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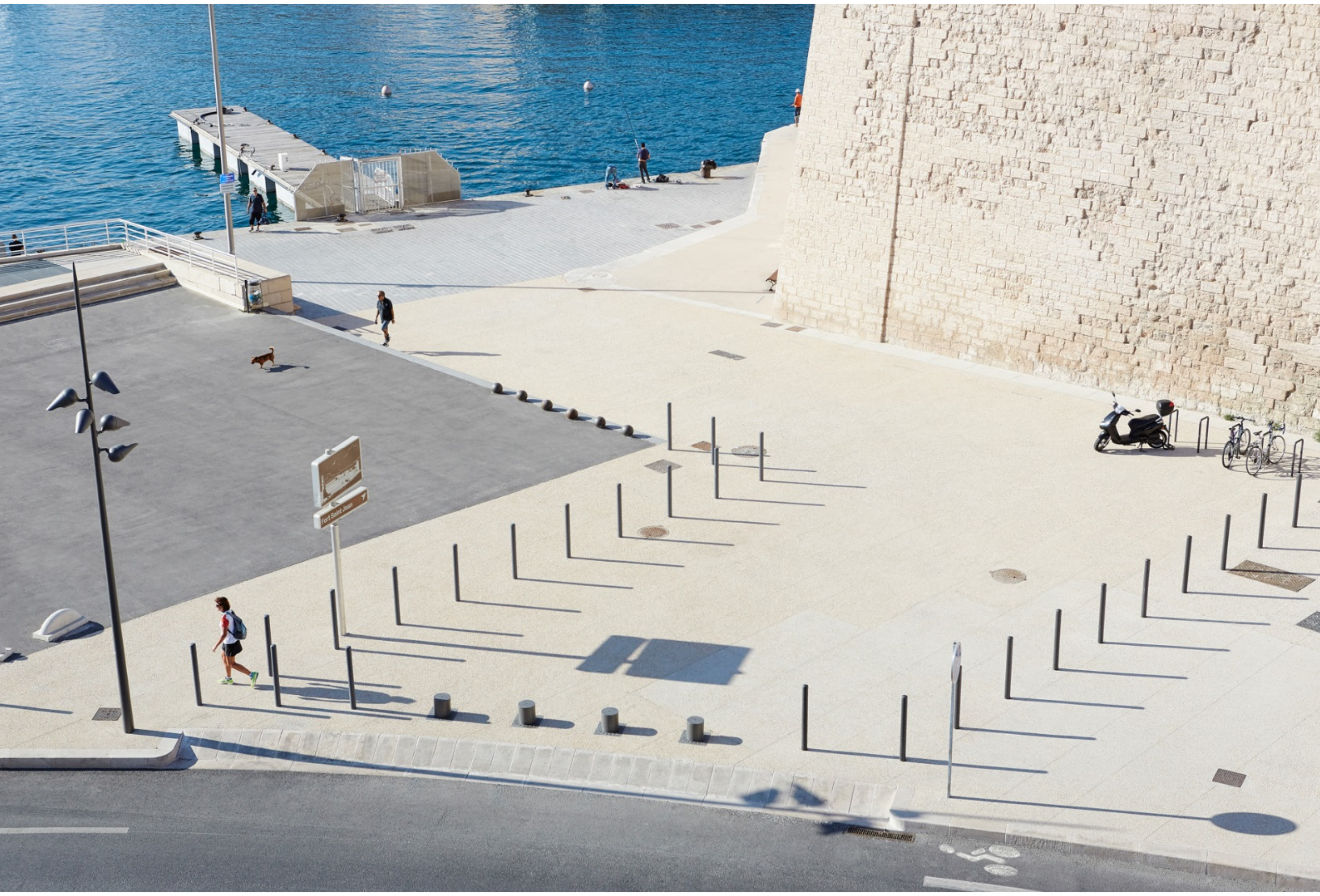

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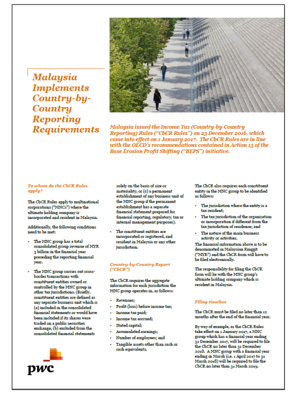
Country-by-Country Reporting Rules



The Income Tax (Country-by-Country Reporting) Rules ("CbCR Rules") were gazetted on 23 December 2016, and came into effect on 1 January 2017. The CbCR Rules are in line with the OECD's recommendations contained in Action 13 of the Base Erosion Profit Shifting initiative.

For more information on the CbCR Rules please refer to our PwC Newsletter – Malaysia Implements Country-by-Country Reporting Requirements which is available on our website www.pwc.com/my.

Common Reporting Standard

In line with the Standard for Automatic Exchange of Financial Account Information ("the Standard") developed by the OECD, Malaysia has issued the Income Tax (Automatic Exchange of Financial Account Information) Rules 2016. These Rules were gazetted on 23 December 2016 and are effective from 1 January 2017. The Standard is a global standard and common approach to exchange information to combat tax evasion in different jurisdictions and comprise:

- the Model Competent Authority Agreement, which forms the basis of exchange of information, and
- the Common Reporting and Due Diligence Standard (CRS), which contains the due diligence and reporting to be performed by reporting financial institutions.

Malaysia has committed to exchanging the CRS information from 2018. The salient points of the Rules are as follows:

Reporting person *1*

The Reporting Financial Institution is defined to mean any financial institution (FI):

- that is resident in Malaysia (excluding branches located outside Malaysia), and
- any branch of a FI that is not resident in Malaysia if it is located in Malaysia.

FI is defined in Section VIII of the Standard which includes Custodial Institution, a Depository Institution, an Investment Entity, or a Specified Insurance Company.

What is to be reported *2*

Reportable Accounts which are the accounts of individuals or entities of participating jurisdiction to the multilateral agreement.

The Reportable Accounts are identified through a due diligence procedure in accordance with the Standard.

Reporting timeline *3*

The reporting and furnishing of information to the Inland Revenue Board (IRB) will be made annually on or before 30 June of the year following the calendar year the return relates. The first reporting deadline is 30 June 2018, which will be for the calendar year 2017.

The timeline for the implementation the due diligence procedures are also set out in the IRB's website www.hasil.gov.my (International Taxation > Common Reporting Standard).

Enforcement *4*

The Director General of Inland Revenue may exercise all the powers vested under the Income Tax Act 1967 (ITA) to administer and enforce the compliance with these Rules.

Income Tax (Deduction for Investment in a BioNexus Status Company) Rules 2016

The Income Tax (Deduction for Investment in a BioNexus Status Company) Rules 2016 ("new Rules") was gazetted on 7 December 2016, and is effective from year of assessment 2016. It replaces the existing gazette order, Income Tax (Deduction for Investment in a BioNexus Status Company) Rules 2007, which was effective from 1 May 2005 ("old Rules").

Under the new Rules, a deduction is given on the actual value of investment in BioNexus status company (BSC) made from 1 January 2016 to 31 December 2020. The investment must be made for the sole purpose of financing activities at the initiation of commercialization stage of the first biotechnology business undertaken by the BSC approved by the Minister.

"Initiation of commercialization stage" means the stage of research, assessment and development of an initial concept or prototype before the technology or product is commercialized, but excludes the increase of product capacity, product development or product marketing.

Some salient points in the new Rules include:

- Cash investments should not have an obligation to be repaid.
- Investment in the form shares relates to holding of paid-up capital and in respect of ordinary shares which is paid in cash.
- The deduction given shall cease when the BSC commences the commercialization of the activities in respect of which the investment is made, which is based on the date of first invoice. Previously the deduction ceases when the BSC derives its first statutory income.
- The incentive is now not applicable to an investor company if it has a related company that has been allowed the deduction under the new Rules or old Rules.

Extension of tax incentives for tour operating companies

The Income Tax (Exemption)(No 11) Order 2016 and Income Tax (Exemption)(No 12) Order 2016 were gazetted on 22 December 2016. As announced in the 2016 Budget, these orders extends income tax exemption on statutory income for businesses providing group inclusive tours and domestic tours to years of assessment 2016 , 2017 and 2018.

Extension of stamp duty exemption for International Currency Business Unit (ICBU), licensed international Islamic banks & licensed international takaful operators

Following the 2017 Budget proposal, the Stamp Duty (Exemption) (No 3) Order 2016 was gazetted on 27 December 2016 and is effective from 1 January 2017.

The order extends the stamp duty exemption for another 4 years for the following:

- instruments executed on or after 1 January 2017 but not later than 31 December 2020, pertaining to Islamic banking and takaful activities transacted in foreign currencies.
- Instruments related to the issuance of Islamic bonds in ringgit and foreign currency approved by the Securities Commission Malaysia on or after 1 January 2017 but not later than 31 December 2020.

Stamp duty remission for purchase of first residential property

The Stamp Duty (Remission) Order 2016 and Stamp Duty (Remission) (No 2) Order 2016 were gazetted on 27 December 2016 and are effective from 1 January 2017. These gazette orders were issued following the 2017 Budget proposals.

The gazette orders provide stamp duty remission on instrument of transfer and loan agreement for the purchase of one unit of residential property by an individual who is a Malaysian citizen, subject to the following conditions:

- The value of the unit is not more than RM500,000.
- The sale and purchase agreement for the purchase has to be executed on or after 1 January 2017 and not later than 31 December 2018.
- The individual must never have owned any residential property, including those obtained by way of gift or inheritance, which is held individually or jointly.

The remission is provided as follows:

Value of property / loan amount	**Stamp duty remission on:**	
	Instrument of transfer	Loan agreement
RM300,000 or less	100%	100%
More than RM300,000 until RM500,000	RM5,000 from the total amount of stamp duty chargeable	RM1,500 from the total amount of stamp duty chargeable

“Residential property” means a house, condominium, apartment, flat solely to be used as a dwelling house.

“Individual” means a purchaser or co-purchaser

Income Tax (Deduction for Expenditure on Issuance of Retail Debenture and Retail Sukuk) Rules

The Income Tax (Deduction for Expenditure on Issuance of Retail Debenture and Retail Sukuk) Rules 2016 were gazetted on 22 December 2016. The Rules are effective from year of assessment 2016 to 2018 and provide deduction on the additional expenses incurred by a company resident in Malaysia on the issuance of retail debenture and retail sukuk as follows:

- Double deduction for retail debenture and retail sukuk approved by the Securities Commission Malaysia. The retail sukuk are issued pursuant to any Shariah principle except Ijarah or Wakalah.
- Further deduction for retail sukuk issued pursuant to Ijarah or Wakalah and approved by the Securities Commission Malaysia.

The additional expenses allowed are:

- in relation to the prospectus – professional fee relating to due diligence, drafting and preparation, printing and advertisement cost, and registration fee with the Securities Commission Malaysia,
- Bursa Malaysia processing fee, initial listing fee and new issue crediting fee, and
- primary distribution fee.

Forms EA and EC, and CP 8D Format and Information Layout

The IRB, via its announcement on 3 January 2017, has uploaded the 2016 version of the Forms EA and EC, and CP 8D format and information layout.

Employers can use either the 2016 version or the following old version of the forms / formats for the Year of Remuneration 2016:

i) Form EA (CP 8A - Pin. 2010)

ii) Form EC (CP 8C - Pin. 2010)

iii) CP 8D - Pin. 2015 Format

However, employers are required to use the Malay Language version of Form E (CP8-Pin. 2016) for the purpose of submission to IRB for the Year of Remuneration 2016. The IRB has also outlined the submission methods of the CP 8D forms. Further details can be obtained from the announcement on the IRB website www.hasil.gov.my (Announcement / Latest News).

Effective from Year of Remuneration 2016, companies and Labuan companies are required to furnish the Form E (Return of Employer) by way of electronic medium.

Employers other than companies are allowed manual submission of the Form E. The manual form will be available on IRB's website by 31 January 2017 for downloading.

The forms are on the IRB website www.hasil.gov.my (Download > Forms / Info > Other Forms > Form EA / Form EC).

Filing programme for the year 2017

The IRB has recently issued the Filing Programme for the year 2017. The following are the salient points in relation to the filing of the following income tax return forms (ITRF) and payment of income tax.

1. Due date for submission of ITRF for year of assessment 2016

Forms	Due date for submission of ITRF	
	Does not carry on business	Carry on business
BE	30 April 2017	-
B and P	-	30 June 2017
BT, M / MT, TP, TJ and TF	30 April 2017	30 June 2017

2. Submission of Forms BE, B, BT, M, MT, P, TP, TJ and TF for year of assessment 2016

Forms	Method of submission	Grace period for submission of ITRFs and payment of balance of tax under section 103(1) of Income Tax Act 1967
Forms e-BE, m-BE, e-B, e-BT, e-M, e-MT, e-P, e-TF	e-filing	**15 days (**calendar days) from the stipulated filing due date
Forms BE, B, BT, M, MT, P, TP, TJ & TF	Postal delivery	**3 working days** from the stipulated filing due date
Forms BE, B, BT, M, MT, P, TP, TJ & TF	Hand delivery	Not applicable

3. Submission of Forms C, C1, PT, TA, TC, TR and TN for year of assessment 2017

Forms	Method of submission	Grace period for submission of ITRFs and payment of balance of tax under section 103(1) of Income Tax Act 1967
Form e-C	e-filing	**1 month** from the stipulated filing due date
Forms C1, PT, TA, TC, TR & TN	Postal delivery	**3 working days** from the stipulated filing due date
Forms C1, PT, TA, TC, TR & TN	Hand delivery	Not applicable

Note: There is an error in example 1 in paragraph 2.3.2 of the Filing Programme as highlighted in red: “The due date for submission of the company’s ITRF (Form e-C) for Year of Assessment ~~2016~~ 2017 is 30 September 2017.”

If submissions are not made within the grace period, the submission will be deemed to be late and penalties under Section 112(3) of ITA will be computed from the stipulated filing due date and not from the extended due date.

4. Company, Limited Liability Partnership (LLP), Trust bodies & Co-operative Societies – Dormant and/or have not commenced business

- Similar to the Filing Programme for the year 2016, the IRB is reiterating the requirement for the above entities which are dormant and/or have not commenced business to submit the ITRFs.
- The above entities are not required to submit Form CP204 if they have not commenced operations.
- The relevant entities which own shares, real properties, fixed deposits and other similar investments are not considered dormant.
- For the purpose of e-filing of Form C, the mandatory fields in the ITRF of dormant companies are as follows:

Accounting period	Mandatory to fill up this item. Accounting period is as reported in the annual return to Companies Commission of Malaysia.
Basis Period	Mandatory to fill up this item.
Business / Partnership Statutory Income	Mandatory to fill up these items if either one is completed.
Business Code	

5. Return by employer (Form E) for the year of remuneration 2016

Submission via	Grace period for submission of Form E
e-Filing	Until **30 April 2017**
Postal delivery	**3 working days** from the stipulated filing due date
Hand delivery	Not applicable

- With effect from year of remuneration 2016, employers which are companies are required to furnish Form E via e-filing.
- Further details on the other requirements for the submission of Form E can be found in the filing programme.

6. Approval for the use of the old version of Form EA, EC and CP 8D format

- Employers are given an option to use either the old or the 2016 version of the above forms for the year of remuneration 2016 only. Further details on the correct format/ version of the form can be found in the filing programme.
- The appendix to the filling programme also provides additional guidance on the employee's particulars for the information layout in CP 8D.

7. Application for extension of time in respect of the submission of ITRFs

As communicated last year in the Filing Programme for the year 2016, application for extension of time for submission of ITRFs will no longer be allowed by the IRB with effect from the following:

Forms (Including Electronic Forms)	Effective
Forms E, BE, B, BT, M, MT, P & TF (including electronic forms) Forms TP, TJ	YA 2015
Forms e-C, C1, PT, TA, TC, TR & TN	YA 2016

8. Repayment cases

The following appendices / working sheets used for the tax computation have to be submitted together with the ITRF for repayment cases:

- Appendix B2 / HK-6 – tax deduction under section 110 of the ITA.
- Appendix B3 / HK-8 – claim for tax relief under section 132 of the ITA.
- Appendix B4 / HK-9 – claim for tax relief under section 133 of the ITA.

9. Removal of the reduction in the rate of penalty under section 112(3) of ITA for cases other than Company

For cases other than Company, the rate of penalty stipulated by the IRB in respect of penalty under section 112(3) of ITA can **no longer** be reduced by 5% if the ITRF is submitted late via e-Filing.

10. Concession for the payment of tax under section 103(2) of the ITA.

For assessment raised under sections 91, 92, 96A, 90(2A), 90(3), 101(2) of the ITA, the tax or balance of tax must be paid within 30 days from the date of assessment. However, there is grace period of 7 days.

The Filing Programme for year 2017 can be downloaded from IRB's website www.hasil.gov.my (Download > Forms / Info > ITRF Filing Programme for Year 2017).

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