

www.pwc.com/my

Stay current. Be tax savvy

TaXavvy

*March 2014
Issue 2/2014*



pwc

Inside this issue

Tax Laws **3**

- Amendment of Petroleum Income Tax Gazette Orders
- Stamp duty exemption for Small and Medium Enterprises in relation to Green Lane Policy

Tax Administration **3**

- Public Ruling 1/2014 – Withholding Tax on Special Classes of Income
- Incentives for Mines Wellness City
- Schedule of Monthly Tax Deduction 2014
- Revised Real Property Gains Tax Forms

Regulatory Developments **5**

- Revised guidelines on property acquisition

Tax Cases **6**

TaXavvy is a bi-monthly publication which aims to provide concise updates on developments in tax laws, cases, guides, administrative practices and other regulatory developments

Tax Laws



Amendment of Petroleum Income Tax Gazette Orders

The following gazette orders relating to the petroleum industry have been amended:

| | | Before amendments | After amendments |
|---|--------|---|---|
| <i>Petroleum (Income Tax) (Investment Allowance) Regulations 2013 – (PU(A) 120/2013)</i> | Reg 12 | <ul style="list-style-type: none"> The commencement of the incentive's qualifying period is from the date of approval of the Field Development Plan for the qualifying project. | <ul style="list-style-type: none"> The commencement of the incentive's qualifying period is from the date of approval of the <i>first</i> Field Development Plan for <i>any qualifying project specified under paragraphs 5(a) or 5(b) undertaken in an area specified in a petroleum agreement.</i> |
| | Reg 13 | <ul style="list-style-type: none"> The allowance equivalent to 30% of the statutory income is deemed to be assessable income. | <ul style="list-style-type: none"> This provision is deleted. |
| | Reg 15 | <ul style="list-style-type: none"> The incentive is not applicable to a chargeable person who has been granted allowance under PU(A) 119/2013 and exemption under PU(A) 122/2013. | <ul style="list-style-type: none"> The incentive is not applicable to a <i>field</i> where the chargeable person has been granted allowance under PU(A) 119/2013 and exemption under PU(A) 122/2013. |
| <i>Petroleum (Income Tax) (Accelerated Capital Allowances) (Marginal Field) Rules 2013 – (PU(A) 119/2013)</i> | Rule 8 | <ul style="list-style-type: none"> The incentive is not applicable to a chargeable person who has been granted investment allowance under PU(A) 120/2013. | <ul style="list-style-type: none"> The incentive is not applicable to a <i>field or area in respect of deep water project</i> where the chargeable person has been granted investment allowance under PU(A) 120/2013. New rule 8(2): Where in a year of assessment (YA), the accumulated production of petroleum in a marginal field from the first basis year petroleum is produced to that YA, exceeds 30 million stock tank barrels of crude oil or 500 billion standard cubic feet of natural gas, the exemption does not apply to income acquired in that YA and subsequent YAs. |
| <i>Petroleum (Income Tax) (Exemption) Order 2013 – (PU(A) 122/2013)</i> | Para 6 | Where in a YA, the accumulated production of petroleum in a marginal field from the first basis year petroleum is produced to that YA, exceeds 30 million stock tank barrels of crude oil or 500 billion standard cubic feet of natural gas, the exemption does not apply <i>to income from the excess.</i> | Where in a YA, the accumulated production of petroleum in a marginal field from the first basis year petroleum is produced to that YA, exceeds 30 million stock tank barrels of crude oil or 500 billion standard cubic feet of natural gas, the exemption does not apply <i>to income acquired in that YA and subsequent YAs.</i> |

Tax Laws



Stamp duty exemption for Small and Medium Enterprises (SME) in relation to Green Lane Policy

The Stamp Duty (Exemption) Order 2014 comes into operation on 1 January 2013 and provides a one-time stamp duty exemption on any instrument of loan agreement or financing under the syariah, executed on or after 1 January 2013 but not later than 31 December 2014, between a SME and

- Bank Pertanian Malaysia Berhad;
- Malaysian Industrial Development Finance Berhad (MIDF); or
- Malaysia Debt Ventures Berhad (MDV),

The SME must have been approved for an incentive under the Green Lane Policy by the Ministry of Finance.

Tax Administration



Public Ruling 1 / 2014 – Withholding Tax on Special Classes of Income

The Inland Revenue Board (IRB) has issued *Public Ruling 1/2014 – Withholding Tax on Special Classes of Income* on 23 January 2014. This public ruling replaces *Public Ruling 4/2005* dated 12 September 2005 and *its Addendums* dated 30 November 2007 and 4 January 2010. The new public ruling includes additional examples and additional explanation covering:

- Appeals on payment of withholding tax,
- Due date of withholding tax payment,
- Regrossing of payment for withholding tax purposes,
- Imposition of penalty under section 113(2) of the Income Tax Act 1967 (ITA),
- Treatment of late payment interest, and
- Application of section 39(3) of the ITA.

The public rulings are available for download on IRB's website at www.hasil.gov.my (Laws and Regulations > Public Ruling).

Tax Administration



Incentives for Mines Wellness City

MIDA has issued guidelines and forms in relation to incentives for operators, developers and development managers in Mines Wellness City (MWC). The salient points of the incentives are:

| | Operator | Development manager | Developer |
|--------------------|--|---|--|
| Incentive | <ul style="list-style-type: none"> PS of 70% of statutory income for 5 years for income from qualifying activities in MWC. ITA of 60% on QCE incurred within 5 years, against 70% of statutory income. | PS of 100% exemption on statutory income from management, consultancy, supervisory or marketing services to MWC Developer in MWC from the first YA statutory income is derived until YA 2023. | <ol style="list-style-type: none"> PS of 100% exemption on statutory income from disposal of rights over land / building from the first YA statutory income is derived until YA 2023, or Income tax exemption on rental income from the first YA statutory income is derived until YA 2026, and Stamp duty exemption of 50% on instrument of transfer / lease of land / building. |
| Application period | Applications received on or after 1 January 2013 to 31 December 2026. | Applications received on or after 1 January 2013. | 1 & 2 – Applications received on or after 1 January 2013. 3 – Instruments executed from 1 January 2013 to 31 December 2023. |
| Conditions | Carry out qualifying activities within MWC such as hospital practicing allopathic medicine, ambulatory care, nursing care, hospice care, psychiatric services, pharmaceutical, medical devices, etc. | Appointed by a MWC Developer to provide management, consultancy, supervisory or marketing services to the MWC Developer. | Signed an agreement with Country Heights group to undertake development project which has not commenced at date of application. |
| | Paid up ordinary share capital of RM500,000 at date of application. | | Paid up ordinary share capital of RM250,000 at date of application, to be increased to RM2.5 million within 3 years from date of approval. |
| | Not been approved for other tax incentives. | | |

PS – Pioneer status

ITA – Investment tax allowance

QCE – Qualifying capital expenditure

The guidelines can be obtained from MIDA website at www.mida.gov.my (e-Applications > Forms & Guidelines > Mines Wellness City).

Tax Administration



Schedule of Monthly Tax Deduction (MTD) 2014

The Income Tax (Deduction from Remuneration) (Amendment) Rules 2014 (gazetted on 30 January 2014) is effective from 1 January 2014. The Schedule of MTD for 2014 (available on IRB's website) has been amended in line with the implementation of MTD as final tax with effect from YA 2014.

The Schedule of MTD 2014 is available for download on IRB's website at www.hasil.gov.my (Employer > Monthly Tax Deduction (MTD) > Notes and MTD Scheduler 2014).



Revised Real Property Gains Tax Forms

The revised CKHT 1A and CKHT 1B forms are now available on IRB's website. The revised forms incorporate changes to cater for the computation of real property gains tax under the new tax rates effective from 1 January 2014.

The forms are available for download on IRB's website at www.hasil.gov.my (Forms > Return Forms > Real Property Gains Tax).

Regulatory Developments



Revised Guideline on Acquisition of Properties

This guideline has been revised to increase the threshold of the value of property which can be acquired by foreign interest, from RM500,000 to RM1,000,000. The revised guideline is effective from 1 March 2014.

The guideline is available on the EPU website at www.epu.gov.my (Resources > Guidelines & Procedures).

Tax Cases

The following case was decided recently:

| Case | Issue(s) | Decision/ Status |
|--|--|--|
| High Court | | |
| Ketua Pengarah Hasil Dalam Negeri v Bee Garden Sdn Bhd | <p>This was an application for judicial review.</p> <ol style="list-style-type: none">Whether the conclusion made by the Special Commissioners of Income Tax (SCIT) before arriving at the deciding order was correct as it contradicted its earlier findings.Whether the rebate given by the disposer to the acquirer in connection with the disposal of property formed part of the disposal price under para 5(1), Schedule 2 of the Real Property Gains Tax Act 1976. | <p>IRB's appeal dismissed</p> <p><i>SCIT: In favour of taxpayer.</i></p> |

PwC Contacts

Our offices

Kuala Lumpur

Jagdev Singh
Tel: +60(3) 2173 1469
jagdev.singh@my.pwc.com

Penang / Ipoh

Tony Chua
Tel: +60(4) 238 9118
tony.chua@my.pwc.com

Johor Bahru

Benedict Francis
Tel: +60(7) 222 4448
benedict.francis@my.pwc.com

Melaka

Teh Wee Hong
Tel: +60(3) 2173 1595
wee.hong.teh@my.pwc.com

Au Yong

Tel: +60(6) 283 6169
paik.hup.au@my.pwc.com

Labuan

Jennifer Chang
Tel: +60(3) 2173 1828
jennifer.chang@my.pwc.com

Our services

Consumer & Industrial Product Services

Theresa Lim
Tel: +60 (3) 2173 1583
theresa.lim@my.pwc.com

Margaret Lee
Tel: +60(3) 2173 1501
margaret.lee.seet.cheng@my.pwc.com

Emerging Markets

SM Thanneermalai
Tel: +60(3) 2173 1582
thanneermalai.somasundaram@my.pwc.com

Corporate Services

Theresa Lim
Tel: +60(3) 2173 1583
theresa.lim@my.pwc.com

Lee Shuk Yee
Tel: +60(3) 2173 1626
shuk.yee.x.lee@my.pwc.com

Energy, Utilities & Mining / Technology, InfoComm & Entertainment

Khoo Chuan Keat
Tel: +60(3) 2173 1368
chuan.keat.khoo@my.pwc.com

Transfer Pricing & Investigations

SM Thanneermalai
Tel: +60(3) 2173 1582
thanneermalai.somasundaram@my.pwc.com

International Assignment Services

Sakaya Johns Rani
Tel: +60 (3) 2173 1553
sakaya.johns.rani@my.pwc.com

Japanese Business Consulting

Junichi Fujii
Tel: +60(3) 2173 1480
junichi.fujii@my.pwc.com

Financial Services

Jennifer Chang
Tel: +60 (3) 2173 1828
jennifer.chang@my.pwc.com

International Tax Services / Mergers & Acquisition

Frances Po
Tel: +60(3) 2173 1618
frances.po@my.pwc.com

Indirect Tax

Wan Heng Choon
Tel: +60 (3) 2173 1488
heng.choon.wan@my.pwc.com

Worldtrade Management Services

Huang Shi Yang
Tel: +60(3) 2173 1657
shi.yang.huang@my.pwc.com

pwc.com/my

Taxavvy is a newsletter issued by PricewaterhouseCoopers Taxation Services Sdn Bhd. Whilst every care has been taken in compiling this newsletter, we make no representations or warranty (expressed or implied) about the accuracy, suitability, reliability or completeness of the information for any purpose. PricewaterhouseCoopers Taxation Services Sdn Bhd, its employees and agents accept no liability, and disclaim all responsibility, for the consequences of anyone acting, or refraining to act, in reliance on the information contained in this publication or for any decision based on it. Recipients should not act upon it without seeking specific professional advice tailored to your circumstances, requirements or needs.

© 2014 PricewaterhouseCoopers Taxation Services Sdn Bhd. All rights reserved. "PricewaterhouseCoopers" and/or "PwC" refers to the individual members of the PricewaterhouseCoopers organisation in Malaysia, each of which is a separate and independent legal entity. Please see www.pwc.com/structure for further details.