



Taxation of international executives: Malaysia



March 2023

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01

Overview and Introduction

1 Overview and Introduction

Income tax is imposed on a territorial basis. Individuals, whether resident or non-resident in Malaysia, are taxed on income accruing in or derived from Malaysia.

All types of foreign source income (“FSI”) received by resident individuals in Malaysia are exempt from Malaysian income tax from 1 January 2022 to 31 December 2026 [except for individuals who carry on business through a partnership in Malaysia] provided the income has been subjected to tax in the country of origin. Effective 1 January 2027, all the FSI would be taxable in Malaysia upon remittance by tax resident individuals.¹

The income of a resident individual is subject to income tax at progressive rates after personal relief while the income of a Non-resident individual is subject to income tax at the top marginal rate without personal relief.²

Non-resident individuals may claim tax exemption on their Malaysian employment income if they exercise employment in Malaysia for a period or periods of 60 days or less in a calendar year or for a period of not more than 60 days if such period overlaps 2 calendar years.³ If the individuals are exercising employment in Malaysia for more than 60 days but less than 183 days, and are tax residents of a country/jurisdiction in which Malaysia has a double taxation treaty, exemption may be available provided other conditions as stipulated in the double taxation treaty are met.

Malaysia has a current year basis of assessment. The basis period for a year of assessment coincides with the calendar year. The official currency of Malaysia is the Malaysian Ringgit (MYR).

Herein, the host country/jurisdiction refers to the country/jurisdiction to which the employee is assigned. The home country/jurisdiction refers to the country/jurisdiction where the employee works when the employee is not on assignment.

Footnotes

¹ The Malaysian Inland Revenue Board (MIRB) has on 29 December 2022 issued Guideline on “Tax Treatment in relation to Income Received from Abroad (Amendment)”.

² Schedule 1 of the Income Tax Act, 1967 (“the Act”).

³ Section 21, Schedule 6 of the Act.

02

Income tax

2 Income Tax

2.1 Tax returns and compliance

When are tax returns due? That is, what is the tax return due date?

Tax returns of individuals with no business income (that is employment income and/or investment income) are required to be filed by 30 April of the following year. As for individuals who are carrying on business, the deadline for filing the tax returns is 30 June of the following year.

What is the tax year end?

31 December.

What are the compliance requirements for tax returns in Malaysia?

Residents

The taxpayers who have no business income are required to file their tax returns (Form BE) and pay the balance of tax by 30 April of the following year. As for taxpayers who have business-source income, the deadline for filing the tax returns (Form B) and payment of balance of tax payable is 30 June of the following year.

Non-residents

The Non-resident taxpayers who derive employment income and/or non-business income are required to file their tax returns (Form M) by 30 April of the following year. Any balance of tax payment will be due on 30 April of the following year as well. As for Non-resident taxpayers who have business-source income, the deadline for filing the tax returns and payment of tax payable is 30 June of the following year.

Mandatory Electronic Filing of Individual Tax Return

Currently, the income tax return form for individual taxpayer can be submitted through electronic filing or manual filing. With effect from Year of Assessment 2024, the individual taxpayer is required to submit the income tax return form by electronic filing only. Manual filing is not allowed.

Payment by Instalments for Balance of Tax Payable under Deemed Assessment

With effect from YA 2023, any balance of tax payable under deemed assessment (i.e., tax return filed) may be allowed by Director General of Inland Revenue to be settled through instalments.

2.2 Tax rates

What are the current income tax rates for residents and Non-residents in Malaysia?¹

Residents

Income tax table for 2022/2023 (in Malaysian ringgit (MYR)):

Chargeable income	Base Tax	2022 Rate	Base Tax	2023 Rate*
MYR	MYR	Percent	MYR	Percent
First 5,000	0	0	0	0
Next 5,000	50	1	50	1
On 10,000	50		50	
Next 10,000	100	1	100	1
On 20,000	150		150	
Next 15,000	450	3	450	3
On 35,000	600		600	
Next 15,000	1,200	8	900	6
On 50,000	1,800		1,500	
Next 20,000	2,600	13	2,200	11
On 70,000	4,400		3,700	
Next 30,000	6,300	21	5,700	19
On 100,000	10,700		9,400	
Next 50,000	12,000	24	12,500	25
On 150,000	22,700		21,900	
Next 100,000	24,000	24	25,000	25
On 250,000	46,700		46,900	
Next 150,000	36,750	24.5	37,500	25

Chargeable income	Base Tax	2022 Rate	Base Tax	2023 Rate*
On 400,000	83,450		84,400	
Next 200,000	50,000	25	52,000	26
On 600,000	133,450		136,400	
Next 400,000	104,000	26	112,000	28
On 1,000,000	237,450		248,400	
Next 1,000,000	280,000	28	280,000	28
On 2,000,000	517,450		528,400	
Exceeding 2,000,000		30		30

The employment income of an individual who is a knowledge worker and resides in a specific region (Iskandar, Malaysia) exercising employment with a person who carries on any qualifying activity (namely green technology, biotechnology, educational services, healthcare services, creative industries, financial advisory and consulting services, logistic services, and tourism) will be taxed at the rate of 15 percent of the chargeable income. (Applicable for knowledge workers who apply and commence employment in Iskandar, Malaysia between 24 October 2009 and 31 December 2022). However, prior approval from the Iskandar Regional Development Authority is required before a knowledge worker could enjoy the tax rate of 15 percent.

The employment income of an approved individual under the Returning Expert Program will be taxed at the rate of 15 percent of that chargeable income. The concession is for a period of 5 years.

Non-residents

The income of a Non-resident individual is subject to income tax at 30 percent without personal relief.

2.3 Residence rules

For the purposes of taxation, how is an individual defined as a resident of Malaysia?²

Residence status of an individual is determined by his physical presence in Malaysia. An individual may qualify as a resident for the basis year for a particular year of assessment under any one of the following circumstances.

- The individual is in Malaysia in the basis year for a period or periods totalling 182 days or more.
- The individual is in Malaysia for less than 182 days in that basis year and that period is linked by or to another period of 182 or more consecutive days (hereinafter referred to in this paragraph as such period) throughout which the individual is in Malaysia in the adjoining year. Temporary absences from Malaysia due to service matters connected with the services in Malaysia, attending conferences, seminars, study abroad or ill-health involving the individual or any immediate member of the family and social visits not exceeding 14 days in aggregate shall be taken to form part of such period or that period, as the case may be, if he is in Malaysia immediately prior to and after that temporary absence.

- The individual is in Malaysia for a total of 90 days or more in the basis year and in any 3 out of 4 immediately preceding basis years, the individual was either resident or in Malaysia for at least 90 days.
- The individual will be a resident for the year if he is resident the following year and has been resident for the immediately preceding 3 years.

Is there, a de minimus number of days rule when it comes to residency start and end date? For example, a taxpayer can't come back to the host country/jurisdiction for more than 10 days after their assignment is over and they repatriate.

No.

What if the assignee enters the country/jurisdiction before their assignment begins?

For the purpose of tax residency, his physical presence in Malaysia before the assignment begins will be considered in the determination of tax residence status.

2.4 Termination of residence

Are there any tax compliance requirements when leaving Malaysia?

It is the employer's obligation to notify the MIRB of the termination of employment of an employee who is leaving Malaysia for more than 3 months. The notification is via filing of Form CP21 not less than 30 days before the expected date of departure of the employee from Malaysia. The employer is also required to withhold any money in its possession owing to an employee who has ceased employment or is about to cease employment until the earlier of 90 days after the MIRB has received the Form CP21 or upon receipt of the tax clearance letter from the MIRB. A schedule of entries and departures to/from Malaysia and his original passport(s) which should cover the whole employment period in Malaysia have to be submitted to the MIRB for verification of his residence status together with the Form CP21 and Malaysian tax return. The MIRB would review the documents and issue a tax clearance letter to inform the employee and his employer of any outstanding taxes to be paid.

What if the assignee comes back for a trip after residency has terminated?

The physical presence rule still applies for tax residency determination.

Communication between immigration and taxation authorities

Do the immigration authorities in Malaysia provide information to the local taxation authorities regarding when a person enters or leaves Malaysia?

Currently, the immigration and tax authorities continue strategic cooperation on taxation matters relating to expatriates. The tax authorities launched the HASIL MY EXPAT system for internal use by the tax authorities to obtain information from the immigration to monitor taxation matters of expatriates in Malaysia.

Filing requirements

Will an assignee have a filing requirement in the host country/jurisdiction after they leave the country/jurisdiction and repatriate?

There would be no filing requirement for the assignee if he does not have any trailing income derived from Malaysia after repatriation. However, it is important that the assignee fully settles all outstanding taxes before repatriation.

2.5 Economic employer approach

Do the taxation authorities in Malaysia adopt the economic employer approach to interpreting Article 15 of the Organization for Economic Co-Operation and Development (OECD) treaty? If no, are the taxation authorities in Malaysia considering the adoption of this interpretation of economic employer in the future?

Yes.

De minimus number of days

Are there a de minimus number of days before the local taxation authorities will apply the economic employer approach? If yes, what is the de minimus number of days?

Generally, it is 60 days. Under the Malaysian tax law, the income of a non-resident individual from an employment exercised by him in Malaysia for not more than 60 days in total in a basis year or overlapping years will be exempt from Malaysian tax.

2.6 Types of taxable compensation

What categories are subject to income tax in general situations?³

The definition of employment income covers all forms of remuneration including benefits, whether in-cash or in-kind, received by an individual for exercising or having an employment in Malaysia. Therefore, an employee's income in respect of the employment in Malaysia will be subject to Malaysian tax regardless of whether it is paid in Malaysia or outside Malaysia.

Gains or profits from an employment includes the following:

- Cash remuneration, allowances and perquisite including tax borne by employer and share scheme benefit
- Benefits-in-kind
- Value of living accommodation
- Refund from Unapproved pension or Provident Funds Scheme or Society
- Compensation for loss of employment

Intra-group statutory directors

Will a non-resident of Malaysia who, as part of their employment within a group company, is also appointed as a statutory director (i.e. member of the Board of Directors in a group company situated in Malaysia) trigger a personal tax liability in Malaysia, even though no separate director's fee/remuneration is paid for their duties as a board member?

Director fee or any remuneration received by a statutory director from a company resident in Malaysia in respect of their directorship is liable to Malaysian tax.

1 Will the taxation be triggered irrespective of whether or not the board member is physically present at the board meetings in Malaysia?

Yes, where director fees are received.

2 Will the answer be different if the cost directly or indirectly is charged to/allocated to the company situated in Malaysia (i.e. as a general management fee where the duties rendered as a board member is included)?

No.

3 In the case that a tax liability is triggered, how will the taxable income be determined?

Refer to Section on “Non-residents”.

2.7 Tax-exempt income

Are there any areas of income that are exempt from taxation in Malaysia? If so, please provide a general definition of these areas.

- One leave passage outside Malaysia is tax-free up to a maximum amount of MYR3,000 per year while three trips per year within Malaysia remains tax-free.
- Medical or dental treatment, including a benefit for childcare.
- Any sum received by way of gratuity on retirement from an employment due to ill health or if the retirement takes place on or after reaching the age of 55 or on reaching the compulsory retirement age of 50 but before 55 and that person has served more than 10 years with the same employer is exempted from tax. A partial exemption of MYR1,000 for each completed year of service is granted with respect to any gratuity payment which does not fall under the above category.
- Compensation for loss of employment is given full or partial exemption:
 - Whole sum of compensation if due to ill health; or
 - MYR10,000 for every completed year of service with the same employer or with companies in the same group.
- Long service for employees who have served the same employer for more than 10 years, past achievement, service excellence, innovation, or productivity awards of up to MYR2,000.
- Travelling allowance, petrol card, petrol allowance, or toll payment for travelling in exercising an employment is exempted up to an amount of MYR6,000 per year.
- Allowance or fees for parking.
- Allowance or subsidies for childcare of up to MYR2,400 per year for children up to 12 years of age.
- Gifts and bills of fixed line phone, mobile phone, pager or personal digital assistance, and internet subscription. The exemption given is limited to one unit for each asset.
- Employers' own goods which are consumable business products provided free of charge or at a discounted value. The amount exempted is up to a maximum of MYR1,000 per year.
- Employers' own services provided free or at a discount provided such benefits are not transferable.
- Subsidized interest for total amount of loans up to MYR300,000 for housing, personal motor vehicles and education.

2.8 Expatriate concessions

Are there any concessions made for expatriates in Malaysia?

Non-Malaysian Citizen would be taxed on the portion of employment income attributable to the number of days in Malaysia in respect of income derived from an employment with an approved operational headquarters, an approved regional office, International Procurement Centers, Regional Distribution centers or an approved Treasury Management Center.

Non-Malaysian Citizen acting in the capacity of a director of a Labuan entity is exempted from payment of income tax in respect of directors' fees received from YA 2007 until YA 2025.

Any payment received from participating in the Malaysian Technical Co-operation Programme (MTCP) by a non-resident individual who is a **non-Malaysian citizen** is exempted from tax. MTCP is a technical co-operation program approved by the Economic Planning Unit Prime Minister's Department of Malaysia.

For non-citizen individuals who are holding key positions (C-suite) for strategic new investment by companies relocating their operations to Malaysia under the Pelan Jana Semula Ekonomi Negara (“PENJANA”) incentive package, a preferential tax rate of 15% will be given for a period of 5 consecutive years. The eligible individuals have to submit their applications to the Malaysian Investment and Development Authority (“MIDA”) from 7 November 2020 up to 31 December 2024. The non-citizen individual must be a Malaysian tax resident for each YA throughout the flat rate tax treatment.

With effect from YA 2021, the special tax rates of $\leq 20\%$ (to be prescribed by the Ministry of Finance and subject to conditions) under Approved Incentive Scheme (“AIS”) are applicable for an individual resident who is not a citizen, having and exercising employment in a company which carries on business in respect of a qualifying activity under the AIS

2.9 Salary earned from working abroad

Is salary earned from working abroad taxed in Malaysia? If so, how?

The salary earned from working abroad would not be taxable unless the income received is in respect of duties incidental to the exercise of employment in Malaysia.

2.10 Taxation of investment income and capital gains

Are investment income and capital gains taxed in Malaysia? If so, how?

Malaysia adopts the single-tier system, where dividends paid by a resident company would be tax exempt in the hands of its shareholders.

Certain specific types of interest (such as government savings certificates) are exempted from income tax.

Interest income received by individuals in Malaysia from monies deposited in all approved institutions is tax-exempt.

Distributions from real estate investment trusts (REITs) listed in Bursa Malaysia received by individuals will be subject to a final withholding tax.

Under the Real Property Gains Tax Act (“RPGT”) 1976, for disposals by an individual who is a Malaysian citizen or permanent resident, chargeable gains will be taxed as follows:

- 30 percent for disposals within third years after acquisition;
- 20 percent for disposals in the fourth year after acquisition;
- 15 percent for disposals in the fifth year after acquisition; and
- Nil for disposals in the sixth year after acquisition or thereafter;

For disposals by non-citizens, or an executor of the estate of a deceased person who is not a Malaysian citizen or permanent resident, the rate is 30 percent for disposals within 5 years after acquisition and 10 percent for disposals more than 5 years after acquisition.

Stamp duty

Stamp duty is chargeable on certain documents or instruments such as sale and purchase agreements, loan agreement and transfer of property etc. However, there are exemptions or remission available.

Rental Income

Rental income is assessed to tax on a calendar year. However, when the rental is received in advance, the advance rental would be taxed in the year of receipt. The expenses wholly and exclusively incurred in the production of the rental income are allowable as a deduction to arrive at a net rental income.

Foreign exchange gains and losses

Not applicable.

Personal use items

Not applicable.

Gifts

There is no such tax in Malaysia. Note that estate duties have been repealed with effect from 1 November 1991.

2.11 Additional capital gains tax (CGT) issues and exceptions

Are there additional capital gains tax (CGT) issues in Malaysia? If so, please discuss?

Other than real property gains tax on gains arising from disposal of real property or shares in a real property company, there is no other CGT.

Are there capital gains tax exceptions in Malaysia? If so, please discuss?

Not applicable.

Pre-CGT assets

Not applicable.

Deemed disposal and acquisition

Not applicable.

2.12 General deductions from income

What are the general deductions from income allowed in Malaysia?

The following deductions are allowed.

- Expenses wholly and exclusively incurred in the production of income (such as subscriptions to professional bodies, entertainment expenditure and travelling expenditure where entertainment or travelling allowances are provided).
- Personal relief (available to resident individuals only).

	2022 MYR	2023 MYR*
Unmarried child under 18 years old	2,000	2,000
Unmarried child 18 years and above, and receiving full time education	2,000	2,000
Unmarried child 18 years and above, and receiving full time education at diploma (in Malaysia) or degree level (in overseas) for the course and university recognized by the Government of Malaysia	8,000	8,000

	2022 MYR	2023 MYR*
Relief for disabled unmarried child irrespective of age	6,000	6,000
Personal	9,000	9,000
Further relief for disabled person	6,000	6,000
Spouse living with or maintained by spouse	4,000 (if spouse's income derived from outside Malaysia does not exceed MYR4,000)	4,000 (if spouse's income derived from outside Malaysia does not exceed MYR4,000)
Further relief for disabled spouse	5,000	5,000
Contributions to approved provident fund (maximum)	4,000 (Contributions to approved provident fund such as EPF).	4,000 (Contributions to approved provident fund such as EPF).
Life Insurance Premium or Takaful Contribution on life insurance policy (maximum)	3,000 (takaful or life insurance premium).	3,000 (takaful or life insurance premium) or additional voluntary contribution to EPF (with effect from YA2023)
Private Retirement Scheme/Annuity Premium (maximum)	3,000	3,000
Educational or medical insurance premiums for taxpayer, spouse, or child (maximum)	3,000	3,000
Supporting equipment for disabled taxpayer, spouse, children, or parents (maximum)	6,000	6,000
Medical treatment, special needs and care expenses for parents (maximum)	8,000	8,000

	2022 MYR	2023 MYR*
Medical expenses for taxpayer, spouse and children on serious diseases, includes:	8,000 (maximum), includes:	10,000 (maximum), includes:
<ul style="list-style-type: none"> • full medical check-up • COVID-19 detection test by hospital/registered medical practitioner or COVID-19 self-detection test kit • mental health related check-up or consultation services by registered psychiatrist clinical psychologist or counsellor 	} 1,000 (maximum)	} 1,000 (maximum)
<ul style="list-style-type: none"> • prescribed vaccination expenses 	1,000 (maximum)	1,000 (maximum)
<ul style="list-style-type: none"> • intervention expenditure for Autism Spectrum Disorder, Attention Deficit Hyperactivity Disorder (ADHD), Global Developmental Delay (GDD), Intellectual Disability, Down Syndrome and Specific Learning Disabilities (for child aged 18 years and below) (maximum) 		4,000
Fees for acquiring skills or qualifications at tertiary level or any course of study at post graduate level for taxpayer (maximum)	7,000 (includes up to MYR2,000 for attending any recognized up-skilling and self-enhancement courses)	7,000 (includes up to MYR2,000 for attending any recognized up-skilling and self-enhancement courses)
Net deposit in Skim Simpanan Pendidikan Nasional for taxpayer's child (maximum)	8,000	8,000
Social Security Organization (SOCSO) Scheme (maximum)	350 (includes employee's contribution to the Employment Insurance System)	350 (includes employee's contribution to the Employment Insurance System)
Lifestyle (purchase of reading materials including electronic forms, purchase of sports equipment, purchase of computer, smartphone or tablet and subscription of broadband internet and gymnasium membership fees) (maximum)	2,500 Additional MYR500 for the cost of purchasing sports equipment, entry/rental fees for sports facilities and registration fees in sports competitions	2,500 Additional MYR500 for the cost of purchasing sports equipment, entry/rental fees for sports facilities and registration fees in sports competitions
Special tax relief (purchase of a personal computer, smartphone or tablet) (maximum)	2,500	No longer applicable
Breastfeeding equipment for women taxpayers' own use for a child aged 2 years and below (maximum)	1,000 (once every 2 years)	1,000 (once every 2 years)

	2022 MYR	2023 MYR*
Fees paid to childcare centers and kindergartens for children aged 6 years and below (maximum)	3,000	3,000
Domestic travel expenses (maximum)	1,000	No longer applicable
a) payment of accommodation at the premises registered with the Commissioner of Tourism under the Tourism Industry Act 1992;		
b) entrance fees to tourist attractions;		
c) purchase of domestic tour package through a licensed travel agent registered with the Commissioner of Tourism under the Tourism Industry Act 1992.		
Expenses for installation, rental, purchase (including hire purchase of equipment) or subscription fee for use of electric vehicle charging facilities (maximum)	2,500	2,500

- Cash donations to approved institutions or organization or social enterprise are claimable as a deduction against aggregate income and it is restricted to 10 percent of the aggregate income.

2.13 Tax reimbursement methods

What are the tax reimbursement methods generally used by employers in Malaysia?

The tax reimbursement methods generally used by employers in Malaysia are 1-year rollover methods or current-year grossed up.

2.14 Calculation of estimates/prepayments/withholding

How are estimates/prepayments/withholding of tax handled in Malaysia? For example, Pay-As-You-Earn (PAYE), Pay-As-You-Go (PAYG), and so on.

As a general rule, all employees whether local or expatriate, are subjected to PAYE, herein refers to Monthly Tax Deduction (“MTD”). It is mandatory for an employer to deduct tax on a monthly basis from the employee’s remuneration. For this purpose, remuneration includes salaries, allowance, arrears, wages, fees, bonus, gratuity, commission, perquisite, tips, benefits-in-kind (“BIK”) and value of living accommodation (“VOLA”). The tax deducted is to cover the tax on the remuneration earned for the month.

Pursuant to the Income Tax (Deduction from Remuneration) (Amendment) (No. 2) Rules 2014, it is mandatory for an employer to allow the employees to claim additional deductions via Form TP1 at a minimum twice a year when determining the amount of MTD.

An employee who joins a new employer in the current year is required to complete a prescribed form (Form TP3) to disclose his remuneration from the previous employer(s) to enable the new employer to correctly calculate the MTD.

When are estimates/prepayments/withholding of tax due in Malaysia? For example: monthly, annually, both, and so on.

The monthly tax deducted from the remuneration of the employees during a calendar month has to be remitted to the MIRB not later than the 15th day of the following calendar month via the online Statement of Tax Deduction by an Employer (e-CP39).

2.15 Relief for foreign taxes

Is there any Relief for Foreign Taxes in Malaysia? For example, a foreign tax credit (FTC) system, double taxation treaties, and so on?

Where there is a double taxation treaty, bilateral credit could be claimed. Bilateral credit shall only be given to a person resident in Malaysia. The bilateral tax credit allowable would be the lower of actual foreign tax payable or the Malaysian tax payable on the foreign income that has been subject to tax twice.

Where there is no double taxation treaty, unilateral tax credit is allowed but is limited to the lower of one-half of the foreign tax payable on the foreign income for the year or the Malaysian tax payable on the foreign income that has been subject to tax twice.

2.16 General tax credits

What are the general tax credits that may be claimed in Malaysia? Please list below.

The following tax rebates can be deducted against the individual's tax liability:

- A tax rebate of MYR400 is available to a resident individual provided his chargeable income does not exceed MYR35,000. The resident individual is also given the option to elect for joint assessment under the spouse's name. A further rebate of MYR400 is available for the spouse where their total chargeable income does not exceed MYR35,000.
- A rebate for departure levy imposed on outbound air passenger performing umrah and pilgrimage to holy places (limited up to twice in a lifetime) is granted to a resident individual.
- A rebate is granted to a resident individual on any zakat, fitrah or any other Islamic religious dues which are obligatory.

2.17 Sample tax calculation

This calculation assumes a married taxpayer resident in Malaysia with two children whose 3-year assignment begins 1 January 2021 and ends 31 December 2023. The taxpayer's base salary is 100,000 US dollars (USD) and the calculation covers 3 years.⁴

	2021 USD	2022 USD	2023 USD
Salary	100,000	100,000	100,000
Bonus	20,000	20,000	20,000
Cost-of-living allowance	10,000	10,000	10,000
Housing allowance	12,000	12,000	12,000
Company car	6,000	6,000	6,000

	2021 USD	2022 USD	2023 USD
Moving expense reimbursement	20,000	0	10,000
Home leave	0	5,000	5,000
Education allowance	3,000	3,000	3,000
Interest income from non-local sources	6,000	6,000	6,000

Exchange rate used for calculation: USD1.00 = MYR4.00.

Other assumptions

- All earned income is attributable to local sources.
- Bonuses are paid at the end of each tax year and accrue evenly throughout the year.
- Interest income is not remitted to Malaysia.
- The company car is used for business and private purposes and originally cost USD45,000 and no fuel is provided.
- The employee is deemed resident throughout the assignment.
- Tax treaties and totalization agreements are ignored for the purpose of this calculation.
- Both children are under 18 years old, and spouse does not derive income exceeding MYR4,000 or its equivalent outside Malaysia.
- Tax borne by individual

Calculation of taxable income

Year ended	2021 MYR	2022 MYR	2023 MYR
Days in Malaysia during year	365	365	365
Earned income subject to income tax			
Salary	400,000	400,000	400,000
Bonus	80,000	80,000	80,000
Cost-of-living allowance	40,000	40,000	40,000
Housing allowance	48,000	48,000	48,000
Benefit in Kind on Company car	7,000	7,000	7,000
Moving expense reimbursement	0	0	0
Home leave	0	17,000 (after MYR3,000 tax)	17,000 (after MYR3,000 tax)

Year ended	2021 MYR	2022 MYR	2023 MYR
		exemption)	exemption)
Education allowance	12,000	12,000	12,000
Total earned income	587,000	604,000	604,000
Other income	0	0	0
Total income	587,000	604,000	604,000
Deductions	17,000	17,000	17,000
Total taxable income	570,000	587,000	587,000

Calculation of tax liability

	2021 MYR	2022 MYR	2023 MYR
Taxable income as above	570,000	587,000	587,000
Malaysian tax thereon	125,950	130,200	133,020
Less:			
Domestic tax rebates (dependent spouse rebate)	0	0	0
Foreign tax credits	0	0	0
Total Malaysian tax	125,950	130,200	133,020

Notes

- Benefit in kind on company car is calculated based on the prescribed value provided by the MIRB of car cost between MYR150,001 to MYR200,000 where annual value of private usage of car is MYR7,000.
- Home leave provided by company consists of fares only. One home leave passage outside Malaysia is tax-free up to a maximum of MYR3,000 per year.

Footnotes

¹ Schedule 1 of the Act.

² Sections 7(1)(a) to 7(1)(d)

³ Sections 13 of the Act .

⁴ Sample calculation generated by KPMG Tax Services Sdn Bhd., a company incorporated under Malaysian law and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee.

03

**Special considerations
for short term
assignments**

3 Special considerations for short-term assignments

For the purposes of this publication, a short-term assignment is defined as an assignment that lasts for less than 1 year but more than 60 days. Hence, the 60-day exemption rule will not be commented on below.

3.1 Residency Rules

Are there special residency considerations for short-term assignments?

In order for the short-term assignments to qualify for the double taxation treaty exemption, the individual's presence in Malaysia must be for a period or periods not exceeding in the aggregate 183 days in the calendar year/tax year or 12-month period concerned.

3.2 Payroll considerations

Are there special payroll considerations for short-term assignments?

To ensure an individual enjoys tax treaty exemption, in addition to the presence of the individual as mentioned earlier, his remuneration has to be paid by, or on behalf of, an employer who is not a resident of Malaysia and the remuneration is not borne by a permanent establishment or fixed base which the employer has in Malaysia. The local entity in Malaysia must not provide any allowance, perquisites or benefits to the individual.

3.3 Taxable income

What income will be taxed during short-term assignments?

If all the conditions as stipulated in the Article under dependent personal services of the double taxation treaty can be fulfilled, the employment income during the short-term assignments can be considered for exemption. Otherwise, the entire remuneration (regardless of where it is paid) and any benefits-in-kind and accommodation provided in Malaysia would be subjected to Malaysian tax.

3.4 Additional considerations

Are there any additional considerations that should be considered before initiating a short-term assignment in Malaysia?

- The nature of services to be provided by the employee in Malaysia and whether there is a permanent establishment risk for the overseas entity.
- The duration of the assignment and whether it is for a fixed period or on intermittent basis for tax exemption purposes
- The type of work permit to apply and the validity period for tax exemption purposes
- The information or documents to be submitted for work permit application.

04

Other taxes and levies

4 Other taxes and levies

4.1 Social security tax

Are there social security/social insurance taxes in Malaysia? If so, what are the rates for employers and employees?¹

The Social Security Organization (SOCSO) is a scheme to provide certain benefits to the employees in cases of employment injury including occupational diseases and invalidity and for certain other matters in relation to the employment. Contributions are capped at the monthly wage of MYR5,000. All Malaysian employees and permanent residents are to contribute irrespective of their amount of wages. The current rates of contribution vary from MYR0.10 to MYR24.75 for the employee and from MYR0.40 to MYR86.65 for the employer.

In addition, employers who hire foreign workers with valid documents, shall register their employees with SOCSO and contribute to the Employment Injury Scheme only. The rate of contribution is 1.25 percent of the employees' monthly wages (capped at MYR61.90) and to be paid by the employer only, i.e. employees are not required to contribute.

Employees provident fund (EPF)

EPF is a national social security organization operating through a provident fund scheme in Malaysia. Its primary aim is to provide retirement benefits to Malaysian employees through the management of their savings in an efficient and reliable manner.²

Malaysian employees and permanent residents are required to be contributors to the EPF. There is a statutory rate on employee and employer's contributions. Non-Malaysian employees have the option of becoming members. The expatriate employees have to contribute based on the prevailing statutory rate whereas and the employer's contribution is MYR5 per month.

4.2 Gift, wealth, estate, and/or inheritance tax

Are there any gift, wealth, estate, and/or inheritance taxes in Malaysia?

No, other than real property gains tax on gains arising from disposal of real property or shares in a real property company.

4.3 Sales/VAT tax

Are there sales and/or value-added taxes in Malaysia?

The Sales and Services Tax ("SST") is imposed in Malaysia

4.4 Unemployment tax

Are there unemployment taxes in Malaysia?

Employment Insurance System (EIS)

EIS is a financial scheme in helping employees who have lost their jobs and it is managed by SOCSO. The EIS has two components which includes financial assistance and employment services. Besides enabling laid-off employees to claim a percentage of the insured salary for a period of between three and six months, the training programs and other components assist the laid-off employees to obtain suitable jobs and return to work as soon as possible.

Malaysian employees and permanent residents in the private sector aged between 18 to 60 years old must contribute to this scheme, unless they are aged 57 years and above and no contributions have been paid before reaching 57 years.

4.5 Other taxes

Are there additional taxes in Malaysia that may be relevant to the general assignee? For example, customs tax, excise tax, stamp tax, and so on.

Not applicable for assignee.

Stamp duty

In general, stamp duty is payable on instruments executed in Malaysia.³

Sale and purchase agreement and Loan agreement

Foreigners can only buy properties in Malaysia. There is no stamp duty exemption on the sale and purchase agreement and loan agreement.

Foreign Financial Assets

Is there a requirement to declare/report offshore assets (e.g. foreign financial accounts, securities) to the country/jurisdiction's fiscal or banking authorities?

Pursuant to Income Tax (Automatic Exchange of Financial Account Information) (Amendment) Rules 2017, Malaysia has committed to exchange information with respect to different types of accounts opened and maintained by financial institutions in Malaysia. The financial institutions are required to furnish information to the tax authorities. As such, individual taxpayers should be aware that the tax authorities will receive financial information relating to bank accounts maintained overseas

Footnotes

¹ Employees Social Security Act, 1969.

² Employees Provident Fund Act, 1991.

³ Stamp Act, 1949.

05

Immigration

5. Immigration

Following is an overview of the concept of Malaysia’s immigration system for skilled labour.

(e.g., which steps are required, authorities involved, in-country and foreign consular processes, review/draft flow chart illustrating the process)

This summary provides basic information regarding social visits to Malaysia and work authorization for Peninsular Malaysia. The Federal Government oversees immigration matters for Peninsular Malaysia while the State Government oversees the immigration matters for East Malaysia. Our comment in this publication refers to immigration matters in Peninsular Malaysia only (hereafter referred to as “Malaysia”).

From the Malaysian immigration perspective, a visa refers to an entry visa to facilitate foreigner to enter Malaysia. It does not grant working rights in Malaysia. If the purpose of entering Malaysia is for work, a Work Pass is required.

A Work Pass holder can reside in Malaysia throughout the validity provided in the Pass.

Generally, the Immigration Department of Malaysia issues 5 types of Work Pass i.e. Employment Pass, Professional Visit Pass, PLS@Xpats, Digital Nomad Pass and Temporary Employment Visit Pass.

The Temporary Employment Visit Pass is for unskilled and semi-skilled workers, will not be included in this publication.

Type of work pass to be applied would depend on the work arrangement. Kindly refer to table below:

Type of Pass	Work Permit validity period/Conditions
Professional Visit	<ul style="list-style-type: none">• Application to be submitted by Malaysian Company sponsoring the work pass that has been successfully registered with the approving Authority i.e. Expatriate Services Division• Maximum duration of 12 months• Handle one project / assignment at a time• Salary remained under the home country employer• Applicable for the following pre-set positions:<ul style="list-style-type: none">- Advisor- Assistant Researcher- Attending Course/Seminar/Training- Consultant- Course Speaker- Doctoral Fellow- Exhibitor- External Examiner- Invited Lecturer/Professor- Researcher- Seminar Speaker- Student Under Practical Training- Technical Consultant/Expert/Trainer- Trainer- Visiting Professor/Lecturer- Volunteer• Not eligible to apply Dependent Pass for family

Type of Pass	Work Permit validity period/Conditions
Employment	<ul style="list-style-type: none"> • Application to be submitted by Malaysian Company sponsoring the work pass that has been successfully registered with the approving Authority i.e. Expatriate Services Division or Malaysia Digital Economic Corporation (MDEC), depending on the industry of the sponsor • 12 months to 5 years (extendable - with justification) • Minimum basic salary depending on category of employment pass • Signed an employment agreement or contract with Malaysian sponsoring Company (i.e. host country employer) • Eligible to apply Dependent Pass for immediate family and parents / parents-in-law
PLS@XPATS	<ul style="list-style-type: none"> • A new category of Social Visit Pass (SVP) with permission to work introduced in last quarter of year 2022. • Application to be submitted by Malaysian Company sponsoring the work pass to the Immigration Department of Malaysia. Registration not required. • Applicable only for foreigners or professionals carrying out urgent and critical work in Malaysia. • Period of the pass is 30 days from the issuance date. • For countries whose visa eligibility is less than 30 days, the duration given for the PLS@XPats pass will be according to the visa eligibility of the country.
Digital Nomad Pass - PVP	<ul style="list-style-type: none"> • Malaysia's first digital nomad pass under the DE Rantau Program introduced in the last quarter of year 2022. • Application to be submitted by applicant to Malaysia Digital Economic Corporation (MDEC). • Applicable to digital nomads such as digital freelancers, independent contractor, remote worker in the domain of IT, digital marketing, digital creative content, and digital content developments, etc. • Annual income of the foreigner must be more than USD 24,000. • Duration of pass between 3 to 12 months and renewable for another 12 months i.e. total of 24 months. • Eligible to apply Dependent Pass for immediate family

All foreigners, regardless of visa or non-visa nationals intending to work or provide services in Malaysia will need a Work Pass. For work authorization type, the foreigner should coordinate with their home country employer and the host country employer (who acts as the Work Pass sponsor in Malaysia), to collect corporate and personal documentation to facilitate the Work Pass application.

The application process of Work Pass is further segregated by industries and type of Pass. The Malaysian Company sponsoring the Employment and Professional Visit Pass Work Pass must be registered with the respective Approving Agency, before applications can be made. Registration is not required for PLS@Xpats and Digital Nomad Pass. Applications are submitted online to the relevant Approving Agency's application portal.

The Immigration Department of Malaysia issues the Work Pass endorsement to the applicant, after the Approving Agency approves the Work Pass application.

5.1 International Business Travel/Short-Term Assignments

Describe (a) which nationalities may enter Malaysia as non-visa national, (b) which activities they may perform and (c) the maximum length of stay.

- a) National from the Commonwealth countries, except Bangladesh, Cameroon, Ghana, India, Mozambique, Nigeria, Pakistan, Rwanda, and Sri Lanka are non-visa nationals. They may enter Malaysia if the entry requirements are met and are granted the Social Visit Pass at the point of entry for business traveller or Special Pass for short-term assignee entering Malaysia for the purpose to endorse the Work Pass.
- b) While under the Social Visit Pass, work is not allowed. The business traveller is allowed to carry out limited activities such as social visit, visiting relatives, tourism, journalism/reporting, meeting/conference, business discussion, factory inspection, auditing company accounts, signing agreement, carrying out a survey on investment opportunities/setting up factory, attending seminars, students on goodwill missions/taking examination at a university, taking part in sports competitions, other activities approved by the Director General of Immigration Malaysia.

For working under short-term assignment, Professional Visit Pass, Employment Pass, PLS@XPATS, or PVP – Digital Nomad Pass can be considered, subject to the conditions of the Pass.

- c) The duration of the Social Visit Pass ranges from 14 to 90 days for each entry to Malaysia, depending on the nationality and Special Pass is for maximum duration of 30 days for the assignee to endorse the Work Pass. Duration of stay under a work pass will be depending on the duration applied and approved by the Authority.

Describe (a) the regulatory framework for business travellers being visa nationals (especially the applicable visa type), (b) which activities they may perform under this visa type and the (c) maximum length of stay.

- a) Visa nationals are required to apply for the entry visa i.e. Single Entry Visa or Multiple Entry Visa from the Malaysian Embassy/Consulate/High Commission abroad or eVISA [Official Malaysia Visa \(imi.gov.my\)](http://imi.gov.my) prior to entering Malaysia. If the purpose of the entry is for social visit, the visa without reference is applicable. However, if the entry is for the purpose of work, then the visa with reference based on the approved Work Pass to be applied. The Approving Authority will issue the “Visa With Reference” letter to facilitate the application for visa at the Malaysian Embassy/Consulate/High Commission or eVISA. Once the visa (depending on the purpose) is issued, the business traveller or assignee may make arrangement to enter Malaysia. The Immigration officer at the port of entry will issue the Social Visit Pass to the business traveller or Special Pass for short-term assignee entering Malaysia to endorse the Work Pass.
- b) While under the Social Visit Pass, the business traveller is allowed to carry out limited activities as mentioned in item 5.1(b) above.
- c) The validity of the entry visa ranges from 3 to 12 months to enter Malaysia. Upon arrival, the duration of stay will be depending on the type of Pass issued as mentioned in item c of non-visa nationals.

Outline the process for obtaining the visa type(s) named above and describe (a) the required documents (including any legalization or translation requirements), (b) process steps, (c) processing time and (d) location of application.

a) Visa without reference for social visit purposes

The business traveller has to provide an invitation letter from the host country company outlining the purpose and duration of visit together with the prescribed forms and any other documents required by the respective Malaysian Embassy/Consulate/High Commission. The letter is addressed to the Malaysian Embassy/Consulate/High Commission in the foreigner’s home country.

For eVISA application, the following documents are to be uploaded in the application portal:

- i- Passport size studio photo
- ii- Passport biodata page with validity more than 6 months from travel date

- iii- Confirmed return ticket
- iv- Proof of accommodation
- v- Other supporting documents

Visa with reference for Work Pass

The approving authority will issue the “Visa With Reference” letter together with the Work Pass approval letter to the host country employer based on the approved Work Pass. The assignee needs to produce both letters together with prescribed forms and any other documents required by the respective Malaysian Embassy/Consulate/High Commission to apply for the Visa.

For eVISA application, the following documents are to be uploaded in the application portal:

- i- Passport biodata page with validity more than 6 months from travel date
 - ii- Work Pass approval letter
- b) For physical application to the Embassy/Consulate/High Commission, the applicant is required to submit the physical application and passport for processing. Once the visa is endorsed on the applicant’s passport, the foreigner can make arrangement to enter Malaysia.
For eVISA, the applicant is required to upload and submit the requisite documents in the online application portal. Once the eVISA is approved, the application has to bring an A4 sized printed copy of the eVISA when entering Malaysia.
- c) The visa is usually issued in approximately 5 business days for application to the Malaysian Embassy/Consulate/High Commissioner’s Office and 2 business days for eVISA if the application is satisfactory.
- d) The application is to be submitted to the Malaysian Embassy/Consulate/High Commissioner’s Office located in the applicant’s home country or the location where he is currently working/residing.
eVISA application must be submitted from abroad. The applicant would not be able to create the application or log in while in Malaysia, Israel, or North Korea.

Are there any visa waiver programs or specific visa categories for technical support staff on short- term assignments?

There are no visa waiver program or specific visa categories available in Malaysia.

5.2 Long-Term Assignments

What are the main work permit categories for long-term assignments to Malaysia? In this context, please outline whether a local employment contract is required for the specific permit type.

The Employment Pass would allow the skilled assignee to work in Malaysia.

Employment Pass is further categorized to the following:

Table 1

Category	Monthly salary range (excluding allowance)	Duration of Pass	Eligibility to bring Dependents
I	>MYR10,000	Up to 60 months	Allowed
II	MYR5,000 to MYR9,999	Up to 24 months	Allowed
III (additional approval from the Ministry of	MYR3,000 to MYR4,999	12 months with maximum of 2 renewals	Not allowed

Home Affairs is not required for Company with Malaysia Digital status)

(Note: Allowed for Employment Pass sponsored by Company with Malaysia Digital status)

A local employment contract is required and will be provided to the Immigration Authority together with personal documents and job description to apply for the Employment Pass.

Provide a general process overview to obtain a work and residence permit for long-term assignments (including processing times and maximum validation of the permit).

The Employment Pass will grant the assignee the right to live and work in Malaysia. A separate residence pass is not required.

Application for the Employment Pass is submitted online. The Malaysian host company must be registered with the relevant Authority to apply for the Employment Pass.

To be eligible for the registration, the Company has to meet the requirements set by the Authority such as the minimum paid-up capital, the relevant business license or Ministry's approval to carry out its business and to register with the Malaysian Inland Revenue Board for a company tax reference number, etc.

For Companies which are under the purview of the Approving Agency or Regulatory Bodies, additional approval is required before the Work Pass application can be submitted to the Authority.

The general processing timeline depends largely on the permit type, the authorities involved in the process and the place of filing the application. In general, Company registration process can take anywhere from 3 – 16 weeks and Work Pass from 1 to 3 weeks, from the day of submitting satisfactory application to the Authority.

Is there a minimum salary requirement to obtain a long-term work and residence permit for assignments? Can allowances be taken into account for the salary?

The minimum salary requirement for Employment Pass is as set out in Table 1 above. Allowances are excluded.

Is there a fast-track process which could expedite the visa/ work permit?

Fast-track option is not available.

At what stage is the employee permitted to start working when applying for a long-term work and residence permit (assignees/ local hire)?

The employee is permitted to start working once the Work Pass is endorsed on the passport.

Can a short-term permit/ business visa be transferred to a long-term permit in Malaysia?

The social visit pass granted at the point of entry cannot be transferred to a Work Pass.

It is the Authority's requirement that the visa nationals to enter Malaysia with the "Visa With Reference" after the Work Pass is approved and proceed with the endorsement of the Work Pass to start work.

Non-visa nationals may enter Malaysia after the Work Pass is approved to proceed with the endorsement.

Is it possible to renew work and residence permits?

Renewal is possible for Employment Pass. However, Employment Pass Category III is limited to 2 renewals.

Approval at the discretion of the Authority.

Is there a quota or system or a labor market test in place?

The Malaysian Company has to apply and receive approval of the annual Work Pass projection/quota before Work Pass applications can be submitted. All applications are submitted online. Projection/Quota is not applicable for PLS@Xpats and Digital Nomad Pass-PVP.

Posting of the job vacancy in the MYFutureJobs portal is required if the position does not fall under the selected auto-exemption categories.

Host country company may apply for job posting exemption from SOCSO under Specialised Skilled Expatriate if the position does not qualify for auto-exemption. A support/approval letter from SOCSO after posting the job vacancy will be submitted to facilitate the Employment Pass application.

5.3 General Immigration Related Questions

Would it be possible to bring family members to Malaysia?

Spouse, Children, Parents, Parents in-law, Adopted Child, Stepchild are allowed to join the main applicant who holds Employment Pass Category I and II in Malaysia. Family members of Employment Pass Category III under the purview of Malaysia Digital Economy Corporation are allowed to join the main applicant while Employment Pass Category III under the purview of Expatriate Services Division are not allowed to bring in family members.

Digital Nomad Pass holder may also bring in immediate family members such as spouse and children to live in Malaysia.

Is it possible to obtain a permanent residence permit?

Employment Pass holder may apply for the 10 years Residence Pass – Talent (RP-T) after working in Malaysia under the Employment Pass for at least three years and meeting the full requirements.

RP-T can be extended for another 10 years upon meeting the requirements and the application is subject to the discretion of the RP-T panel. The application for RP-T post-10-years can be submitted within 3 months of the expiry date of current RP-T pass, prior to completion of the initial 10-year approval period.

What if circumstances change after the Work and Residence application process?

Any change in the terms of the employment or personal situation, e.g. job title, change of employer, would require a new Work Pass application except PLS@Xpats and Digital Nomad Pass.

How long can a permit holder leave Malaysia without his permit becoming invalid?

Extended or prolonged absence from Malaysia during the validity period of the Work Pass will not affect the Work Pass validity.

Must immigration permissions be cancelled by the end of the assignment/employment?

In case of a cessation of the employment or services before the end of the validity of the Work Pass, the Immigration Department of Malaysia should be informed. A cancellation of the Work Pass together with any corresponding Dependent Pass or Long-Term Social Visit Pass issued, needs to be done before the final departure from Malaysia.

Are there any penalties for individuals and/or companies in place for non-compliance with immigration law?

In Malaysia the penalties on the individuals differ from that of companies. Penalties on the individual could include deportation, restriction on re-entering Malaysia, monetary fines, whipping or jail term. The penalties on the company as a sponsor include monetary fines, whipping or jail term.

5.4 Other Important Items

List any other important items to note, or common obstacles faced, in Malaysia when it comes to the immigration processes.

Below you will find a list of other important items to note and the common obstacles for work pass application:

- **Insufficient passport pages** – the passport must have more than 6 blank pages at the time of submission
- **Insufficient validity of the passport** – the passport must be valid for 12 or 15 months and above at the time of submission, depending on respective Authority's requirement
- **Photograph** – the photograph must be in blue background wearing dark coloured clothing covering shoulders and chest.

- **Translation and certification of documents as true** – Marriage, birth and academic certificates would require English translation, if original language is not in English. Certification of documents as true copies by the Embassy is required for marriage and birth certificates
- **Inconsistencies in documentation for renewal cases** – as an example where there is a discrepancy in the employment contract, salary slips and annual personal income tax return, the authorities may require further justification. This will delay the processing. If the authority is not satisfied with the justification, the application may be rejected.
- **Personal income taxes in renewal cases** - it is imperative that the employee has no unpaid prior years' taxes
- **Employment Pass Application** – it is compulsory to provide MYFutureJobs exemption letter if the position does not fall within the auto-exemption categories for the Authority to process the application.
- **Department of Labour Peninsular Malaysia** - Company needs to obtain approval from Department of Labour Peninsular Malaysia to employ expatriate and provide the approval letter to facilitate the application for projection/quota.
- **Permission to work at second location** – the permission is to be applied from the Approving Authority if the expatriate holding the Employment Pass is working in the Branch office or project site which is a different work address stated in the Employment Pass.

FOOTNOTE

¹ Expatriate Service Division ('ESD') Online Guidebook V3.1 2017

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