent of the new auditor.

Under the Labuan Financial Services and Securities (Amendment) Act 2022 and Labuan Islamic Financial Services and Securities (Amendment) Act 2022, the exclusion of domestic insurance business and prohibition from dealing in Ringgit have been removed from the definitions of "Labuan insurance business" and "Labuan takaful business". These amendments are effected to remove ring fencing which is regarded as a harmful tax practice under international standard taxation.

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

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

Approved Incentive Scheme for Principal Hub

Under the [Income Tax \(The Principal Hub Incentive Scheme\) Rules 2022](#), a qualifying company may enjoy a concessionary income tax rate of 0%, 5% or 10% on its chargeable income derived from qualifying activities, subject to meeting the prescribed conditions. The incentive is given for a period of 5 YAs, with the possibility to extend for another 5 YAs.

The application for the said incentive must be received by MIDA from 1 January 2021 until 31 December 2022. MIDA has also issued its [Guidelines](#) to explain the eligibility criteria and application process for the incentive.

The Rules are effective from YA 2021. A qualifying company which has filed its tax return without claiming the above incentives may submit a revised tax return. The revision must be made by 31 December 2027.

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

FAQs on the Use of e-Telegraphic Transfer System

The MIRB has rolled out a new e-Telegraphic Transfer system which generates a Virtual Account Number, replacing the old conventional bank account number. Effective 1 April 2022, taxpayers are required to obtain a Virtual Account Number for payments to be made through Telegraphic Transfer, Electronic Funds Transfer and Interbank Giro from within and outside Malaysia.

The MIRB has released [FAQs](#) to provide clarification and guidance on the use of the said system.

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

Incentives for the Sabah Development Corridor and the East Coast Economic Region

The following Rules or Exemption Orders have been gazetted to extend the application period for the incentives for another 2 years until 31 December 2022:

Incentives for the Sabah Development Corridor

Principle Orders	Amendment Orders	Incentives
Income Tax (Exemption) (No. 11) Order 2018	Income Tax (Exemption) (No. 11) 2018 (Amendment) Order 2022	Income tax exemption equivalent to 100% of qualifying capital expenditure incurred by a qualifying company undertaking a qualifying activity, within a period of 5 or 10 years.
Income Tax (Exemption) (No. 12) Order 2018	Income Tax (Exemption) (No. 12) 2018 (Amendment) Order 2022	Income tax exemption of 100% to a qualifying company on statutory income derived from qualifying activities, for a period of 5 or 10 YAs. The exemption excludes intellectual property rights income which is receivable from commercial exploitation of that right.

Incentives for the East Coast Economic Region

Principle Orders	Amendment Orders	Incentives
Income Tax (Exemption) (No. 4) Order 2016	Income Tax (Exemption) (No. 4) 2016 (Amendment) Order 2022	Income tax exemption equivalent to 100% of qualifying capital expenditure incurred by a qualifying person undertaking a qualifying activity, within a period of 5 years.
Income Tax (Exemption) (No. 5) Order 2016	Income Tax (Exemption) (No. 5) 2016 (Amendment) Order 2022	Income tax exemption equivalent to 60% to 100% of qualifying capital expenditure incurred by a qualifying person undertaking a special qualifying activity, within a period as determined by the Minister.
Income Tax (Exemption) (No. 6) Order 2016 Income Tax (Exemption) (No. 6) 2016 (Amendment) Order 2018	Income Tax (Exemption) (No. 6) 2016 (Amendment) Order 2022	Income tax exemption of 100% to a qualifying person on statutory income derived from qualifying activities, for a period of 10 YAs. The exemption excludes intellectual property rights income which is receivable from commercial exploitation of that right.

Income Tax (Exemption) (No. 7) Order 2016 Income Tax (Exemption) (No. 7) 2016 (Amendment) Order 2018	Income Tax (Exemption) (No. 7) 2016 (Amendment) Order 2022	Income tax exemption of 70% to 100% to a qualifying person on statutory income derived from special qualifying activities, for a period determined by the Minister. The exemption excludes intellectual property rights income which is receivable from commercial exploitation of that right.
Income Tax (Exemption) (No. 8) Order 2016	Income Tax (Exemption) (No. 8) 2016 (Amendment) Order 2022	Income tax exemption of 100% for 10 YAs to an approved developer on statutory income derived from: <ul style="list-style-type: none"> ▪ disposal of any right over any land, or disposal of a building or rights over a building or part of a building, located in an industrial park or a free zone; or ▪ rental of a building or part of a building, located in an industrial park or a free zone.
Income Tax (Exemption) (No. 9) Order 2016	Income Tax (Exemption) (No. 9) 2016 (Amendment) Order 2022	Income tax exemption of 100% for 10 YAs on statutory income derived by: <ul style="list-style-type: none"> ▪ a development manager on the provision of management, supervisory or marketing services relating to the development of an industrial park or free zone; or ▪ a park manager on the provision of park management services including maintenance, marketing and rental of common facilities and utilities services in the industrial park or free zone.
Income Tax (Deduction for the Sponsorship of Hallmark Event) Rules 2016	Income Tax (Deduction for Sponsorship of Hallmark Event) (Amendment) Rules 2022	Income tax deduction on cash contribution or contribution in kind made by a qualifying person to a hallmark event, capped at RM1 million for a YA.
Income Tax (Deduction for Investment in Qualifying Activity) Rules 2016	Income Tax (Deduction for Investment in Qualifying Activity) (Amendment) Rules 2022	Income tax deduction to a qualifying company on the value of cash or shares investment made in a related company. The investment made shall be for the sole purpose of financing a qualifying activity of the related company.

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

Incentives for the Venture Capital Industry

The incentives for participants in the venture capital industry have been reviewed and enhanced as follows:

Income Tax Exemption for VCMC

Under the Income Tax (Exemption) (No. 12) Order 2005, a qualifying VCMC is exempted from tax on its statutory income from the share of profits received from a VCC on any investment made by the VCC.

The [Income Tax \(Exemption\) \(No. 3\) Order 2022](#) has been gazetted to expand the scope of the income tax exemption to include management fees and performance fees, including performance bonus and carried interest. The exemption period is from YA 2018 until YA 2026.

The 2005 Order is revoked with effect from YA 2018. Where a VCMC has been granted an exemption under the 2005 Order, such exemption shall continue to remain in effect as if the 2005 Order was not revoked.

Income Tax Exemption for VCC

Under the Income Tax (Exemption) (No. 11) Order 2005, a qualifying VCC is exempted from tax in respect of its statutory income on all sources of income, other than interest income arising from savings or fixed deposits and profits from syariah-based deposits. The exemption can be for a period of 5 or 10 YAs, or the life span of the fund, whichever is shorter. This is subject to meeting the minimum threshold for the investment in venture companies at the point of first investment.

The [Income Tax \(Exemption\) \(No. 2\) Order 2022](#) has been gazetted to streamline the period of exemption to 5 YAs or the life span of the fund, whichever is shorter. The minimum threshold of the investment in venture companies in the form of seed capital, start-up capital or early stage financing is fixed to 50%.

The 2005 Order is revoked with effect from YA 2018. Where a VCC has been granted an exemption under the 2005 Order, such exemption shall continue to remain in effect for the remaining exemption period of that VCC.

Income Tax Deduction for Investment in a Venture Company or a VCC

The Income Tax (Deduction for Investment In a Venture Company) Rules 2005, provides a tax deduction to a qualifying resident company or individual, on the amount of investment made in a venture company. The investment made will be deemed to be incurred on the date the investment is disposed as certified by the Securities Commission.

The [Income Tax \(Deduction for Investment in a Venture Company or Venture Capital Company\) Rules 2022](#) have been gazetted to expand the scope of deduction for investment made in a VCC, with a RM20 million limit. The investment in a venture company or a VCC must be made from 27 October 2017 until 31 December 2026. The investment will be deemed to be incurred in the YA where the investment is held for a period of 3 years from the date the investment is made, as certified by the Securities Commission.

The 2005 Rules are revoked with effect from YA 2018. A qualifying company or individual who has made qualifying investments prior to YA 2018, but no claim was made under the 2005 Rules, shall be entitled to apply for a deduction under the 2022 Rules if the provisions are complied with.

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

Incentive for Investment in Equity Crowdfunding

The [Income Tax \(Exemption\) \(No. 4\) Order 2022](#) has been gazetted to provide an income tax exemption to a resident individual who makes an investment in an investee company, through an equity crowdfunding platform or through a nominee company, subject to meeting the prescribed conditions. The exemption is given in the second YA following the YA in which the investment is made and is equivalent to 50% of the amount of investment made, capped at RM50,000 per YA or 10% of the aggregate income, whichever is lower.

The Exemption Order is effective from YA 2021.

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

Incentive for Implementation of Industry4WRD Vendor Development Programme

The [Income Tax \(Deduction For Expenditure In Relation To Industry4WRD Vendor Development Programme\) Rules 2022](#) has been gazetted to provide a double deduction to an anchor company that incurred qualifying expenses in implementing the Industry4WRD Vendor Development Programme, subject to meeting the prescribed conditions. The Memorandum of Understanding must have been signed with the Ministry of International Trade and Industry from 1 January 2019 until 31 December 2021. The qualifying expenses are capped at RM1 million per YA and can be claimed for three consecutive YAs commencing from the YA when the expenditure is first incurred.

The Rules are effective from YA 2019. A qualifying company which has filed its tax returns without claiming the above incentives may submit revised tax returns.

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

Guideline for the Application of Tax Deductions for Contributions to a Charity or Community Project to Fight Against the COVID-19 Outbreak

The MOF has released the updated [Guideline for the Application for Tax Deductions for Contributions to a Charity or Community Project to Fight Against the COVID-19 Outbreak](#). The updated Guideline would apply to contributions made from 1 April 2022 until 31 December 2022. The notable changes include:

- Qualifying charity or community projects are limited to Government projects;
- Qualifying contributions are limited to equipment and disposable items;
- Qualified recipients for the contributions are limited to Government agencies, hospitals and schools; and
- A tax deduction is no longer applicable for contributions made to Vaccination Administration Centres (PPVs).

The updated Guideline is only available in the Malay Language.

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

Guideline for the Application for Approval of a COVID-19 Relief Fund

The MOF has released the updated [Guideline on the Application for Approval of a COVID-19 Relief Fund under Subsection 44\(11C\) of the ITA](#). The updated Guideline would take effect from 1 April 2022 until 31 December 2022. The notable changes include:

- Qualifying contributions are limited to cash, equipment and disposable items;
- Contributions to private hospitals are no longer qualified; and
- The application period is extended until 31 December 2022 (previously 30 June 2021) or when the COVID-19 pandemic is declared over, whichever is earlier.

The updated Guideline is only available in the Malay Language.

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

Stamp Duty



Stamp Duty

The relevant authorities have issued the following:

Stamp Duty Remission on Contract Notes for the Sale of Listed Shares or Stock

The [Stamp duty \(Remission\) 2003 \(Amendment\) Order 2022](#) and [Stamp duty \(Remission\) Order 2022](#) have been gazetted to increase the stamp duty cap for contract notes relating to the sale of listed shares or stock, from RM200 to RM1,000 for the period from 1 January 2022 to 31 December 2026.

The stamp duty remission on contract notes for the sale of marketable securities remained at RM200.

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

Stamp Duty Exemption for the Sabah Development Corridor and the East Coast Economic Region

Sabah Development Corridor

The [Stamp Duty \(Exemption\) \(No. 8\) Order 2018](#) provides a stamp duty exemption on instruments for the transfer of real property, used for the purposes of carrying on an approved tourism project in relation to a hotel or resort in the Sabah Development Corridor. The instrument must have been executed by 31 December 2020, and the exemption application shall be supported by a letter confirming the purpose of the instrument, from the Sabah Economic Development and Investment Authority.

The [Stamp Duty \(Exemption\) \(No. 8\) 2018 \(Amendment\) Order 2022](#) has been gazetted to extend the exemption period for another 2 years until 31 December 2022.

East Coast Economic Region

The [Stamp Duty \(Exemption\) \(No. 2\) Order 2016](#) provides stamp duty exemption on instruments for the transfer of real property, or lease of land or building, used for the purpose of carrying on a qualifying activity in the East Coast Economic Region. The instrument must have been executed by 31 December 2020, and the exemption application shall be supported by a letter confirming the purpose of the instrument, from the East Coast Economic Region Development Council.

The [Stamp Duty \(Exemption\) \(No. 2\) 2016 \(Amendment\) Order 2022](#) has been gazetted to extend the exemption period for another 2 years until 31 December 2022.

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

Remission of Tax and Stamp Duty on Islamic Medium Term Notes Programme

The [Loans Guarantee \(Bodies Corporate\) \(Remission of Tax and Stamp Duty\) Order 2022](#) with its [Corrigendum](#) have been gazetted and came into operation on 2 April 2022.

The Order provides for a full remission of income tax and stamp duty payable for instruments in relation to:

- (1) the Islamic Medium Term Notes issued or to be issued by TRX City Sdn Bhd pursuant to the Islamic Medium Term Notes Programme, with a nominal value of up to RM2.9 billion;

- (2) the Syndicated Revolving Credit Islamic Facility obtained or to be obtained by TRX City Sdn Bhd, with the aggregate principal amount not exceeding RM1 billion; and
- (3) the guarantee given or to be given by the Government of Malaysia relating to Items (1) and (2) above.

The combined aggregate of the outstanding nominal value of items (1) and (2) above shall not exceed RM2.9 billion.

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

Remission of Tax and Stamp Duty on the Term Financing-i Facility

The [Loans Guarantee \(Bodies Corporate\) \(Remission of Tax and Stamp Duty\) \(No. 3\) Order 2022](#) has been gazetted to provide a full remission of income tax and stamp duty payable for instruments or guarantee in relation to:

- (1) the Term Financing-i Facility obtained by the Public Sector Home Financing Board from CIMB Islamic Bank Berhad. The aggregate principal amount shall not exceed RM1 billion; and
- (2) the guarantee given or to be given by the Government of Malaysia relating to Item (1) above.

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

Expansion of Scope of Remission of Tax and Stamp Duty to Syndicated Revolving Credit-i Facility

The [Loans Guarantee \(Bodies Corporate\) \(Remission of Tax and Stamp Duty\) \(No. 6\) Order 2020](#) provides a full remission of income tax and stamp duty payable for instruments or guarantee in relation to:

- (1) the Islamic Medium Term Notes issued by the Federal Land Development Authority pursuant to the Islamic Medium Term Notes Programme, with a nominal value of up to RM9.9 billion; and
- (2) the guarantee given by the Government of Malaysia relating to Item (1) above.

The [Loans Guarantee \(Bodies Corporate\) \(Remission of Tax and Stamp Duty\) \(No. 6\) 2020 \(Amendment\) Order 2022](#) has been gazetted to expand the scope of remission to Syndicated Revolving Credit-i Facility obtained or to be obtained by the Federal Land Development Authority. The aggregate principal amount shall not exceed RM6 billion. The combined aggregate of the outstanding nominal value of item (1) above and Syndicated Revolving Credit-i Facility shall not exceed RM9.9 billion.

The Amendment Order comes into operation on 4 June 2022.

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

Insights on Earlier Tax Whiz

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

No	Subject Matter	Date of Issue
1	Postponement of Implementation of Excise Duty on Premixed Beverages	01.04.2022
2	New e-Telegraphic Transfer System for Tax Payments	05.04.2022
3	Exclusion of Foreign Source Income from Cukai Makmur Computation	07.04.2022
4	Sales Tax Policy 1/2022 – Sales Tax Exemption on Pallets	12.04.2022
5	Tax Corporate Governance Framework and Guidelines	15.04.2022
6	Customs Duties Order 2022 Released	20.04.2022
7	Tax Audit Framework 2022, Finance and Insurance Tax Audit Framework 2022, Petroleum Tax Audit Framework 2022	29.04.2022
8	New Tax Landscape for Unit Trust Funds	05.05.2022
9	Further developments in relation to HS 2022 Implementation	27.05.2022
10	Indirect Tax Orders 2022	01.06.2022

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

Abbreviation	Reference
COVID-19	Coronavirus Disease 2019
FAQ	Frequently Asked Question
ITA	Income Tax Act 1967
MIDA	Malaysian Investment Development Authority
MIRB	Malaysian Inland Revenue Board
MOF	Ministry of Finance
VCC	Venture Capital Company
VCMC	Venture Capital Management Company
YA	Year of Assessment

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