

# Tax Developments –

4th Quarter 2021

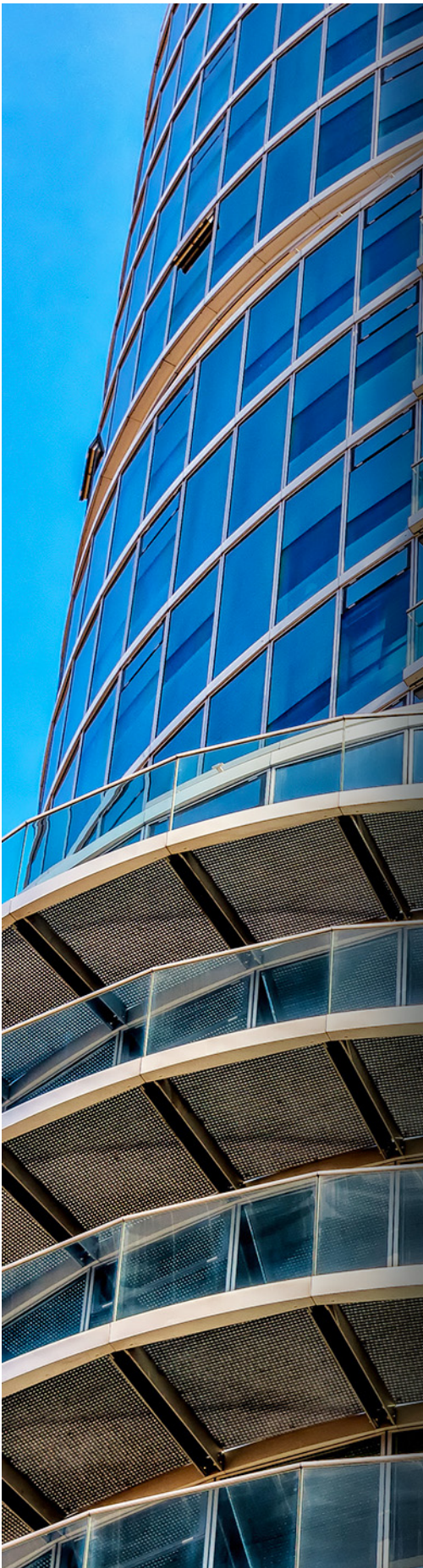


11 January 2022

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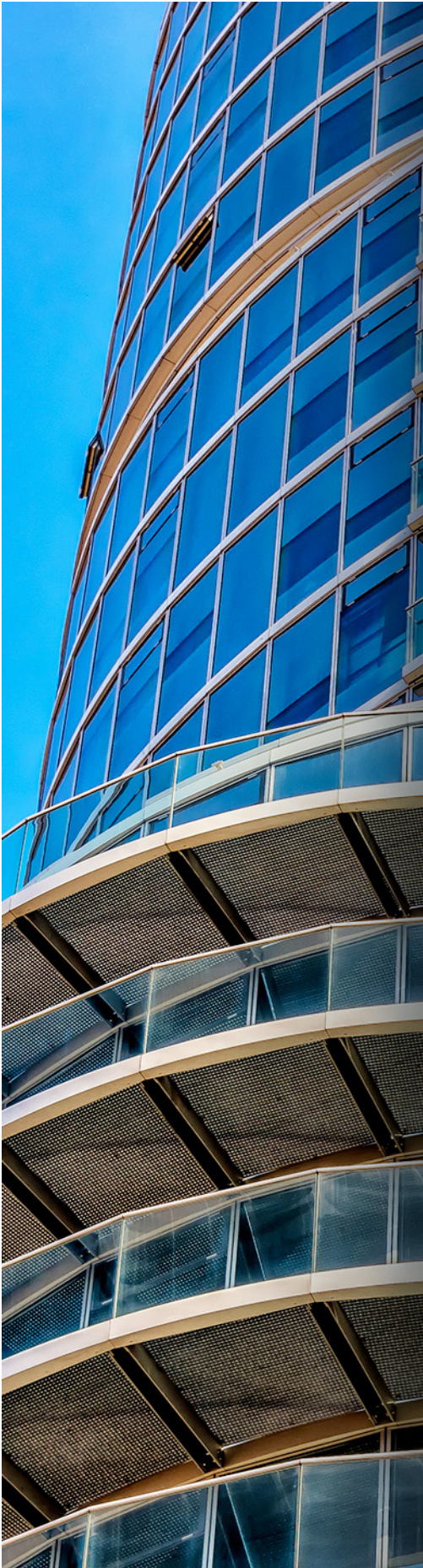


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# Income Tax



# Income Tax

The relevant authorities have issued the following:

## Double Deduction for Costs of Implementation of Flexible Work Arrangements

Further to the announcement under the PENJANA package, the [Income Tax \(Deduction for the Costs of Implementation of Flexible Work Arrangements\) Rules 2021](#) have been gazetted to provide double deduction on qualifying expenses incurred by a qualifying person in implementing flexible work arrangements.

The Rules are deemed to have effect from YA 2020. An application has to be made to Talent Corporation Malaysia Berhad on or after 1 July 2020 but not later than 31 December 2022 to enjoy the said tax incentive. The qualifying expenses incurred are allowed for a tax deduction for 3 YAs commencing from the YA in the basis period in which the certification is obtained, but is capped at RM500,000 per YA and must be verified by Talent Corporation Malaysia Berhad.

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

## Double Deduction for Training Costs under National Dual Training System

Further to the proposals made in the 2019 Budget and 2020 Budget, the [Income Tax \(Deduction for Training Costs Under National Dual Training System \(NDTS\)\) Rules 2021](#) have been gazetted to provide double deduction to a qualifying company on qualifying expenditure incurred in participating in the National Dual Training System – Industry4WRD Programme (“the Programme”).

The Rules are deemed to have come into operation from YA 2019 and shall apply to the Programme which is implemented and approved by the Ministry of Human Resources within the period from 1 January 2019 until 31 December 2021. A taxpayer which has filed its tax return for YA 2019 to YA 2021 may submit a revised tax return in order to claim the above incentive. The revision must be made by 31 December 2026.

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

## Income Tax Treatment for Bank or Development Financial Institution Which Adopts MFRS 9: Financial Instruments

The [Income Tax \(Special Treatment for Bank or Development Financial Institution which Adopt MFRS 9: Financial Instruments\) Regulations 2021](#) have been gazetted to prescribe the income tax treatment from the adoption of MFRS 9 by a bank or development financial institution, that is licensed under the Financial Services Act 2013, the Islamic Financial Services 2013 or prescribed under the Development Financial Institutions Act 2002. The effective date of the Regulations are as follows:

Accounting Period of the Bank or Development Financial Institution	Effective Date
Ending on 31 December	YA 2018
Ending on a day other than 31 December	YA 2019

The MIRB has subsequently issued its [Technical Guidelines](#) together with its Appendices (i.e Appendix 1 and Appendix 2), to provide further clarification and guidance on the tax treatment.

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

## Further Deduction for Expenses in Relation to the Cost of Detection Test of COVID-19 for Employees

Further to the announcement under the PERMAI and PEMERKASA packages, the long awaited [Income Tax \(Deduction for Expenses in relation to the Cost of Detection Test of COVID-19 for Employees\) Rules 2021](#) have been gazetted. The Rules provide a further deduction against the business income of resident employers in respect of the cost of COVID-19 detection test provided to its employees within the period from 1 January 2021 until 31 December 2021. The further deduction claim must be supported by the receipt and certification issued by a medical practitioner registered with the Malaysian Medical Council or a medical practitioner registered outside Malaysia that the COVID-19 detection test has been provided to the employees.

The Rules have effect from YA 2021. A taxpayer which has filed its tax return for YA 2021 may submit a revised tax return in order to claim the above incentive. The revision must be made by 31 December 2026.

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

## Income Tax Rules on Exchange of Information

Under the [Income Tax \(Exchange of Information\) Rules 2011](#) ("Rules 2011"), the DGIR may by notice, require a person to provide information as requested by a competent authority pursuant to the respective DTA. Where the DGIR fails to obtain the requested information from that person, a bank (as specified) which has the information of such person may be required to provide the said information. Notwithstanding this, the DGIR may make a request from the bank without first making a request from that person subject to the relevant banking rules.

The [Income Tax \(Exchange of Information\) Rules 2021](#) have subsequently been gazetted to replace the Rules 2011, with the following notable changes:

- Expansion of the scope of "bank" to include a Labuan company or bank licensed under the Labuan Financial Services and Securities Act 2010 or the Labuan Islamic Financial Services and Securities Act 2010; and
- Expansion of the information required to be disclosed to those pursuant to arrangement under Section 132B of the ITA i.e. mutual administrative assistance arrangement.

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

## Expansion of Scope of Tax Incentive for Commercialisation of Research and Development Findings for Non-resource Based Activities

Under the [Income Tax \(Exemption\) \(No. 13\) Order 2013](#), an income tax exemption for 10 YAs is given to a subsidiary company that undertakes commercialisation of research and development findings of a public research institute or public institute of higher learning in Malaysia, for the non-resource based activity or product listed in the Schedule of the Order. Non-resource based activities / products are subject to the list of promoted activities / products under the Promotion of Investments Act 1986.

Further to the 2021 Budget proposal, the [Income Tax \(Exemption\) \(No. 13\) 2013 \(Amendment\) Order 2021](#) has been gazetted to expand the scope of tax incentive to include commercialisation of research and development findings by a private institution of higher learning in Malaysia. The Amendment Order has effect from YA 2021.

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



## Double Deduction for Sponsoring Scholarship to Malaysian Students

Further to the proposals announced in the 2015 Budget and 2019 Budget, the following Income Tax Deduction Rules have been gazetted to provide double deduction to a qualifying company on qualifying expenditure incurred in sponsoring scholarship to qualifying students pursuing full-time course of study as follows:

Income Tax Deduction Rules	Field of Study	Effective Date
<a href="#">Income Tax (Deduction for the Sponsorship of Scholarship to Malaysian Students Pursuing Studies in the Field of Engineering and Technology at the Technical and Vocational Certificate, Diploma or Bachelor's Degree Levels) Rules 2021</a>	In the field of engineering and technology at technical and vocational certificate levels in a recognized institution or at diploma or bachelor's degree level in a higher educational institution	From YA 2019 (for scholarship agreements executed with the students on or after 1 January 2019 but not later than 31 December 2021)
<a href="#">Income Tax (Deduction for the Sponsorship of Scholarship to Malaysian Student Pursuing Studies at the Technical and Vocational Certificate Levels) Rules 2021</a>	Any field at technical or vocational certificate levels in a recognized institution	From YA 2015 (for scholarship agreements executed with the students on or after 11 October 2014 but not later than 31 December 2016)

A taxpayer which has filed its tax return without claiming the above incentives, where relevant, may submit a revised tax return. The revision must be made by 31 December 2026.

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

## Deduction for Expenses in Relation to Secretarial Fee and Tax Filing Fee

Under the [Income Tax \(Deduction for Expenses in relation to Secretarial Fee and Tax Filing Fee\) Rules 2020](#), effective from YA 2020, a resident person is eligible for a special deduction claim on qualifying secretarial fee and tax filing fee incurred and paid in the basis period for a YA, up to a maximum deduction of RM15,000 per YA.

The [Income Tax \(Deduction for Expenses in relation to Secretarial Fee and Tax Filing Fee\) \(Amendment\) Rules 2021](#) have been gazetted to provide that, the special deduction is now accorded in the YA the qualifying fee is incurred, regardless whether the fee is paid. However, the Amendment Rules are only applicable to fee incurred from YA 2022. Any qualifying fees incurred in the basis period for YA 2020 and YA 2021, shall be paid before a deduction is allowed.

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

## Further Tax Developments for Labuan Entities

### Substantial Activity Requirements for LITC

Subsequent to the [LFSA's circular on revision to substantial activity requirements for LITC under the Global Incentive for Trading Programme](#), the [Labuan Business Activity Tax \(Requirements for Labuan International Commodity Trading Company\) Regulations 2021](#) have been gazetted to prescribe the substantial activity requirements for LITC as follows:

Effective Date	Substantial Activity Requirements	
	Number of Full-time Employees	Annual Operating Expenditure
From 1 January 2019 until 31 December 2020	3	RM3,000,000

From 1 January 2021:		
(i) 5 or less related LITC companies	3 (including at least 2 of them are full-time employees in the business operational office in Labuan in a group of companies)	RM3,000,000 per entity in Malaysia (including at least RM100,000 in Labuan)
(ii) More than 5 related LITC companies	1 additional full-time employee for each increase of 5 related LITC companies	RM3,000,000 per entity in Malaysia (including at least RM100,000 in Labuan)

### Expansion of Scope of Income Tax Exemption for LITC

Based on the [Labuan Business Activity Tax \(Exemption\) Order 2013](#) and the [Labuan Business Activity Tax \(Exemption\) 2013 \(Amendment\) Order 2017](#), an income tax exemption for a period of 3 consecutive years commencing from the first year of operation is given to a LITC, on income derived from trading of physical products and related derivative instruments in relation to liquefied natural gas with non-resident companies in non-Malaysian currency.

As proposed in the 2019 Budget, the [Labuan Business Activity Tax \(Exemption\) 2013 \(Amendment\) Order 2021](#) has been gazetted to abolish the restriction from transacting in Malaysian currency as well as between a Labuan entity and a Malaysian resident.

The Amendment Order is deemed to have come into operation on 1 January 2019. A taxpayer may submit a revised tax return in order to claim the above tax exemption.

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

### Extension of Tax Incentives for Tun Razak Exchange Marquee Status Company

A Tun Razak Exchange Marquee status company has been granted several tax incentives which had previously ended on 31 December 2020. The amendment Rules have been gazetted to extend the tax incentives as follows:

Principal Rules	Amendment Rules	Subject Matter	Effective Date
<a href="#">Income Tax (Industrial Building Allowance) (Tun Razak Exchange Marquee Status Company) Rules 2013</a>	<a href="#">Income Tax (Industrial Building Allowance) (Tun Razak Exchange Marquee Status Company) (Amendment) Rules 2021</a>	<ul style="list-style-type: none"> <li>Industrial building allowance on qualifying building expenditure incurred up to 31 December 2025 on the construction or purchase of a commercial building or part of a commercial building located in the Tun Razak Exchange.</li> <li>The expansion of the application of the 10% de minimis rule in determining the area of building qualifies as an industrial building by including building purchased, besides from own construction.</li> </ul>	From YA 2014



<a href="#">Income Tax (Accelerated Capital Allowance) (Tun Razak Exchange Marquee Status Company) Rules 2013</a>	<a href="#">Income Tax (Accelerated Capital Allowance) (Tun Razak Exchange Marquee Status Company) (Amendment) Rules 2021</a>	Accelerated capital allowance at the rate of 20% initial allowance and 40% annual allowance on qualifying renovation costs incurred from 1 January 2014 to 31 December 2025 on a building or part of a building located in the Tun Razak Exchange used for business purpose.	From 1 January 2014
<a href="#">Income Tax (Deduction for Relocation Costs for Tun Razak Exchange Marquee Status Company) Rules 2013</a>	<a href="#">Income Tax (Deduction for Relocation Costs for Tun Razak Exchange Marquee Status Company) (Amendment) Rules 2021</a>	A deduction for relocation costs incurred by the Tun Razak Exchange Marquee status company to relocate the whole or part of its business to the Tun Razak Exchange, provided such relocation takes place not later than 31 December 2025.	From YA 2021
<a href="#">Income Tax (Deduction for Rental Payments) (Tun Razak Exchange Marquee Status Company) Rules 2013</a>	<a href="#">Income Tax (Deduction for Rental Payments) (Tun Razak Exchange Marquee Status Company) (Amendment) Rules 2021</a>	A further deduction equivalent to 50% of the rental payments incurred on the rented commercial building used for business purpose in the Tun Razak Exchange, for a period of 10 years from the date of commencement of business, provided the business commences not later than 31 December 2025.	From YA 2021

A taxpayer which has filed its tax return without claiming the above incentives, where relevant, may submit a revised tax return. The revision must be made by 31 December 2026.

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

## Income Tax Exemption for Company Undertaking Development within the Tun Razak Exchange

Under the [Income Tax \(Exemption\) \(No. 4\) Order 2013](#) ("Order 2013"), an income tax exemption is given to an approved developer, which undertakes development within the Tun Razak Exchange, of up to 70% of statutory income derived from:

- (1) The disposal of any building or rights over any building or part of a building up to YA 2022, subject to a maximum 5 consecutive YAs commencing from the YA in which the approved developer first derives statutory income from such disposal; and
- (2) The rental of a building or part of a building up to YA 2027, subject to a maximum 5 consecutive YAs commencing from the YA in which the approved developer first derives statutory income from the rental activity.

Apart from rectifying the grammatical and referencing errors, the [Income Tax \(Exemption\) \(No. 4\) 2013 \(Amendment\) Order 2021](#) has been gazetted to extend the incentive period for Item (1) above to YA 2025. The special provision in the Order 2013 has also been amended to clarify that, the Income Tax (Property Development) Regulations 2007 shall apply to any income (previously relates to income from projects using sell-then-build method) of the approved developer derived from the business referred to in Item (1) above, with the exclusion of Regulation 6 on income from projects using build-then-sell method.

The Amendment Order is deemed to have effect from YA 2013.

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

## Extension of Income Tax Exemption for Export of Private Healthcare Services

Under the Income Tax (Exemption) (No. 9) 2002 ("Order 2002"), effective from YA 2002, an income tax exemption is given to a resident person on income derived from the export of private healthcare services. The tax exemption is equivalent to 50% of the value of increased exports which can be offset against 70% of statutory income for a YA.

The [Income Tax \(Exemption\) \(No. 9\) 2002 \(Amendment\) Order 2020](#) subsequently increased the exemption on income derived from the export of private healthcare services from 50% of the value of increased exports to 100% of the value of increased exports, subject to meeting additional conditions imposed. The Amendment Order is effective from YA 2018 to YA 2020.

Further to the 2021 Budget proposal, the [Income Tax \(Exemption\) \(No. 9\) 2002 \(Amendment\) Order 2021](#) removed private healthcare services from the list of qualifying services under the Order 2002, effective from YA 2021. The [Income Tax \(Exemption\) \(No. 13\) Order 2021](#) has then been gazetted to extend the income tax exemption of 100% of the value of increased exports of private healthcare services for another 2 YAs until YA 2022, subject to meeting conditions.

A taxpayer which has filed its tax return for YA 2021 may submit a revised tax return to claim the above incentive. The revision must be made by 31 December 2026.

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

## Additional Conditions for the Grant of Section 6D Tax Rebate for Company or LLP

Effective from YA 2021, under Section 6D a tax rebate, equivalent to the operating or capital expenditure incurred up to a maximum of RM20,000, may be granted for a period of 3 consecutive years from the YA in which a qualifying company or a LLP first commences operation. Apart from the prescribed conditions stated in Section 6D of the ITA, the MOF may impose any other conditions by way of a statutory order.

The [Income Tax \(Conditions for the Grant of Rebate under subsection 6D\(4\)\) Order 2021](#) has been gazetted to prescribe the additional conditions to be fulfilled for the purpose of Section 6D tax rebate claim.

The Order has effect from YA 2021. A taxpayer which has filed its tax return for YA 2021 without claiming the above incentive or has claimed the above incentive should review its eligibility in claiming the tax rebate by reviewing the conditions.

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

## Proposals in the 2022 Budget Coming Into Effect

### Further Deduction for Rental Expense of Premises Used for Employees' Accommodation under the Safe@Work Programme

Following the initial proposal announced under the PEMERKASA package which was further extended in the 2022 Budget, the long awaited [Income Tax \(Deduction for Expenditure on Provision of Employees' Accommodation\) Rules 2021](#) have been gazetted. A further deduction is given to qualifying manufacturing and manufacturing-related service companies on rental expense of premises used for employees' accommodation under the Safe@Work programme. The accommodation must be certified with a Certificate for Accommodation in accordance to the Employees' Minimum Standards of Housing, Accommodations and Amenities Act 1990, and excludes accommodation for directors. The Rules are

applicable for rental expense incurred within the period from 1 January 2021 to 31 December 2022 and the deduction is limited to RM50,000 per company.

The Rules have effect from YA 2021. A taxpayer which has filed its tax return for YA 2021 may submit a revised tax return in order to claim the above incentive. The revision must be made by 31 December 2026.

### Income Tax Exemption for Organising Arts, Cultural, Sports and Recreational Activities in Malaysia

Subsequent to the proposal made in the 2020 Budget which was further extended in the 2022 Budget, the [Income Tax \(Exemption\) \(No. 12\) Order 2021](#) has been gazetted to provide an income tax exemption of 50% on statutory income of a Malaysian incorporated company, or a society or organization registered under the Societies Act that organises:

- Arts or cultural activities approved by the Ministry of Tourism, Arts and Culture, with participation of foreign nationals who have performed at least three performances in any countries other than their own. The arts or cultural activities must be held in Malaysia at the Istana Budaya, National Visual Arts Gallery or Petronas Philharmonic Hall.
- Any form of sports or recreational competition of international standard held in Malaysia and approved by the Ministry of Youth and Sports, with the participation of foreign nationals from a number of countries.

The Exemption Order has effect from YA 2020 until YA 2025.

### Extension of Special Deduction for Rental Reduction Offered to SME and Non-SME Tenants

The [Income Tax \(Special Deduction for Reduction of Rental to a Small and Medium Enterprise\) \(Amendment\) Rules 2021](#) and the [Income Tax \(Special Deduction for Reduction of Rental to a Tenant other than a Small and Medium Enterprise\) \(Amendment\) Rules 2021](#) extends the incentive period in respect of the special deduction for rental reduction for another 6 months until 30 June 2022, for landlords who rent out their business premises to resident SMEs and resident non-SMEs, subject to a monthly rental reduction of at least 30%.

### Extension of Special Deduction for Costs of Renovation and Refurbishment of Business Premise

The [Income Tax \(Costs of Renovation and Refurbishment of Business Premise\) \(Amendment\) Rules 2021](#) extend the special deduction claim for qualifying costs of renovation and refurbishment of business premise incurred up to 31 December 2022 (previously until 31 December 2021), which is subject to a maximum deduction of RM300,000 per entity.

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

## Public Rulings

The MIRB has issued the following PRs and technical guideline:

PR / Guideline	PR Replaced	Remarks / Notable Changes
<a href="#">PR 5/2021: Taxation of a Resident Individual Part I - Gifts or Contributions and Allowable Deductions</a>	<a href="#">PR 8/2020</a>	<ul style="list-style-type: none"> <li>▪ To incorporate the amendments made to the legislation which were proposed in the 2021 Budget and PENJANA.</li> <li>▪ No notable changes.</li> </ul>
<a href="#">PR 6/2021: Notification of Change of Accounting Period by a Company / Limited LLP / Trust Body / Co-Operative Society</a>	<a href="#">PR 8/2019</a>	<ul style="list-style-type: none"> <li>▪ To incorporate the amendments made to the <a href="#">MIRB's Operational Guideline 1/2021 – Furnishing ETP under Section 107C of the ITA</a>.</li> <li>▪ A company under liquidation is required to furnish Form CP204B not later than 30 days after the appointment of a</li> </ul>



		liquidator (previously required to furnish upon appointment of liquidator).
<a href="#">PR 7/2021: Taxation of Partnerships Part I - Determination of the Existence of a Partnership</a>  <a href="#">PR 8/2021: Taxation of Partnerships Part II - Computation and Allocation of Income</a>	-	<ul style="list-style-type: none"> <li>▪ To explain the determination of the existence of a partnership for income tax purposes, the income tax computation of a partnership and ascertainment of the respective partners' share of income or loss.</li> <li>▪ In line with the current legislation.</li> </ul>
<a href="#">PR 9/2021: Private Retirement Scheme</a>	<a href="#">PR 9/2014</a>	<ul style="list-style-type: none"> <li>▪ To incorporate changes made to the legislation since the issuance of earlier PR.</li> <li>▪ No notable changes.</li> </ul>
<a href="#">PR 10/2021: Tax Treatment of Research and Development Expenditure Part II - Special Deductions</a>  <a href="#">Guidelines on the Application Procedure for a Special Deduction in Respect of a Qualifying Research and Development Activity</a>	<a href="#">PR 6/2020</a>	<ul style="list-style-type: none"> <li>▪ To incorporate changes made to the legislation since the issuance of earlier PR.</li> <li>▪ No notable changes.</li> <li>▪ To incorporate changes made to the legislation since the issuance of earlier <a href="#">Guideline</a>.</li> <li>▪ New application criteria where the duration of extension projects for S34A is expected to be more than 12 months.</li> <li>▪ Application Forms also have been updated.</li> </ul>
<a href="#">PR 11/2021: Bilateral Credit And Unilateral Credit</a>	<a href="#">PR 11/2011</a>	<ul style="list-style-type: none"> <li>▪ Has not taken into account the changes made in the Finance Act 2021 for the repeal of income tax exemption on foreign source income.</li> <li>▪ To incorporate changes made to the legislation since the issuance of earlier PR.</li> <li>▪ No notable changes.</li> </ul>

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

## Special Revision of Income Tax Estimation for all Businesses in 11th Month of the Basis Period and Deferment of Tax Instalment Payments for MSMEs

Further to the proposals made in the 2022 Budget, the MIRB has issued its FAQ on 25 November 2021 to provide clarification on the revision of income tax estimates for all businesses in the 11<sup>th</sup> month of the basis period for YA 2021 and YA 2022 and the deferment of CP204 and CP500 tax instalment payments for MSMEs.

In the MIRB's latest [updated FAQ](#) on 3 December 2021, the following notable changes are observed:

- The 11<sup>th</sup> month revised ETP amount will be taken for the computation of penalties for underestimation of tax payable for a YA;
- The initial ETP for the following YA shall not be less than 85% of the current YA's initial ETP or revised ETP (including the 11<sup>th</sup> month revision), if any;
- A LLP is regarded as a MSME for the purpose of deferment of tax instalment payments if it meets the condition as prescribed under Paragraph 2D, Schedule 1 of the ITA (i.e. having a contribution of capital of less than or equal to RM2.5 million at the beginning of the basis period for a YA, and a gross business income of RM50 million and below for that YA).

Based on the clarification obtained from the MIRB, the related company proviso under Paragraphs 2E and 2F, Schedule 1 of the ITA are irrelevant in determining the applicability for the deferment.

The FAQ are only available in the Malay Language.

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

## Discontinuation of Tax Concession Given under the FAQ on International Tax Issues Due to COVID-19 Travel Restrictions

The MIRB had earlier issued / updated the above FAQ in response to international tax issues that have arisen due to COVID-19 travel restrictions, which provides guidance for issues on individual or corporate tax residence, permanent establishments as well as cross border employment income. The MCO period referred therein is from 18 March 2020 as prescribed and extended by the Ministerial order made under Section 11 of the Prevention and Control of Infectious Diseases Act 1988 as gazetted from time to time.

By gazetting of the [Prevention and Control of Infectious Diseases \(Declaration of Infected Local Areas\) \(Extension of Operation\) \(No. 3\) Order 2021](#), the government has extended the MCO period to 30 June 2022 (previously until 31 December 2021).

Nevertheless, based on the [updated FAQ](#) issued by the MIRB, the concessions on tax treatment for international tax issues due to COVID-19 travel restrictions, will end on 31 December 2021.

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

## FAQ on Implementation of TIN

Following the introduction of provision on the use of TIN in the ITA, Real Property Gains Tax Act 1976 and Stamp Act 1949 respectively in the recently gazetted Finance Act 2021, which came into operation on 1 January 2022, the MIRB has issued its [FAQ](#) to provide further clarification on the implementation of TIN and procedure to apply or check for the TIN registration.

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

## Special Guideline on the Application of Income Tax Deduction for Charity or Community Projects to Curb COVID-19 Pandemic

The MOF has released the above [Updated Guideline](#). Amongst others, the notable changes are as follows:

- Qualifying charity / community projects include COVID-19 vaccination;
- The scope of qualifying contributions is expanded to include air purifier / filtration, raw food, ready-to-eat food, rental of temporary infrastructure such as marquee tent, preparation of COVID-19 vaccination venues such as empty halls / spaces and services / facilities / equipments / supplies that are related to vaccination centres; and
- The Updated Guideline is effective for contributions made to qualified vaccination centres nationwide from 19 April 2021 until the date the Government of Malaysia declares that the COVID-19

pandemic is over. Tax deduction claims can be made from YA 2021. The application must be submitted to the MOF within 30 days from the date of contribution.

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

## Guideline for Green Technology Incentive

MIDA has released the above [Updated Guideline](#) for green technology incentive. Amongst others, the notable changes are as follows:

- Additions of eligible criteria for GITA.
- Clarification that GITA can be claimed in the same basis period for a YA together with the following incentives, if any:
  - a) Investment Tax Allowance under the PIA, Reinvestment Allowance under Schedule 7A of the ITA, Investment Allowance for service sector under Schedule 7B of the ITA, or Investment Tax Allowance under P.U.(A) 113/2006 on different assets; and
  - b) Pioneer Status under the PIA or income tax exemption under P.U.(A) 112/2006, where GITA allowance can only be absorbed after the expiry of the pioneer / exemption period.
- Further elaboration and clarification on the scope of qualifying activities for solar leasing and the requirement of competent personnel for services qualified under the Green Income Tax Exemption incentive.

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

## FAQ on the Scope of “Other Trading Activity” under the Labuan Business Activity Tax (Requirements for Labuan Business Activity) Regulations 2021

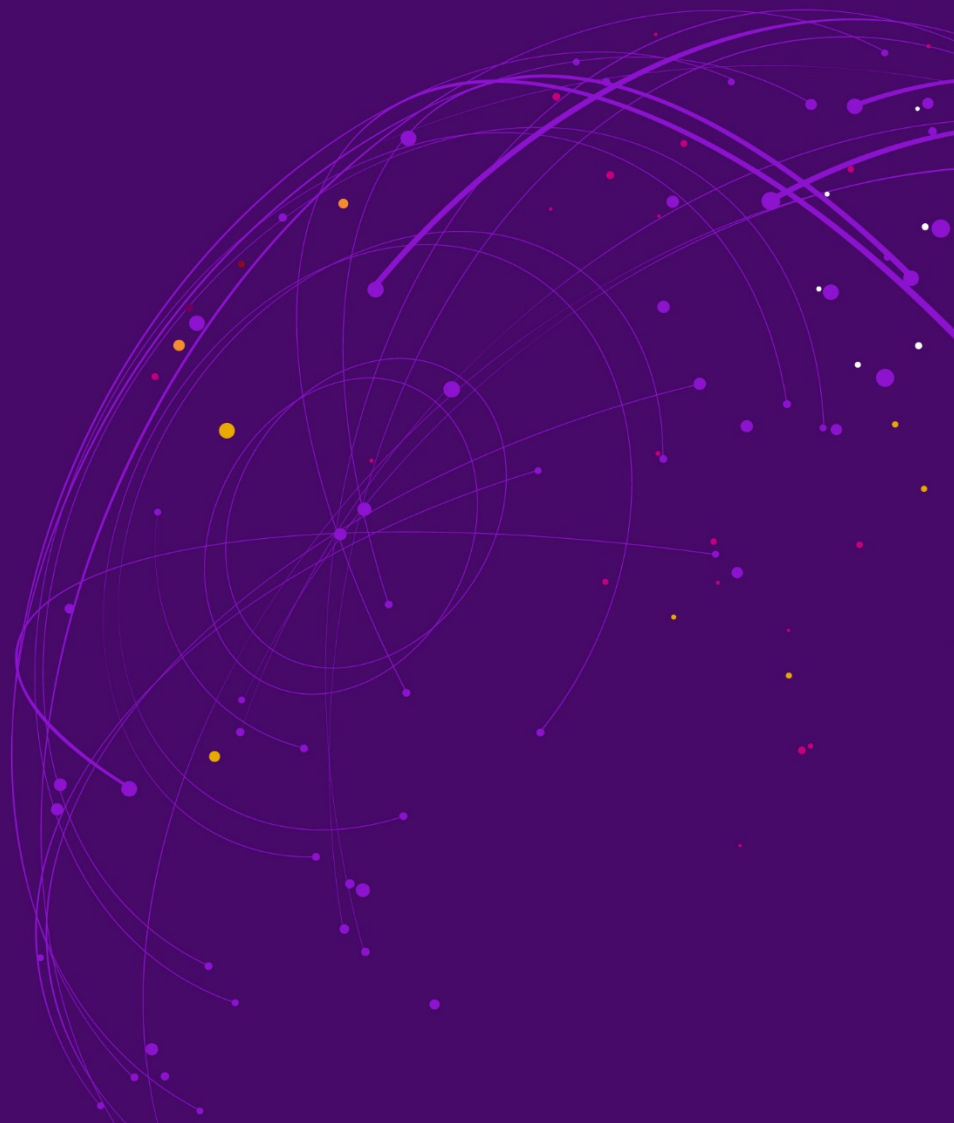
Under the recently gazetted [Labuan Business Activity Tax \(Requirements for Labuan Business Activity\) Regulations 2021](#), the list of Labuan business activities has been expanded to include “other trading activity”, as proposed in the [LFSA’s Circular on Addition to the Revised Substance Regulations](#). The other activities covered would be administrative services, accounting services, legal services, backroom processing services, payroll services, talent management services, agency services, insolvency related services and management services other than Labuan company management.

The LFSA has subsequently issued its [FAQ](#) to provide further clarification and guidance on the type of business activities that would be covered in the above scope, pending the issuance of guidelines under Section 4A of the Labuan Financial Services Authority Act 1996.

Source for the FAQ: Official portal of [LFSA](#)



# Stamp Duty



# Stamp Duty

The MIRB has issued the following:

## Stamp Duty Exemption for Various Facilities

The following Exemption Orders have been gazetted to provide stamp duty exemption for various facilities for SMEs:

Exemption Orders	Type of Facilities and the Instruments Being Exempted	Parties to the Instruments Executed	Qualifying Period
<a href="#">Stamp Duty (Exemption) (No. 12) Order 2021</a>	Targeted Relief and Recovery Facility approved under Bank Negara Malaysia's Fund – Instrument of loan or financing agreement executed pursuant to a letter of offer issued by the participating financial institution, stating the approval of the loan or facility	A participating financial institution with SMEs as defined under Section 2 of the SMIDCA	Letter of offer issued on or after 1 December 2020 but not later than 31 December 2021
<a href="#">Stamp Duty (Exemption) (No. 13) Order 2021</a>	Targeted Relief and Recovery Facility approved under the Bank Negara Malaysia's Fund – Instrument of loan or financing agreement	Bank Negara Malaysia with the participating financial institution	Instrument executed on or after 1 December 2020 but not later than 31 December 2021
<a href="#">Stamp Duty (Exemption) (No. 14) Order 2021</a>	High Tech Facility – National Investment Aspirations approved under the Bank Negara Malaysia's Fund – Instrument of loan or financing agreement executed pursuant to a letter of offer issued by the participating financial institution, stating the approval of the loan or facility	A participating financial institution with SMEs as defined under Section 2 of the SMIDCA	Letter of offer issued on or after 15 December 2020 but not later than 31 December 2021

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

## Stamp Duty Exemption for Restructuring and Rescheduling of Loans or Financing

Under the [Stamp Duty \(Exemption\) \(No. 11\) Order 2021](#), an instrument of loan or financing agreement relating to the restructuring or rescheduling of loans or financing between a borrower / customer and a financial institution is, on application, exempted from stamp duty. The instrument must have been executed by 31 December 2021 and the exemption application shall be supported by a relevant document relating to the restructuring or rescheduling of that loan or financing.

Further to the announcement of the 2022 Budget proposals, the [Stamp Duty \(Exemption\) \(No. 11\) 2021 \(Amendment\) Order 2021](#) has been gazetted to extend the stamp duty exemption period for another 1 year until 31 December 2022.

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

## Stamp Duty Exemption for Perlindungan Tenang Products

Under the [Stamp Duty \(Exemption\) \(No. 5\) Order 2018](#) and the [Stamp Duty \(Exemption\) \(No. 5\) 2018 \(Amendment\) Order 2020](#), Perlindungan Tenang Products with an annual premium or contribution value not exceeding RM100, are exempted from stamp duty. The stamp duty exemption is applicable to insurance policies and takaful certificates issued from 1 January 2019 to 31 December 2025.

As announced under the 2022 Budget proposals, the [Stamp Duty \(Exemption\) \(No. 5\) 2018 \(Amendment\) Order 2021](#) has been gazetted to increase the annual premium or contribution value eligible for stamp duty exemption under the Perlindungan Tenang Products from RM100 to RM150. The Amendment Order 2021 came into operation on 1 January 2022.

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

## Stamp Duty Exemption for Insurance Policies or Takaful Certificates for Individuals and MSMEs

Further to the 2022 Budget announcement, the following Exemption Orders have been gazetted to provide stamp duty exemption on insurance policies or takaful certificates for products approved by the Central Bank of Malaysia to be offered by a licensed insurer or takaful operator:

Exemption Orders	Qualifying Persons	Annual premium / contribution value
<a href="#">Stamp Duty (Exemption) (No. 15) Order 2021</a>	MSMEs	Not exceeding RM250
<a href="#">Stamp Duty (Exemption) (No. 16) Order 2021</a>	Individuals	Not exceeding RM150

The stamp duty exemption shall be applicable on any insurance policies or takaful certificates issued on or after 1 January 2022 but not later than 31 December 2025.

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

## Stamp Duty Exemption on Peer-to-Peer Loan or Financing Agreements

To facilitate broader access by MSMEs to alternative financing and to reduce the financing cost, as proposed in the 2022 Budget, the [Stamp Duty \(Exemption\) \(No. 17\) Order 2021](#) has been gazetted to exempt instruments of investment note or Islamic investment note for peer-to-peer financing executed by MSMEs or between MSMEs and the investor (or a person authorized to act on behalf of the investor) from stamp duty.

The stamp duty exemption is subject to the condition that the P2P platform is operated by a P2P operator registered with the Securities Commission Malaysia and shall be applicable on the above instruments executed on or after 1 January 2022 but not later than 31 December 2026.

The Exemption Order came into operation on 1 January 2022.

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



## Stamp Duty Exemption for Approved Merger or Acquisition Instruments Executed by SMEs

Under the [Stamp Duty \(Exemption\) \(No. 3\) Order 2021](#), instruments (as defined) in relation to an approved merger or acquisition executed by SMEs from 1 July 2020 to 31 December 2021 are exempted from stamp duty. The merger or acquisition shall be approved by the Minister of Entrepreneur Development and Cooperatives from 1 July 2020 to 30 June 2021.

Further to the 2022 Budget announcement, the [Stamp Duty \(Exemption\) \(No. 18\) Order 2021](#) has been gazetted to extend the exemption period for another 1 year until 31 December 2022. The merger or acquisition shall be approved by the Minister of Entrepreneur Development and Cooperatives not later than 30 June 2022.

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

# Indirect Tax



# Indirect Tax

## Windfall Profit Levy (Amendment) Act 2021

Effective from 1 January 1999, the Windfall Profit Levy Act 1998 has been introduced to impose a levy on windfall profit derived from a certain produced goods within Malaysia. The levy is currently being imposed on palm oil fruits and electricity production. Nevertheless, independent power producers may choose to make a one-off payment to the government equivalent to a year's windfall levy payment, and not be subjected to the windfall profit levy for that YA.

The [Windfall Profit Levy \(Amendment\) Act 2021](#) has been gazetted on 18 November 2021. The amendments seek to improve the administration of the windfall profit levy through the provision of remission and refund of levies and penalties.

The Amendment Act 2021 has yet to come in force, pending notification by the MOF in the official gazette.

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

## Windfall Profit Levy on Oil Palm Fruit

The windfall profit levy has been imposed on oil palm fruit since year 2008.

As announced in the 2022 Budget proposal, in order to support the sustainability of the oil palm industry, the [Windfall Profit Levy \(Oil Palm Fruit\) \(Amendment\) Order 2021](#) has been gazetted to increase the threshold of CPO prices for imposition of windfall profit levy as well as to streamline the levy rate as follows:

Location	Current		Revised	
	Threshold of CPO prices (RM/metric tonne)	Rates of levy (%)	Threshold of CPO prices (RM/metric tonne)	Rates of levy (%)
Peninsular Malaysia	RM2,500	3.0	RM3,000	3.0
Sabah and Sarawak	RM3,000	1.5	RM3,500	3.0

The Amendment Order 2021 came into operation on 1 January 2022.

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

## New and Revised Guides

The following Guides were issued during the fourth quarter of 2021:

- Guide on Consultancy, Training or Coaching Services (as at 11 October 2021)
- General Guide on Service Tax (revised as at 11 October 2021)
- Guide on Transmission & Distribution of Electricity Services (revised as at 13 October 2021)
- Guide on Credit Card & Charge Card (revised as at 26 October 2021)
- Guide on Professional Services (revised as at 31 October 2021) – only available in the Malay language

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



# Insights on Earlier Tax Whiz

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

No	Subject Matter	Date of Issue
1	<a href="#">Postponement of Implementation of Tourism Tax on Digital Platform Service Provider</a>	01.10.2021
2	<a href="#">Revised European Union's List of Non-Cooperative Jurisdictions for Tax Purposes</a>	08.10.2021
3	<a href="#">OECD Inclusive Framework – 8 October 2021 Agreement</a>	13.10.2021
4	<a href="#">2022 Budget: Thought Leaders</a>	30.10.2021
5	<a href="#">2022 Budget Snapshots</a>	30.10.2021
6	<a href="#">Introduction to Personal Budget-Widget</a>	01.11.2021
7	<a href="#">2022 Budget: Indirect Tax Perspective</a>	01.11.2021
8	<a href="#">G20 Leaders Approve OECD Inclusive Framework on Base Erosion and Profit Shifting 2.0</a>	09.11.2021
9	<a href="#">Finance Bill 2021</a>	10.11.2021
10	<a href="#">Special Programme for Foreign Income Remittance</a>	18.11.2021
11	<a href="#">Labuan Business Activity Tax (Requirements for Labuan Business Activity) Regulations 2021</a>	24.11.2021
12	<a href="#">Deferment of Tax Instalment Payments for SMEs, Special Revision of Income Tax Estimation and Exemption from the Restriction of Tax Deduction on Payments Made to Labuan Companies</a>	26.11.2021
13	<a href="#">Frequently Asked Questions on Special Income Remittance Programme</a>	17.12.2021
14	<a href="#">Introduction of Section 106A in the Income Tax Act, 1967</a>	20.12.2021
15	<a href="#">Update on Base Erosion and Profit Shifting Pillar 2 Agreement – December 2021</a>	23.12.2021
16	<a href="#">Further Development on Amendments Proposed in Finance Bill 2021 and Return Form Filing Programme for the Year 2022</a>	31.12.2021
17	<a href="#">Finance Act 2021</a>	03.01.2022
18	<a href="#">Indirect Tax Updates (VA Programme, Service Tax Policy, Tourism Tax Policy and Excise Duty on e-Cigarettes &amp; Vape)</a>	03.01.2022
19	<a href="#">Updated Service Tax Guides</a>	05.01.2022

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

Abbreviation	Reference
COVID-19	Coronavirus Disease 2019
CPO	Crude Palm Oil
DGIR	Director General of Inland Revenue Board
ETP	Estimated Tax Payable
FAQ	Frequently Asked Question
GITA	Green Investment Tax Allowance
ITA	Income Tax Act 1967
LBATA	Labuan Business Activity Tax Act 1990
LITC	Labuan International Commodity Trading Company
LFSA	Labuan Financial Services Authority
LLP	Limited Liability Partnership
MFRS	Malaysian Financial Reporting Standard
MIDA	Malaysian Investment Development Authority
MIRB	Malaysian Inland Revenue Board
MOF	Ministry of Finance
MSME	Micro, Small and Medium Enterprise
PEMERKASA	Program Strategik Memperkasa Rakyat dan Ekonomi
PENJANA	National Economic Recovery Plan
PERMAI	Perlindungan Ekonomi & Rakyat Malaysia Assistance
PIA	Promotion of Investment Act 1986
PR	Public Ruling
RMCD	Royal Malaysian Customs Department
SME	Small and Medium Enterprise
SMIDCA	Small and Medium Industries Development Corporation Act 1995
TIN	Tax Identification Number
YA	Year of Assessment

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