

January 19, 2016  
2016-007

**Malaysia – Finance Act 2015 Enacts Form E Filing, Monthly Deduction Measures**

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## flash Alert

A Publication for Global Mobility and Tax Professionals by KPMG's Global Mobility Services Practice

Malaysia's Finance Act 2015<sup>1</sup> was gazetted on 29 December 2015, and contains measures pertaining to the filing of Form E by employers, the Monthly Tax Deduction ("MTD") calculation in respect of additional remuneration received which relates to years prior to 2016, and penalties in cases of non-compliance with the MTD rules.

The Finance Act 2015 embodies the budget measures featured in the budget announcement of 23 October 2015 (for prior coverage, see GMS [Flash Alert 2015-136](#), 10 November 2015). The Finance Act 2015 contains some notable changes as compared with the Finance Bill 2015, which we highlight below.

### Why This Matters

Employers and employees should take note as the changes described in this newsletter are additional to what appeared in Finance Bill 2015 last autumn. Employers will have to comply with e-filing rules for Form E starting with the year ending 31 December 2016. Failing to follow the proper procedures could open the employer to scrutiny and sanctions.

In addition, there are new tax rates applying MTD to a broader range of salaries and for calculating MTD for additional remuneration received which relates to years prior to 2016. Non-compliant employers may be subject to the new penalty and sanction rules.

### E-Filing Coming for Employer's Form E

It is mandatory for an employer (a company) to e-file the Form E for the year ending **31 December 2016** (year of assessment ("YA") 2016 in Finance Bill 2015) to the Inland Revenue Board ("IRB") electronically. Form E includes various details concerning the employer and details relating to the company's employees who earn above a certain amount.

#### KPMG Note

An employer can still submit the Form E for the year ended **31 December 2015** to the IRB via manual submission (i.e., complete the printed return and submit it to the IRB). Even though it is not mandatory to e-file the 2015 Form E, employers are encouraged to e-file 2015 Form E to get familiar with the e-filing process. It must be submitted by 31 March 2016.

### Income Tax (Deduction from Remuneration) (Amendment) Rules 2015 – Changes to Monthly Tax Deductions ("MTD")

New rules amend Rule 17 and Schedule of the Income Tax (Deduction from Remuneration) Rules 1994 [P.U. (A) 507/1994].

The Income Tax (Deduction from Remuneration) (Amendment) Rules 2015 [P.U. (A) 311/2015]<sup>2</sup> came into operation on 1 January 2016, to provide for the following changes to the MTD rules:

MYR 1 = EUR 0.21  
= USD 0.23  
= AUD 0.33  
= GBP 0.161

1. Any person who, without reasonable excuse, fails to comply with Rule 10(1) (payment of amount deducted and returns) and Rule 13 (notification of cessation of payment of remuneration) shall be guilty of an offence and on conviction shall be liable to a fine between MYR 200 and MYR 20,000 (i.e., MYR 2,000 prior to 1 January 2016) or to imprisonment for a term not exceeding six months or to both.

The above is in line with the changes in the Income Tax Act 1967.

2. Table 1 of the Schedule of the Rules 1994 has been extended to salaries above MYR 600,000 due to the changes in tax rates for higher income earners.
3. The amount of MTD for additional remuneration received which relates to years prior to 2016 shall be calculated in accordance with the method and table of MTD applicable for the year the additional remuneration is received. This is in line with employment income being treated as income for the current year and no longer relates to the prior year concerned.

#### **KPMG Note**

Under Rule 13 on the notification of cessation of payment of remuneration by an employer, such notification is to be done in the following manner:

- A foreign national who leaves employment and the country: Must be notified via submission of Form CP21 ("Notification by Employer of Departure from the Country of an Employee");
- Retiree: Must be notified via submission of Form CP22A ("Tax Clearance Form for Cessation of Employment of Private Sector Employees"); and
- Resigning employee: Must be notified via letter from the employer indicating the employee's last day of employment with the company.

#### *Footnotes:*

1 The Finance Act 2015 can be found at: <http://www.federalgazette.agc.gov.my/> ; or go directly to (for English language version):

[http://www.federalgazette.agc.gov.my/outputaktap/20151230\\_773\\_BI\\_WJW005836%20BI.pdf](http://www.federalgazette.agc.gov.my/outputaktap/20151230_773_BI_WJW005836%20BI.pdf) .

2 The Income Tax (Deduction from Remuneration) (Amendment) Rules 2015 guidelines and detailed information can be found at:

<http://www.hasil.gov.my/goindex.php?kump=5&skum=3&posi=1&unit=5100&sequ=6> ; also see 29-12-2015, P.U. (A) 311/2015, Income Tax (Deduction from Remuneration) (Amendment) Rules 2015 – Income Tax Act 1967 at:

[http://www.federalgazette.agc.gov.my/eng\\_main/main\\_warta\\_harian.php?y=2015&jenis\\_pu=pua&Go=Go](http://www.federalgazette.agc.gov.my/eng_main/main_warta_harian.php?y=2015&jenis_pu=pua&Go=Go) .

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