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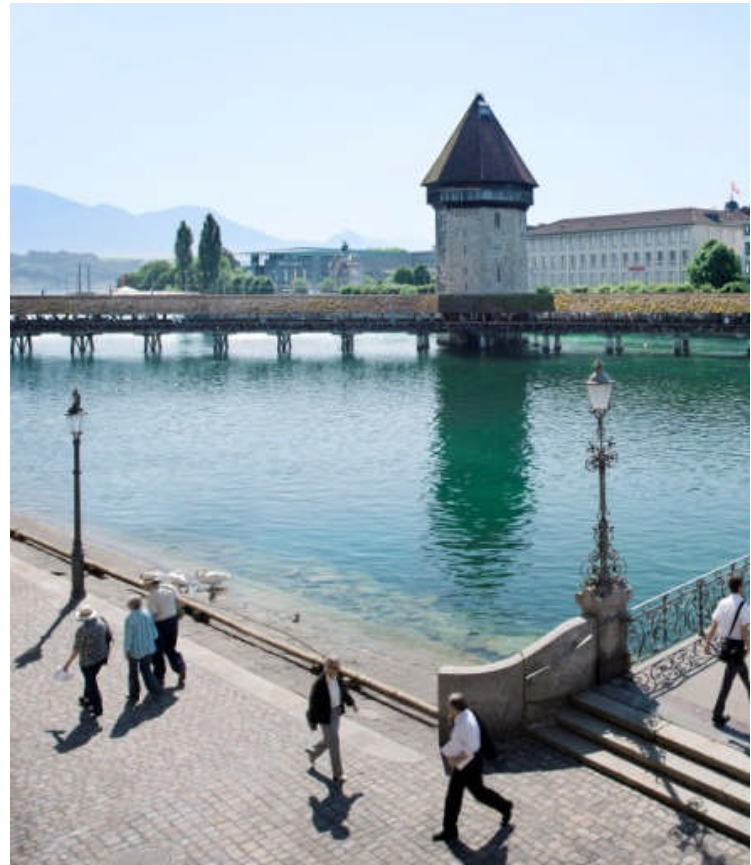
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Certificate of Residence

The Inland Revenue Board (IRB) has recently revised the forms and procedure for the application of Certificate of Residence (COR). A COR is issued to confirm the tax residence status of a taxpayer and enables the Malaysian tax resident to claim tax benefits under the Double Tax Agreement and to avoid double taxation on the same income.

Manual application

Taxpayers may manually apply for the COR at the following IRB offices based on the location of their income tax files:

Location of taxpayers files	Application made to
Corporate Tax Department (CTD) Large Taxpayer Branch (BTB) Jalan Duta Branch (JDB)	Department of International Taxation (DIT) Note: Application sent to CTD/ BTB & JDB will be forwarded to DIT
Non-resident branch (individual & company)	Non-resident branch
Labuan branch (individual & company)	Labuan branch
Others (including individuals & partners of partnership)	Branches

Online application

Online application via the *e-Residence* portal will be made available to Companies and Trusts soon.

Application forms

The following are the latest application forms:

- STM1 – Application form for the certificate of residence
- STM1A – Additional request (Application for more than one certificate)

In the new forms, the applicants are required to state:

1. type of income received,
2. period of payment,
3. amount of payment received, and
4. identification/ passport number of the applicant.

In respect of COR for taxpayers from Saudi Arabia, Indonesia, France, Singapore and Switzerland, the application has to be made using the special forms available from the official portal of the respective countries.

Supporting documents

Different supporting documents are required depending on whether the applicant is a company, individual or partnership. The full list of supporting documents may be obtained from the IRB website at www.hasil.gov.my (Individual > Certificate of Residence).

For companies, a confirmation letter signed by a director, stating that management and control of the company is exercised in Malaysia for the year applied, and a copy of the Form 49 from the Companies Commission of Malaysia, are required.

Duration for the issuance of COR

COR will be issued within 3 working days and applicants will be notified for collection of the COR. COR not claimed within a month will be mailed to the applicant.

Mutual Agreement Procedure

The IRB has issued the Mutual Agreement Procedure (MAP) guideline dated 5 December 2014. The guideline serves to provide guidance in obtaining assistance in respect of resolving international tax disputes.

The salient points of the guideline include:

- Situations in which a MAP may be requested, e.g. transfer pricing, withholding tax, residence status, permanent establishment, and classification of income.
- Time limit to request for a MAP.
- Procedures for a pre-filing meeting and submission of formal request.
- Criteria in assessing whether to accept the MAP request.
- Process of negotiating, terminating or withdrawing the MAP.

For further details, please refer to www.hasil.gov.my (Laws and Regulation > Technical Guidelines).

Tax Audit Framework

The IRB issued a revised tax audit framework on 1 February 2015 which replaces the tax audit framework of 1 April 2013 for the purposes of corporate tax audit. The tax audit framework of 1 April 2013 is still applicable for petroleum income tax and transfer pricing audits.

The notable changes in the revised framework include disallowance of expenses if information requested is not furnished within a specified timeframe, extension of timeframe for settlement of audit cases from 3 months to 4 months (120 calendar days) and the inclusion of the Monitoring Deliberate Tax Defaulters programme into the framework.

The new framework can be downloaded from www.hasil.gov.my (Laws and Regulations > IRBM Tax Audit Framework) and is only available in Bahasa Malaysia.

Income Tax Return Forms - Completion of business codes

IRB issued a letter to the professional bodies on 5 February 2015 to convey the following:

- Companies and individuals with business income must complete their income tax return forms with the correct business codes based on the Malaysian Standard Industrial Classification codes, as required by the Director General of IRB under sections 77(4)(b) and 77A(3)(b) of the Income Tax Act 1967 (ITA)
- The provision of incorrect business codes will result in the income tax return being rejected by IRB, and the penalties under section 112 of the ITA will be imposed.
- The business codes can be obtained from the IRB's website by clicking the "Business Code" icon and business code booklets distributed during friendly visits carried out by IRB.

Income tax exemption on deferred annuity withdrawn before the age of 55

The Income Tax (Exemption) Order 2015 was gazetted on 5 March 2015 and provides for income tax exemption to individuals in respect of their deferred annuity withdrawn before reaching the age of fifty-five. The deferred annuity must be contracted during the period from 1 January 2014 until 31 May 2014 with an insurer carrying on a life business and licensed under the Financial Services Act 2013 or a takaful operator carrying on family takaful business and licensed under the Islamic Financial Services Act 2013.

The gazette order is effective from year of assessment 2014.

Let's talk

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