

# GMS Flash Alert



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## Malaysia - Updates Public Ruling on Perquisites from Employment

The Malaysian Inland Revenue Board (MIRB) has issued Public Ruling 5/2019 on Perquisites from Employment on 19 November 2019.<sup>1</sup> The ruling addresses taxation of payments made by employers with respect to new employees, and clarifies taxation of employer-provided mobile devices and related equipment.

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### WHY THIS MATTERS

Before this latest public ruling, employees and their employers were not certain whether a payment “in lieu of notice” or buy-out payment would be taxable to employees. Further, it was unclear if tablets were exempt as provided under Income Tax (Exemption) Order 2009.

This public ruling has provided greater clarity on the tax treatment of payments in lieu of notice or buy-out payments as well as gifts and monthly bills for fixed-line telephones, mobile phones, tablets, pagers, personal digital assistants (PDAs), and broadband subscriptions.

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### Tax Treatment of Payments in Lieu of Notice or Buy-out Payments

A payment in lieu of notice or buy-out payment is made by the employer to a new employee to reimburse the amount to be paid to his/her previous employer as immediate compensation at an amount equal to what the employee would have earned as salary or wages by working through the whole notice period. In some cases, these payments are made directly to the previous employer by the new employer. Such payment made on behalf of the employee is considered as a perquisite to the employee and is treated as gross income from employment under Section 13(1)(a) of the Malaysian Income Tax Act, 1967. Further, the payment is subject to Monthly Tax Deduction (“MTD”) when the payment is made to the employee or his/her previous employer.

## Gifts and Employer-paid Monthly Bills and Subscriptions

The public ruling explains that limited exemptions are available for gifts of and paying monthly bills for: fixed-line telephones, mobile phones, tablets, pagers, personal digital assistants (PDAs), and broadband subscriptions, if registered under the employee's name. These benefits are exempted from tax, but the exemption is limited to one unit for each category of asset.

This public ruling provides greater clarity on the following:

- i. It specifies that a tablet is also exempted from tax.
- ii. When individual taxpayers receive two units from the same asset category (e.g., two mobile phones), the second unit of the asset (e.g., the second mobile phone and monthly bill) is subject to tax.

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### KPMG NOTE

For payments in lieu of notice or buy-out payments made by an employer directly to the employee's former employer, the employer is reminded to take into account this payment when computing the employee's MTD. When the salary of the employee is not sufficient to absorb the MTD on the payment, the employer is required to obtain approval from the MIRB to remit the MTD by instalments.

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### FOOTNOTE:

1 Public Ruling No.5/2019 can be found on the web site for Malaysian Inland Revenue Board [in English](#) and [in Malay](#). (PR 5/2019 replaces PR No. 2/2013 dated 28 February 2013.)

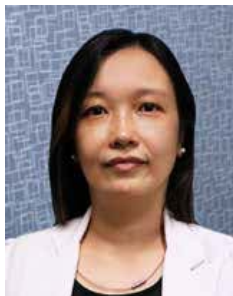
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