www.pwc.com/my

2017/2018
Malaysian Tax Booklet

PP 13148/07/2013 (032730)

pwc

Complimentary copy

This publication is a quick reference guide outlining Malaysian tax information which is based on taxation laws and current practices. This booklet also incorporates in *coloured italics* the 2018 Malaysian Budget proposals announced on 27 October 2017. These proposals will not become law until their enactment and may be amended in the course of their passage through Parliament.

This booklet is intended to provide a general guide to the subject matter and should not be regarded as a basis for ascertaining the liability to tax in specific circumstances. No responsibility for loss to any person acting or refraining from acting as a result of any material in this publication can be accepted by PricewaterhouseCoopers. Readers should not act on the basis of this publication without seeking professional advice.

Published by PricewaterhouseCoopers Taxation Services Sdn Bhd (464731-M)
Level 10, 1 Sentral, Jalan Rakyat, Kuala Lumpur Sentral, P.O. Box 10192,
50706 Kuala Lumpur, Malaysia
Tel: 03-21731188 Fax: 03-21731288

Printed in Malaysia by Percetakan Delima Sdn Bhd (31909-P)
No. 23, Jalan Mawar 3, Taman Mawar, 56100 Cheras, Kuala Lumpur
Tel: 03-42939131 Fax: 03-42941905

CONTENTS

CONTENTS

CONTENTS

CONTENTS

INCOME TAX

Scope of taxation

Income tax in Malaysia is imposed on income accruing in or derived from Malaysia except for income of a resident company carrying on a business of air/sea transport, banking or insurance, which is assessable on a world income scope.

Income attributable to a Labuan business activity of Labuan entities including the branch or subsidiary of a Malaysian bank in Labuan is subject to tax under the Labuan Business Activity Tax Act 1990 instead of the Income Tax Act 1967. A Labuan entity can make an irrevocable election to be taxed under the Income Tax Act 1967 in respect of its Labuan business activity.

Classes of income

Income tax is chargeable on the following classes of income:

a) gains or profits from a business;

b) gains or profits from an employment;

c) dividends, interest or discounts;

d) rents, royalties or premium;

e) pensions, annuities or other periodical payments not falling under any of the foregoing classes;

f) gains or profits not falling under any of the foregoing classes.

Basis of assessment

Income is assessed on a current year basis. The year of assessment (YA) is the year coinciding with the calendar year, for example, the YA 2017 is the year ending 31 December 2017. The basis period for a company, co-operative or trust body is normally the financial year (FY) ending in that particular YA. For example the basis period for the YA 2017 for a company which closes its accounts on 30 June 2017 is the FY ending 30 June 2017. All income of persons other than a company, limited liability partnership, co-operative or trust body, are assessed on a calendar year basis.

Malaysia adopts a self-assessment system which means that the responsibility to determine the correct tax liability lies with the taxpayer.

Returns & assessments

- Taxpayers are required to submit their income tax returns to the Inland Revenue Board (IRB) within the prescribed timeframe. Refer to the *"Important filing/Furnishing dates"* section for further information.
- A tax return submitted by the prescribed due date is deemed to be an assessment made on the taxpayer on the date of submission.
- The IRB is allowed to issue an additional assessment if it thinks that the original assessment is not sufficient. Such assessment can only be issued within 5 years (or 7 years for transfer pricing issue) from the end of that particular YA.
- The above timeframe is not applicable in situations of fraud, wilful default or negligence.

Appeals

- Where a taxpayer is aggrieved by an assessment made by the IRB, he / she may submit an appeal. If the taxpayer and the IRB cannot come to an agreement, the appeal may be escalated to the Special Commissioners of Income Tax (SCIT) within a certain period.
- Appeal against assessments raised by the IRB can be made within 30 days after the date the notice of assessment has been served.
- Taxpayers can also appeal against its own assessment (self-assessment made based on the return submitted by taxpayer). However, the scope of appeal is restricted only to disagreement (but conceded in its return) with the IRB's known stand and rules prevailing at the time when the return was submitted. Example of such known stand and rules are:
  - Public rulings
  - Private rulings or advance rulings
  - Guidelines issued by the IRB
  - Presentation slides given by IRB officers
  - Decided tax cases
  - Other written evidence

.

Relief for error or mistake, or inaccurate tax returns

Application for relief can be made to the Director General of Inland Revenue (DGIR) for tax returns which are incorrect due to the following reasons:

Reasons	Time frame for appeal
Error or mistake made by the taxpayer.	In cases involving overpayment of tax for a YA, within 5 years from the end of that YA. In cases where there is no tax liability for a YA, within 6 months from the date the return is furnished.
Exemption, relief, remission, allowance or deduction granted for that YA under the Income Tax Act 1967 or any other written law published in the Gazette after the YA in which the return is furnished.	Within 5 years after the end of the year the exemption, relief, remission, allowance or deduction is published in the Gazette.
Approval for exemption, relief, remission, allowance or deduction is granted after the YA in which the return is furnished.	Within 5 years after the end of the year the exemption, relief, remission, allowance or deduction is approved.
Tax deduction not claimed in respect of expenditure incurred that is subject to withholding tax which is not due to be paid on the day the return is furnished.	Within 1 year after the end of the year the payment of withholding tax is made.

Offences & penalties

Offences under the Income Tax Act 1967 and the penalties thereof include the following:

Offences	Penalties
Failure to furnish Income Tax Return	RM200 to RM20,000 or imprisonment or both [on conviction], or 300% of tax payable [in lieu of prosecution]
Failure to furnish Income Tax Return for 2 YAs or more	RM1,000 to RM20,000 and 300% of tax liability [on conviction], or 300% of tax payable [in lieu of prosecution]
Make an incorrect tax return by omitting or understating any income, or incorrect information	RM1,000 to RM10,000 and 200% of tax undercharged [on conviction], or 100% of tax undercharged [in lieu of prosecution]
Wilfully and intentionally evade or assist any other person to evade tax	RM1,000 to RM20,000 or imprisonment or both and 300% of tax undercharged [upon conviction]
Attempt to leave the country without payment of tax	RM200 to RM20,000 or imprisonment or both [on conviction]
Late payment of tax liability under an assessment for a YA	10% of tax payable; additional 5% on any unpaid tax and penalty that is outstanding after 60 days
Late payment of tax instalment	10% of outstanding tax instalment amount
Underestimation of tax estimate for a YA by more than 30% of actual tax payable	10% of the difference exceeding 30% of the actual tax payable
Failure to furnish Country-by-Country Report	RM20,000 to RM100,000 or imprisonment or both [on conviction]
Incorrect return or information for Mutual Administrative Assistance Arrangement	RM20,000 to RM100,000 or imprisonment or both [on conviction]

Public rulings and advance rulings

- To facilitate compliance with the law, the DGIR is empowered to issue public rulings and advance rulings.
- Public rulings are voluntarily issued by the IRB whereas advance rulings are issued upon application made by a taxpayer.
- Tax treatment prescribed in the public rulings that are adopted by a taxpayer shall be binding on the DGIR.
- Tax treatments prescribed by the DGIR in its advance rulings are binding on both the DGIR and taxpayer except for the following circumstances:

  a) the arrangement is not materially different from the arrangement stated in the advance ruling;

  b) there was no material omission or misrepresentation in, or in connection with the application of the ruling;

  c) the assumptions made by DGIR when issuing the advance ruling are subsequently proved to be incorrect; or

  d) the taxpayer fails to satisfy any of the conditions stipulated by the DGIR.

PERSONAL INCOME TAX

Tax residence status of individuals

An individual is regarded as tax resident if he meets any of the following conditions, i.e. if he is:

- in Malaysia for at least 182 days in a calendar year;
- in Malaysia for a period of less than 182 days during the year ("shorter period") but that period is linked to a period of physical presence of 182 or more "consecutive" days in the following or preceding year ("longer period"). Temporary absences from Malaysia due to the following reasons are counted as part of the consecutive days, provided that the individual is in Malaysia before and after each temporary absence:
  - business trips
  - treatment for ill-health
  - social visits not exceeding 14 days
- in Malaysia for 90 days or more during the year and, in any 3 of the 4 immediately preceding years, he was in Malaysia for at least 90 days or was resident in Malaysia; or
- resident for the year immediately following that year and for each of the 3 immediately preceding years.

Rates of tax

1. Resident individuals

		YA 2017		YA 2018	
	Chargeable Income RM	Rate %	Tax Payable RM	*Rate %*	*Tax Payable RM*
On the first	5,000		0		0
On the next	15,000	1	150	1	150
On the first	20,000		150		150
On the next	15,000	5	750	*3*	*450*
On the first	35,000		900		*600*
On the next	15,000	10	1,500	*8*	*1,200*
On the first	50,000		2,400		*1,800*
On the next	20,000	16	3,200	*14*	*2,800*
On the first	70,000		5,600		*4,600*
On the next	30,000	21	6,300	21	6,300
On the first	100,000		11,900		*10,900*
On the next	150,000	24	36,000	24	36,000
On the first	250,000		47,900		*46,900*
On the next	150,000	24.5	36,750	24.5	36,750
On the first	400,000		84,650		*83,650*
On the next	200,000	25	50,000	25	50,000
On the first	600,000		134,650		*133,650*
On the next	400,000	26	104,000	26	104,000
On the first	1,000,000		238,650		*237,650*
Above	1,000,000	28		28	

- A qualified person (defined) who is a knowledge worker residing in Iskandar Malaysia is taxed at the rate of 15% on income from an employment with a designated company engaged in a qualified activity in that specified region.
- An approved individual under the Returning Expert Programme who is a resident is taxed at the rate of 15% on income in respect of having or exercising employment with a person in Malaysia for 5 consecutive YAs.

2. Non-resident individuals

Types of income	Rate (%)
Public Entertainer's professional income	15
Interest	15
Royalty	10
Special classes of income: • rental of moveable property • technical or management services fees* • payment for services rendered in connection with use of property or installation or operation of any plant, machinery or other apparatus purchased from a non-resident person*	10
Dividends (single tier)	Exempt
Business, employment income, discounts, rents, premiums, pensions annuities, other periodical payments and other gains or profits (includes payments received for part-time / occasional broadcasting, lecturing, writing etc.)	28
Income other than the above	10

* Only services rendered in Malaysia are liable to tax. However from 17 January 2017 to 5 September 2017, services rendered in and outside Malaysia are liable to tax.

Personal reliefs for resident individuals

Types of relief	YA 2017 / YA 2018 RM
Self	9,000
Disabled individual - additional relief for self	6,000
Spouse	4,000
Disabled spouse - additional spouse relief	3,500
Child	
• per child (below 18 years old)	2,000
• per child (over 18 years old): receiving full-time instruction of higher education in respect of: - diploma level and above in Malaysia; or - degree level and above outside Malaysia OR serving under article of indentures in a trade or profession in Malaysia	8,000

Types of relief	YA 2017 / YA 2018 RM
• per physically / mentally disabled child	6,000
• physically / mentally disabled child (over 18 years of age) receiving full-time instruction at institution of higher education in respect of: - diploma level and above in Malaysia; or - degree level and above outside Malaysia OR serving under articles or indentures in a trade or profession in Malaysia	14,000
Life insurance premiums and EPF contributions	6,000*
Private Retirement Scheme contributions and Deferred annuity scheme premium (YA 2012 to YA 2021)	3,000*
Insurance premiums for education or medical benefits	3,000*
Expenses on medical treatment, special needs or carer expenses for parents (evidenced by medical certification)	5,000*
Parental care relief (until YA2020): • father • mother	 1,500 1,500
Employee's contribution to Social Security Organisation (SOCSO)	250*
Medical expenses for self, spouse or child suffering from a serious disease (including fees of up to RM500 incurred by self, spouse or child for complete medical examination)	6,000*
Fee expended for any course of study up to tertiary level other than a degree at Masters or Doctorate level, undertaken for the purpose of acquiring law, accounting, Islamic financing, technical, vocational, industrial, scientific or technological skills or qualifications or any course of study for a degree at Masters or Doctorate level undertaken for the purpose of acquiring any skill or qualification	7,000*
Purchase of supporting equipment for self (if a disabled person) or for disabled spouse, child or parent	6,000*

* Maximum relief

Types of relief	YA 2017 / YA 2018 RM
Lifestyle relief consolidated with the following: • purchase of books, journals, magazines, printed newspaper and other similar publications for the purpose of enhancing knowledge • purchase of personal computer, smartphone or tablet • purchase of sports equipment and gym memberships, and • internet subscription	2,500*
Purchase of breastfeeding equipment	1,000*
Fees paid to child care centre and kindergarten	1,000*
Deposit for child into the *Skim Simpanan Pendidikan 1Malaysia* account established under Perbadanan Tabung Pendidikan Tinggi Nasional Act 1997 (until *YA 2020)*****	6,000*

* Maximum relief

*** Previously was known as Skim Simpanan Pendidikan Nasional where the tax relief is up to YA 2017)*

Tax rebates for resident individuals

Types of rebate	RM
Individual's chargeable income does not exceed RM35,000	400
If husband and wife are separately assessed and each chargeable income does not exceed RM35,000	400 (each)
If husband and wife are jointly assessed and the joint chargeable income does not exceed RM35,000	800
Rebate for Zakat, Fitrah or other Islamic religious dues paid	Actual amount expended

The above rebate granted is deducted from tax charged and any excess is not refundable.

EMPLOYMENT INCOME

Derivation

Employment income is regarded as derived from Malaysia and subject to Malaysian tax where the employee:

- exercises an employment in Malaysia;
- is on paid leave which is attributable to the exercise of an employment in Malaysia;
- performs duties outside Malaysia which are incidental to the exercise of an employment in Malaysia;
- is a director of a company resident in Malaysia; or
- is employed to work on board an aircraft or ship operated by a person who is resident in Malaysia.

Exemption (short-term employees)

Income of a non-resident from an employment in Malaysia is exempt:

- if the aggregate of the period or periods of employment in Malaysia does not exceed 60 days in a calendar year; or
- where the total period of employment which overlaps 2 calendar years does not exceed 60 days.

Employees of regional operations

Non-Malaysian citizens who are based in Malaysia working in Operational Headquarter (OHQ) or Regional Office (RO), or International Procurement Centre (IPC), or Regional Distribution Centre (RDC) or Treasury Management Centre (TMC) status companies would be taxable on employment income attributable to the number of days they exercise employment in Malaysia.

Women returning to work after career break

The employment income for women returning to work after a career break of at least 2 years is exempted for up to a maximum of 12 consecutive months (application to Talent Corporation Malaysia Berhad from 1.1.2018 to 31.12.2019) and the exemption period is from YAs 2018 to 2020.

Types of employment income

Type of employment income	Taxable Value
Cash remuneration, e.g. salary, bonus, allowances / perquisites	Total amount paid by employer. Certain allowances / perquisites are exempted from tax. Please refer to "Perquisites" below
Benefits-in-kind, e.g. motorcar and petrol, driver, gardener, etc	Based on formula or prescribed value method. Certain benefits are exempted from tax. Please refer to "Benefits-in-kind" below
Housing accommodation (unfurnished) • employee or service director • directors of controlled companies	 Lower of 30% of cash remuneration* or defined value of accommodation Defined value of accommodation
Hotel accommodation for employee or service director	3% of cash remuneration*
Withdrawal from unapproved pension fund	Employer's contribution
Compensation for loss of employment	Total amount paid by employer. Exemption is available under specified conditions

* Cash remuneration does not include equity-based income

Note: Taxable value of employment income is inclusive of output tax paid under the Good & Services Tax (GST) which is borne by employer

Perquisites

The IRB issued Public Ruling 2/2013 for the valuation of perquisites given to employees. Below are some examples of perquisites:

Perquisites	Taxable Value
Petrol card / petrol or travel allowances and toll rates	Total amount paid by employer. Exemption available up to RM6,000 per annum if the allowances/perquisites are for official duties*
Childcare subsidies / allowances	Total amount paid by employer. Exemption available up to RM2,400 per annum*

* Exemptions are not extended to directors of controlled companies, sole proprietors and partnerships

Perquisites	Taxable Value
Parking fees / allowances	Fully exempted*
Meal allowances	Fully exempted*
Interest on loan subsidies	Loans totalling RM300,000 for housing / passenger motor vehicles and education*
Income tax borne by employer	Total amount paid by employer
Award	Total amount paid by employer. Exemption available up to RM2,000 per annum for the following types of award:* • long service (more than 10 years of employment with the same employer) • past achievement • service excellence, innovation, or productivity award

* Exemptions are not extended to directors of controlled companies, sole proprietors and partnerships

Benefits-in-kind (BIK)

The IRB has issued Public Ruling 3/2013 for the valuation of BIK provided to employees.

The value of BIK provided for an employee may be determined by either of the following methods:

- formula method, or
- prescribed value method

Under the formula method, annual value of BIK provided to an employee is computed using the following formula:

$$\frac{\text{Cost of the asset provided as a benefit/amenity}}{\text{Prescribed life span of the asset}} = \text{Annual value}$$

- The prescribed life span for various benefits are as follows:

Benefits-in-kind	Prescribed average life span (Years)
Motorcar	8
Furnishings:	
• Air-conditioner	8
• Curtains & carpets	5
• Furniture	15
• Refrigerator	10
• Sewing machine	15
Kitchen utensils / equipment	6
Entertainment and recreation:	
• Organ	10
• Piano	20
• Stereo set, TV, video recorder, CD / DVD player	7
• Swimming pool (detachable), sauna	15
• Miscellaneous	5

- Under the prescribed value method the following are some values of BIK prescribed in the Ruling:

Benefits-in-kind	Value per year
Household furnishings, apparatus & appliances:	
• Semi-furnished with furniture in the lounge, dining room and bedroom	RM840
• Semi-furnished as above and with air-conditioners or carpets or curtains	RM1,680
• Fully furnished	RM3,360
• Service charges and other bills (e.g. water, electricity)	Charges and bills paid by employer
Prescribed value of other benefits:	
• Driver	RM7,200 per driver
• Domestic servants	RM4,800 per servant
• Gardeners	RM3,600 per gardener
• Corporate recreational club membership	Membership subscription paid by Employer

- The following are some exemptions for certain BIK:*

Benefits-in-kind	Exemption
Leave passages	i. one overseas leave passage up to a maximum of RM3,000 for fares only; or ii. 3 local leave passages including fares, meals and accommodation
Employers' goods provided free or at a discount	Exemption is available up to RM1,000 per annum. Any benefit exceeding RM1,000 will be subject to tax
Employers' own services provided full or at a discount	Fully exempted
Maternity expenses & traditional medicines	Fully exempted
Telephone (including mobile telephone), telephone bills, pager, personal data assistant (PDA) and broadband subscription	Fully exempted, limited to one unit for each asset

* Exemptions are not extended to directors of controlled companies, sole proprietors and partnerships

Standard rates for motorcar and fuel provided:

Cost of car (when new) RM	Annual prescribed benefit of motorcar RM	Annual prescribed benefit of fuel* RM
Up to 50,000	1,200	600
50,001 – 75,000	2,400	900
75,001 – 100,000	3,600	1,200
100,001 – 150,000	5,000	1,500
150,001 – 200,000	7,000	1,800
200,001 – 250,000	9,000	2,100
250,001 – 350,000	15,000	2,400
350,001 – 500,000	21,250	2,700
500,001 and above	25,000	3,000

* Employee is given a choice to determine fuel benefit based on annual prescribed rates or exemption available for petrol usage

Collection of tax

- Taxes are collected from employees through compulsory monthly deductions from remuneration by the 15th of the following month under the Monthly Tax Deduction (MTD) system.
- Total remuneration including BIK and value of accommodation provided to employees is subject to MTD.
- Individuals receiving non-employment income are required to pay by compulsory bi-monthly instalments.

CORPORATE INCOME TAX

Residence status

A company is tax resident in Malaysia if its management and control are exercised in Malaysia. Management and control are normally considered to be exercised at the place where the directors' meetings concerning management and control of the company are held.

Income tax rates

Resident companies are taxed at the rate of 24% while those with paid-up capital of RM2.5 million or less* are taxed at the following scale rates:

Chargeable income	Tax rate
The first RM500,000	18%
In excess of RM500,000	24%

* The companies must not be part of a group of companies where any of their related companies have a paid-up capital of more than RM2.5 million

For YA 2017 and YA 2018, resident companies are eligible for a reduced income tax rate on the incremental portion of chargeable income from a business source compared to the immediate preceding YA. The reduced tax rates are based on the percentage of increase in chargeable income from a business source as provided below:

% of increase in chargeable income from a business source compared to the immediate preceding YA	% point of reduction	Income tax rate applicable for incremental portion of chargeable income from a business source (%)
Less than 5.00%	0	24
5.00% - 9.99%	1	23
10.00% - 14.99%	2	22
15.00% - 19.99%	3	21
20.00% and above	4	20

Non-resident companies are taxed at the following rates:

Type of income	Tax rate
Business income	24%
Royalties	10%
Rental of moveable properties	10%
Technical or management service fees	10%*
Interest	15%**
Dividends	Exempt
Other income	10%

Note: Where the recipient is resident in a country which has a double tax treaty with Malaysia, the tax rates for the specific sources of income may be reduced.

* Only services rendered in Malaysia are liable to tax. However from 17 January 2017 to 5 September 2017, services rendered in and outside Malaysia are liable to tax.

** Interest paid to a non-resident by a bank or a finance company in Malaysia.

Collection of tax

An estimate of a company's tax payable for a YA must be furnished by all companies to the DGIR not later than 30 days before the beginning of the basis period, except for the following:

- A newly established company with paid-up capital of RM2.5 million and less is exempted from this requirement for 2 to 3 YAs, beginning from the YA in which the company commences operation, subject to certain conditions.
- A company commencing operations in a YA is not required to furnish estimate of tax payable or make instalment payments if the basis period for the YA in which the company commences operations is less than 6 months.

Estimate of tax payable is generally payable by 12 equal monthly instalments, beginning from the second month of the company's basis period (FY).

The balance of tax payable by a company based on the return submitted is due to be paid by the due date for submission of the return.

In general, tax of a non-resident company on all income other than income from a business source is collected by means of withholding tax. The withholding tax is payable within one month of crediting or paying the non-resident company.

Profit distribution

Tax on a company's profits is a final tax and dividends paid, credited or distributed are tax exempt in the hands of shareholders.

Losses

Business losses can be set off against income from all sources in the current year. Any unutilised losses can be carried forward indefinitely to be utilised against income from any business source, subject to the shareholder continuity test if the company is dormant.

Group relief

Under the group relief provision, a company may surrender a maximum of 70% of its adjusted loss for a YA to one or more related companies. Conditions to be met by the claimant and surrendering companies include the following:

- Resident and incorporated in Malaysia.
- Paid-up capital of ordinary shares exceeding RM2.5 million at the beginning of the basis period.
- The same (12-month) accounting period.
- Both companies are "related companies" as defined in the law, and must be "related" throughout the relevant basis period as well as the 12 months preceding that basis period.

Companies currently enjoying certain incentives such as pioneer status (PS), investment tax allowance (ITA), reinvestment allowance, etc. are not eligible for group relief.

Tax deductions

Generally, tax deduction is allowed for all outgoings and expenses wholly and exclusively incurred in the production of gross income.

Certain expenses are specifically disallowed, for example:

- Domestic, private or capital expenditure.
- Lease rentals for passenger cars exceeding RM50,000 or RM100,000 per car, the latter amount being applicable to vehicles costing RM150,000 or less which have not been used prior to the rental.
- Employer's contributions to unapproved pension, provident or saving schemes.

- Employer's contributions to approved schemes in excess of 19% of employee's remuneration.
- Non-approved donations.
- 50% of entertainment expenses with certain exceptions.
- Employee's leave passages with certain exceptions.
- Interest, royalty, contract payment, technical fee, rental of movable property, payment to a non-resident public entertainer or other payments made to non-residents which are subject to Malaysian withholding tax but where the withholding tax was not paid.
- Input tax under GST incurred by a person which is liable but has failed to be GST registered.
- Input tax under GST incurred by a person entitled to input tax credit.
- Output tax under GST borne by a GST registrant or by a person liable to be registered.

Transfer pricing

1. Legislation

- Malaysia's transfer pricing legislation adopts the arm's length principle espoused in the OECD Transfer Pricing Guidelines.
- Under Section 140A of the Income Tax Act 1967, the DGIR is empowered to make adjustments on intercompany transactions of goods, services or financial assistance based on the arm's length principle.
- The following rules and guidelines have been issued by the IRB with effect from (w.e.f) 1 January 2009):
  - Income Tax (Transfer Pricing) Rules 2012 ("TP Rules");
  - Malaysian Transfer Pricing Guidelines 2012 (the Guidelines), revised 15 July 2017 (updates effective 15 July 2017);
  - Income Tax (Advance Pricing Arrangement) Rules 2012 ("APA Rules"); and
  - Advance Pricing Arrangement Guidelines 2012 ("APA Guidelines").

2. Documentation requirements

- The TP Rules require taxpayers with intercompany transactions to prepare transfer pricing documentation on a contemporaneous basis.

- Documentation should be in place by the time of filing of the tax return (seven months after the FY end). However, it does not need to be submitted with the tax return.
- The Guidelines set out Malaysian documentation requirements, and apply to controlled transactions where at least one of the parties to the transaction is chargeable to tax in Malaysia.

3. Thresholds

- There is no de minimis rule in Malaysian transfer pricing legislation.
- The Guidelines allows taxpayers to opt to prepare limited documentation if they fall below the following thresholds*:
  - Gross income exceeding RM25 million, and total amount of related party transactions exceeding RM15 million.
  - For financial assistance, the threshold is RM50 million

  * Not applicable to permanent establishments (PE)
- Companies which are not assessable to tax due to tax incentives or losses are encouraged to prepare documentation if their related party transactions exceed the thresholds outlined above.
- The Guidelines need not apply to controlled transactions between companies who are both assessable and chargeable to tax in Malaysia, and where it can be proven that any adjustments made under the Guidelines will not alter the total tax payable by both companies.

4. Penalties for non-compliance

- Taxpayers are required to submit documentation within 30 days of the IRB's request. The IRB treats failure to submit documentation within the timeframe as non-compliance with the contemporaneous requirement under the TP Rules.
- Taxpayers without transfer pricing documentation could be subject to up to 35% of penalties upon additional tax payable arising from transfer pricing adjustments.
- Taxpayers not having comprehensive documentation as required under the Guidelines will be subject to 25% of penalties on additional tax payable. This assessment is subjective.

- The IRB announced that penalties amounting to 100% on additional tax payable will apply to the failure to declare income and correct information. This penalty rate could apply to additional taxes arising from transfer pricing adjustments, particularly on repeat offences.

5. 15 July 2017 revisions

- The updates incorporate Actions 8 to 10 of the Base Erosion and Profit Shifting (BEPS) Plan to ensure that transfer pricing outcomes are aligned with the value creating activities performed.
- Salient points include:
  - Actual business transactions (conduct) should be identified, and the transfer pricing arrangements should not be based on contractual arrangements which do not reflect reality
  - Contractual allocation of risks should be respected only when supported by actual decision-making
  - Capital without functionality will generate no more than a risk free return
  - The IRB may disregard transactions when exceptional circumstances of commercial irrationality occur.
- Transactions relating to intangibles – In line with the revised OECD Guidelines, the Guidelines outlines the following necessary steps in assessing intangibles transactions:
  - Identifying the intangible
  - Analysing contractual terms
  - Functional analysis (identifying economically significant functions related to the development, enhancement, maintenance, protection and exploitation (DEMPE) of the intangibles, and demonstrating control over these functions)
- Commodity transactions – The Guidelines acknowledge that that CUP method is generally the most appropriate method for intercompany commodity transactions. The Guidelines lay out comparability factors relevant to commodity transactions, and the importance of providing supporting documentation.
- Documentation requirements – introduction of three-tiered documentation as outlined under Action 13 of the BEPS Action Plan:

- Master file: Provides an overview of the multinational group's business, value drivers, intangibles, financing arrangements, and supply chain.
- Local file: Local transfer pricing documentation which substantiates the arm's length nature of intercompany transactions.
- Country-by-country report: This is addressed under the Income Tax (Country-by-Country Reporting) Rules 2016

Country-by-Country Reporting (CbCR)

On 23 December 2016, the Income Tax (Country-by-Country Reporting) Rules 2016 ("CbC Rules") were gazetted in Malaysia. These rules came into effect on 1 January 2017.

The CbC Rules require that Malaysian multinational corporation ("MNC") groups with total consolidated group revenues of RM3 billion and above in the FY preceding the reporting FY (i.e. FY commencing on or after 1 January 2017) prepare and submit CbC Reports to IRB no later than 12 months after the close of each FY.

Malaysian entities of foreign MNC groups will generally not be required to prepare and file CbC Reports as the obligation to file will be with the ultimate holding company in the jurisdiction it is tax resident in. However, the Malaysian entities of the foreign MNC group will have an obligation to inform/notify the IRB, by the end of its FY, if it is the holding company or have been appointed as the surrogate holding company. If it is neither the holding company or been appointed as the surrogate holding company, the Malaysian entities must notify the IRB of the identity and tax residence of the entity responsible for preparing the CbC Report.

The IRB has released "sample letters" in relation to notification requirement under the CbC Rules. The sample letters can be downloaded from IRB's website.

Failure to comply with the CbC Rules may result in fine of RM20,000 to RM100,000 or imprisonment of up to 6 months or both.

Advance pricing arrangement

1. Background

- Taxpayers with cross border transactions may apply for an Advance Pricing Agreement (APA) under section 138C of the Income Tax Act 1967.

- The requirements and process for APA applications are outlined in the APA Guidelines 2012.

2. Thresholds

- The APA Guidelines outline the following requirements for applying for an APA:
  - a taxpayer who is a company assessable and chargeable to tax under the Income Tax Act 1967 (also includes permanent establishment (PEs));
  - turnover value exceeding RM100 million; and
  - the value of the proposed covered transaction is
    - for sales, if it exceeds 50% of turnover;
    - for purchases, if it exceeds 50% of total purchases; or
    - for other transactions, if the total value exceeds RM25 million.
- All covered transactions must relate to income that is chargeable and not income which is exempted.
- In cases involving financial assistance, a threshold of RM50 million applies.

Earning stripping rules (ESR)

- *In Budget 2018, Malaysia announced the implementation of ESR with effect from 1 January 2019, in line with recommendations under Action 4 of the OECD BEPS Action Plan.*
- *ESR under Action 4 recommends adopting a fixed ratio rule which limits an entity's net interest deductions to a fixed percentage (10% to 30%) of profit, measured using earnings before interest, taxes, depreciation and amortisation (EBITDA).*
- *Budget 2018 referenced both EBITDA and earnings before interest and taxes (EBIT) as a potential base. EBIT is also referenced as a potential base in Action 4, provided that the benchmarked net interest/EBIT ratio is equivalent to the benchmarked net interest/ EBITDA ratio.*
- *Further details on the Malaysian adoption of Action 4 are to be released at a later date.*

CAPITAL ALLOWANCES

Industrial buildings

- Qualifying expenditure (QE)

  QE for purposes of industrial building allowance is the cost of construction of buildings or structures which are used as industrial buildings. In the case of a purchased building, the QE is the purchase price.

- Industrial buildings

  An industrial building includes a building used as/for:

  - a factory
  - warehouse*
  - a dock, wharf, jetty
  - working a farm, mine
  - airport*
  - a hotel registered with the Ministry of Tourism*
  - supplying water or electricity, or telecommunication facilities
  - approved research*
  - a private hospital, maternity home and nursing home which is licensed under the law*
  - an old folks' care centre approved by the Social Welfare Department
  - for a school or an educational institution approved by the Minister of Education / Higher Education / other relevant authority*
  - industrial, technical or vocational training approved by the Minister of Finance*
  - motor racing circuit approved by Minister of Finance*
  - service project in relation to transportation, communications, utilities or any other sub-sector approved by the Minister of Finance*
  - living accommodation for individual employed by manufacturing, hotel or tourism business or an approved service project*

- For items marked (*), where not more than one-tenth of the floor area of the whole building is used for letting of property, the whole building qualifies as industrial building. Where more than one-tenth of the floor area of the whole building is used for letting of property, only the remaining part of the building which is not used for the purpose of letting of property qualifies as industrial building.

- The Minister of Finance may prescribe a building used for the purpose of a person's business as an industrial building.
- General rates of allowance for Industrial building, whether constructed or purchased:
  – Initial allowance: 10%
  – Annual allowance: 3%

Plant and machinery

- Qualifying expenditure (QE)

  QE includes:
  – cost of assets used in a business, such as plant and machinery, office equipment, furniture and fittings, motor vehicles, etc.
  – the cost of construction and installation of plant and machinery (subject to payment of withholding tax where the installation is carried out by a non-resident).
  – expenditure on fish ponds, animal pens, cages and other structures used for agricultural or pastoral pursuits.
  – where an asset is acquired on a hire purchase term, the QE for a particular basis period is based on the amount of capital repayment made during that basis period.
- General rates of capital allowance

	Allowance	
	Initial	Annual
Heavy machinery	20%	20%
General plant and machinery	20%	14%
Furniture and fixtures	20%	10%
Office equipment	20%	10%
Motor vehicles	20%	20%*
ICT equipment and computer software packages (w.e.f YA 2017)	*20%*	*20%*
Development of customised software, comprising of consultation, licensing and incidental fee (w.e.f YA 2018)	*20%*	*20%*

* QE for non-commercial vehicle is restricted to the maximum amount below

	Maximum QE (RM)
New vehicles purchased on or after 28 October 2000 where the total cost is RM150,000 or less	100,000
Vehicles other than the above	50,000

- Expenditure on assets with life span of not more than 2 years is allowed on a replacement basis.

Accelerated capital allowances

Example of assets which qualify for accelerated capital allowance rates:

	Allowance	
	Initial %	Annual %
Industrial buildings		
Public roads and ancillary structures which expenditure is recoverable through toll collection	10	6
Buildings for the provision of child care facilities / centre	-	10
Buildings used as living accommodation for employees by a person engaged in a manufacturing, hotel or tourism business or approved service project	-	10
Buildings used as a school or an educational institution approved by the Minister of Education or any relevant authority or for the purposes of industrial, technical or vocational training approved by the Minister	-	10
Building used as a warehouse for storage of goods for export or for storage of imported goods to be processed and distributed or re-exported	-	10
Buildings constructed under an agreement with the government on a build-lease-transfer basis, approved by the Minister of Finance	10	6
Buildings constructed for the Government or statutory body under Private Financing Initiatives approved by the Prime Minister's Department under build-lease-maintain-transfer basis where no consideration has been paid by the Government or statutory body	10	6

	Allowance	
	Initial %	Annual %
Plant and machinery (P&M)		
Environmental protection equipment	40	20
P&M for building and construction (other than imported heavy machinery)	30	10, 14 or 20
P&M of a manufacturing company used exclusively for recycling wastes or further processing of wastes into a finished product	40	20
P&M of agriculture/plantation companies	20	40
P&M for controlling the quality of electric power	20	40
Moulds used in the production of industrialised building system component	40	20

Small-value assets not exceeding RM1,300 each are eligible for 100% capital allowances. The total capital allowances of such assets are capped at RM13,000 except for SMEs (as defined).

Automation capital allowances for the manufacturing sector

	Total Capital Allowance (%)
First category	
High labour intensive industries (rubber products, plastics, wood, furniture and textiles) - first RM4 million incurred from YA 2015 to YA 2017 *(extended to YA 2020)*	200
Second category	
Other industries - first RM2 million incurred from YA 2015 to YA 2020	200

Disposals

Balancing adjustments (allowance / charge) will arise on the disposal of assets on which capital allowances have been claimed. Generally, the balancing adjustment is the difference between the tax written down value and the disposal proceeds. The balancing charge is restricted to the amount of allowances previously claimed.

Capital allowances which have been previously granted shall be clawed back if the asset is sold within 2 years from the date of purchase, except by reason of death of the owner or other reasons the DGIR thinks appropriate.

Controlled transfers

No balancing adjustments will be made where assets are transferred between persons / companies under common control. In such cases, the actual consideration for the transfer of the asset is disregarded and the disposer / acquirer is deemed to have disposed of / acquired the asset at the tax written down value.

Temporary disuse

Where an asset is temporarily disused for business purposes, it is still entitled for capital allowances provided the asset was in use immediately prior to the disuse and during the period of disuse it is constantly maintained in readiness to be brought back into use for business purposes.

If the disuse ceases to be regarded as temporary, the asset will be deemed to have ceased to be used and any allowances granted during the period of temporary disuse will be clawed back.

Assets held for sale (AHFS)

If an asset is classified as AHFS in accordance with generally accepted accounting principles during the basis period, such asset is deemed to have been disposed.

Special treatment has been prescribed which may vary the disposal date and / or disposal value of such asset from the normal rules.

Unabsorbed capital allowances

Any unabsorbed capital allowances can be carried forward indefinitely to be utilised against income from the same business source, subject to the shareholder continuity test, similar to unutilised business losses.

Agriculture allowances

Qualifying agriculture expenditure	Rates %
Clearing and preparation of land	50
Planting (but not replanting) of crops on cleared land	50
Construction of a road or bridge on a farm	50
Building used as living accommodation or for welfare of a person employed in working a farm	20
Any other building	10

TAX INCENTIVES

Malaysia offers a wide range of tax incentives ranging from tax exemptions, allowances to enhanced tax deductions. Generally tax incentives are available for tax resident companies.

Pioneer Status (PS) is an incentive in a form of tax exemption which is granted to companies participating in promoted activities or producing promoted products for a period of 5 or 10 years.

The alternative to pioneer status incentive is usually the investment tax allowance (ITA). ITA is an incentive granted based on the capital expenditure incurred on industrial buildings, plant and machinery used for the purpose of the promoted activities or the production of the promoted products. This incentive is generally given for a period of 5 or 10 years.

PS and ITA are mutually exclusive. Where income is exempted under the PS incentive, tax exempt dividends may be paid out of the exempted income. For incentives by way of allowances, any unutilised allowances can generally be carried forward until fully utilised.

In the following pages, we provide a summary of the main tax incentives for the relevant industry sectors.

Types	Incentives	Years
Agriculture		
Main incentives		
Company producing promoted products or engaged in promoted activities	PS with tax exemption of 70% on statutory income (SI); or	5
	ITA of 60% on qualifying capital expenditure (QCE) set-off against 70% of SI.	5
Allowance for increased exports (AIE)		
For prescribed agricultural produce	Allowance equal to 10% of the value of increased exports deducted against 70% of SI.	

Types	Incentives	Years
Agriculture (cont'd)		
Enhanced AIE		
Company attaining / receiving:*	*Rates of allowance, deductible up to 70% of SI:*	
• Significant increase in export of at least 50%	• 30% of the value of increased exports	
• Penetration of new markets	• 50% of the value of increased exports	
• *Export Excellence Award	• 100% of the value of increased exports	
• *Brand Excellence Award	• 100% of the value of increased exports	
Agriculture allowance		
Prescribed agricultural or farming activities	10%, 20%, 50% or 100% depending on the types of assets *(refer to the chapter on 'Capital allowance').*	
Reinvestment		
Company undertaking qualifying project in expansion, modernisation or diversification of its cultivation and farming business excluding the business of chicken and ducks	Reinvestment Allowance (RA) of 60% of QCE set-off against 70% of SI; or	15
	RA of 60% on QCE set-off against 100% of SI where qualifying project has achieved the level of productivity as prescribed by the Minister	15
	Special RA for QCE incurred: • from YA 2016 - 2018 (RA incentive period ends in YA 2015 or prior) • from YA 2017 - 2018 (RA incentive period ends in YA 2016) • for YA 2018 (RA incentive period ends in YA 2017)	1-3
Company in resource-based industries	PS with tax exemption of 70% on SI; or	5
	ITA of 60% on QCE set-off against 70% of SI.	5

Types	Incentives	Years
Automotive		
Company participating in or producing automotive component modules	PS with tax exemption of 100% on SI; or	5
	ITA of 60% on QCE set-off against 100% of SI	5
Manufacturing of selected critical and high value added parts and components	PS with tax exemption of 100% on SI; or	10
	ITA of 100% on QCE set-off against 100% of SI	5
Assembly or manufacture of hybrid and electric vehicles	PS with tax exemption of 100% on SI; or	10
	ITA of 100% on QCE set-off against 100% of SI	5
	Training and research & development (R&D) grant	-
	50% excise duty exemption for locally assembled or manufactured vehicles; or provision of Industrial Adjustment Fund grant	-
Business Trust (BT)		
Initial offering of the BT	Stamp duty exemption on instruments of transfer of businesses, assets or real properties to a BT which has been duly registered and approved / authorised by the Securities Commission from 1.1.2013 to 31.12.2017	-
	Real Property Gains Tax (RPGT) exemptions for disposal of real properties including shares in a real property company to a BT which has been duly registered and approved / authorised by the Securities Commission from 1.1.2013 to 31.12.2017	-

Types	Incentives	Years
Biotechnology		
BioNexus status company:		
• New business / expansion* of approved business	Income tax exemption of 100% of SI	5* / 10
	ITA of 100% on QCE set-off against 100% of SI	5
	Industrial building allowance of 10%	10
• Upon expiry of the tax exempt period	Concessionary tax rate of 20% on SI	10
Company or individual investor investing in BioNexus company	Single deduction equivalent to the value of investment in seed capital and early stage financing	-
Cold chain facilities		
New companies/ existing companies (providing/ reinvesting in cold room facilities for prescribed perishable agriculture produce)	PS with tax exemption of 70% on SI; or	5
	ITA of 60% on QCE set-off against 70% of SI	5
Economic corridors		
Iskandar Malaysia		
The following are three tier package incentives for approved companies in Medini:		
• Approved developer	Income tax exemption in respect of income derived from rental or disposal of a building located in an approved area until YA 2020	-

Types	Incentives	Years
Economic corridors (cont'd)		
Iskandar Malaysia (cont'd)		
• Approved development manager	Income tax exemption in respect of income derived from the provision of management, supervisory or marketing services to developers until YA 2020	-
• IDR status company	Income tax exemption in respect of income derived from qualifying activities within the approved area and outside Malaysia	10
	ITA of 100% of QCE	5
	Withholding tax exemption on royalty, interest and technical fee payment to the non-resident	10
Knowledge workers working in Iskandar Malaysia	Income tax at 15% on chargeable income from employment with a designated company engaged in a qualified activity	-
Global Business Solution (GBS) in Iskandar Puteri	Customised incentives and export facilitation for qualified companies with GBS operations.	-
Northern Corridor Economic Region		
Approved agricultural projects, Seed R&D centres, and Operator of Premier Industrial Park	Income tax exemption of 100% of SI; or	5
	ITA of 100% of QCE set-off against 100% of SI	5

Types	Incentives	Years
Economic corridors (cont'd)		
East Coast Economic Region (ECER)		
Qualifying person undertaking qualifying activity	Income tax exemption on SI *(Note 1)*; or	10
	Income tax exemption equivalent to 100% of QCE *(Note 1)*	5
	Withholding tax exemption on fees for technical advice, assistance or services, or royalty paid to non-residents (until 31 December 2020)	
	Stamp duty exemption on instruments of transfer of real property or lease of land or building used for the purpose of carrying on a qualifying activity (executed on or after 13.6.2008 but not later than 31.12.2020)	
Qualifying person undertaking *special* qualifying activity	Income tax exemption at a rate of 70% to 100% and for a period as determined by the Minister *(Note 1)*; or	
	Income tax exemption equivalent to a rate of 60% to 100% of QCE incurred and within a period as determined by the Minister *(Note 1)*	
	Withholding tax exemption on fees for technical advice, assistance or services, or royalty paid to non-residents (until 31 December 2020)	
Approved developer undertaking development in industrial park or free zone	Income tax exemption in respect of income derived from: • disposal of any right over any land or disposal of a building or rights over building or part of building; or • rental of building or part of building; *(Note 1)*	10
Approved park managers	Income tax exemption of SI derived from the provision of park management services in the industrial park or free zones *(Note 1)*	10

Note 1 - Application received from 13.6.2008 to 31.12.2020

Types / Location	Incentives	Years
Economic corridors (cont'd)		
East Coast Economic Region (ECER) (cont'd)		
Approved development manager	Income tax exemption of SI derived from the provision of management, supervisory or marketing services relating to the development of an industrial park or free zone *(Note 1)*	10
Investor investing in related company	A deduction equivalent to the value of investment made into a related company carrying out qualifying activity or special qualifying activity *(Note 1)*	-
Qualifying person who sponsors an hallmark event	A deduction for an amount not exceeding RM1 million per YA in respect of cash contribution or contribution in kind *(Note 1)*	*Note 2*
Sarawak Corridor of Renewable Energy		
The existing incentives for various industries and approved activities are available, which includes PS and ITA.		
Sabah Development Corridor (SDC)		
Kinabalu Gold Coast Enclave	***Tourism project:*** • Income tax exemption of 100% on SI; or	10
	• ITA of 100% on QCE set-off against 100% of SI	5
	• Import duty exemption	-
	• Stamp duty exemption on land acquired for development	-
	Creative cluster: • Full income tax exemption on SI; or	5
	• ITA of 100% on QCE set-off against 100% of SI	5
	• Import duty exemption	-

Note 1 - Application received from 13.6.2008 to 31.12.2020

Note 2 - Hallmark event carried on in ECER from13.6.2008 until 31.12.2020

Location	Incentives	Years
Economic corridors (cont'd)		
Sabah Development Corridor (SDC) (cont'd)		
Integrated-livestock Valley (ILV)	***Downstream activities – Manufacturing:*** • Income tax exemption of 100% on SI; or	10
Palm Oil Industrial Cluster	• ITA of 100% on QCE set-off against 100% of SI	5
Sipitang Oil & Gas Industrial Park (SOGIP)	***Downstream activities – Manufacturing (Medium & Heavy industries):*** • Income tax exemption of 100% on SI; or	10
	• ITA of 100% on QCE set-off against 100% of SI	5
	Downstream activities (Ship building & repairs industries): • Income tax exemption of 100% on SI; or	5
	• ITA of 100% on QCE set-off against 100% of SI	5
Sandakan Education Hub (SEH); Marine Integrated Cluster (MIC)	Income tax exemption of 100% on SI; or	10
	ITA of 100% on QCE set-off against 100% of SI	5
	Import duty exemption on equipment and machineries	-
Agro-Industrial precinct (SAIP)	***Production of Halal products (projects located within the Halal hub):*** • ITA of 100% on QCE set-off against 100% of SI	10
	Production of Halal products (projects located outside the Halal hub): • ITA of 100% on QCE set-off against 100% of SI	10
	• Import duty exemption	-

SDC incentives - Application received by 31 December 2020

Types	Incentives	Years
Education & Training		
Education		
Kindergarten	Tax exemption in respect of SI derived from the provision and maintenance of the kindergarten business	5
Non-profit oriented school / international school	Tax exemption in respect of SI derived from the management of the school	-
Private / International school	Further deduction for expenses incurred for overseas promotion	-
Private higher education institution (PHEI)	ITA of 100% on QCE set-off against 70% of SI (PHEI in the science field undertaking additional investment to upgrade equipment or expand their capacity)	10
	Further deduction for promotion of export of higher education	-
	Single deduction equal to one-third of the expenses incurred for the development and compliance of new courses	3
	Import duty exemption for educational equipment	-
Export of private education	Allowance equal to 50% of the value of increased exports deducted against 70% of SI	-
Company providing / sponsoring scholarships	Single deduction on expenditure incurred for the provision of scholarship	-

Types of incentive
Education & Training (cont'd)
Training
Deduction for consultation and training cost for the implementation of Flexible Work Arrangements
Double deduction for provision of internship programme / Structured Internship Programme ("SIP") approved by Talent Corporation Malaysia Berhad (w.e.f YA 2012 – YA 2019)
Double deduction for training cost under the Skim Latihan 1Malaysia for unemployed graduates
Single deduction for expenditure incurred for the provision of practical training of non-employees
Single deduction for pre-commencement of business training expenses for potential employees
Double deduction for approved training undertaken by manufacturing company which do not contribute to Human Resources Development Fund (HRDF)
Further deduction for approved training undertaken by all other companies which do not contribute to HRDF
ITA of 100% on QCE for 10 years to be set-off against 70% of SI for establishing new or upgrading of the technical and vocational training institute
Withholding tax exemption on royalty payment to non-resident franchisor in relation to an approved programme
Financial Services
Real Estate Investment Trust (REIT) / Property Trust Fund (PTF)
• Tax exemption on all income if at least 90% of total income is distributed and the REIT / PTF is listed on Bursa Malaysia (w.e.f YA 2017)
• Stamp duty exemption on instruments of transfer/deed of assignment relating to the purchase of real property and instruments of transfer of real property to REIT / PTF
• Real property gains tax exemption on disposal of real property to REIT

Types of incentive

Financial Services (cont'd)

Real Estate Investment Trust (REIT) / Property Trust Fund (PTF) (cont'd)

- Final withholding tax of 10% on income distribution received by non-corporate or foreign institutional investors from a REIT which has been exempted from tax (until YA 2019)
- Final withholding tax of 24% on income distribution received by non-resident companies from a REIT which has been exempted from tax
- Special single deduction for consultancy, legal and valuation service fees incurred in the establishment of REIT
- No balancing charge on disposal of industrial building from a company to a REIT. The REIT is eligible to claim the balance of unclaimed industrial building allowance of the disposer if the disposer company owns 50% or more of the units in the REIT
- A SPV established by a REIT / PTF is treated as a tax transparent entity where its income is deemed to be received by that REIT / PTF for income tax purposes

Unit Trust

- Tax exemption on interest income from any licensed bank / financial institution / development financial institution. In the case of a wholesale fund which is a money market fund, the exemption shall only apply if the fund complies with the criteria set out in the relevant guidelines of the Securities Commission
- Tax exemption on gains on realisation of investments
- Tax exemption on interest or discount - *Refer to the chapter on 'Income exempt from tax'*

Closed-end fund company

- Tax exemption on gains on realisation of investments
- Tax exemption on interest or discount – *Refer to the chapter on 'Income exempt from tax'*

Types	Incentives
Financial Services (cont'd)	
Fund management	
Foreign fund management company	10% tax on chargeable income from the provision of fund management services to foreign investors
Licensed fund management company	Tax exemption on SI derived from the business of providing fund management services to: • local investors and foreign investors in Malaysia; • BT and REIT in Malaysia. The fund has to be managed in accordance with Syariah principles and certified by Securities Commission (until YA 2020) *Tax exemption on management fee income from managing conventional and Shariah-compliant Sustainable and Responsible Investments (SRI) fund, for YAs 2018 to 2020. The SRI fund must be approved by the Securities Commission*
Islamic Finance	
Resident company	Double deduction on additional expenses for issuance of Sukuk under the principles of Mudharabah, Musyarakah, Istina', Murabahah and Bai' Bithaman Ajil based on Tawarruq (YA 2016 to YA 2018)
Resident company including Labuan company	Deduction on additional expenses for the issuance of Sukuk under the principles of Ijarah and Wakalah (YA 2016 to YA 2018)
SPV established solely for the purpose of issuance of Sukuk by a Company/REIT/PTF	A SPV established by a company/REIT/PTF is treated as a tax transparent entity where its income is deemed to be received by that company/REIT/PTF for income tax purposes
Company that establishes a SPC solely for the purpose of issuance of Islamic securities	Single deduction for cost of issuance of Islamic securities incurred by a Special Purpose Company (SPC)

Types	Incentives	
Financial Services (cont'd)		
Licensed Islamic banks / banking units and takaful operators / units conducting business in international currencies	Tax exemption on statutory income from business conducted in international currencies (YA 2007 to YA 2016. Extended to YA 2020 as proposed under 2017 Budget)	
	Stamp duty exemption on certain instruments relating to Islamic banking takaful activities and Islamic capital market under a scheme to promote Malaysia International Islamic Financial executed from 1 January 2007 to 31 December 2020	
Food production		
Approved food production project		
• Investor company	Single deduction of value of investment for the sole purpose of financing approved food production (application received from 1.10.2005 to 31.12.2020)	-
• Operating company (new project)	100% income tax exemption (application received from 1.10.2005 to 31.12.2020)	10
• Operating company (expansion project)	100% income tax exemption (application received from 1.10.2005 to 31.12.2020)	5
Halal food production		
Refer to 'Halal incentives – Halal food production outside halal parks'		

Types	Incentives	Years
Green incentives		
Green technology (GT)		
• New or existing company undertaking **GT project** / purchase of **GT assets** listed on MyHijau Directory	ITA of 100% on QCE set-off against 70% of SI (application received by 31.12.2020)	*Note 1*
• New or existing company undertaking **GT services**	Income tax exemption of 100% on SI (application received by 31.12.2020)	*Note 2*
Waste Eco Parks (WEPs)		
• WEP developer	Income tax exemption of 70% on SI derived from rental of building, waste receiving and separation facility and waste water treatment located in WEP (application received by 31.12.2020)	*Note 3*
• WEP manager	Income tax exemption of 70% on SI derived from services activities related to management, maintenance, supervision and marketing of the WEP (application received by 31.12.2020)	*Note 3*
• WEP operator	Income tax exemption of 100% on SI derived from the qualifying activities undertaken in WEP; or	5
	Income tax exemption equivalent to 100% of QCE to be set off against 70% of SI (application received by 31.12.2020)	5

Note 1 - From YA 2013 (date of first QCE not earlier than 25.10.2013) until YA 2020

Note 2 - From YA 2013 until YA 2020

Note 3 - From YA 2016 until YA 2025

Types	Incentives	Years
Halal incentives		
Halal food production outside halal parks:		
• New companies • Existing companies diversifying production or upgrading/ expanding of existing plant	ITA of 100% on QCE set-off against 100% SI	5
Halal industry players located in designated halal parks:		
• New companies producing prescribed halal products	100% tax exemption on QCE; or	10
	Tax exemption on export sales	5
	Double deduction for cost of obtaining international quality standards	-
	Import duty exemption on raw materials used for the development and production of halal promoted products	-
Halal park operators (HALMAS status)	100% tax exemption; or	10
	100% tax exemption on QCE	5
	Import duty exemption on equipment, components and machinery used in cold room operations	-
Halal logistics operators	100% tax exemption; or	5
	100% tax exemption on QCE	5
	Import duty exemption on equipment, components and machinery used in cold room operations	-
Halal certification	Double deduction for expenses incurred in obtaining the certification issued by a certification body	-

Types	Incentives	Years
Healthcare & Wellness		
Private healthcare		
• New facilities or expansion, modernisation or refurbishment of existing facilities	*For the purpose of promoting medical tourism:* Tax exemption equivalent to 100% of QCE to be set-off against 100% of SI (application received from 1.1.2015 to 31.12.2017. *Extended to 31.12.2020*).	5
• Export of healthcare services to foreign clients	Allowance equal to 50% *(increased to 100% w.e.f. YA 2018 to YA 2020)* of the value of increased exports deducted against 70% of SI	-
Mines Wellness City (MWC)		
• MWC developer *(undertaking new development in MWC)*	Income tax exemption of 100% on SI from: • disposal of any rights over any land; or disposal of building or rights over a building or part of a building located in MWC; or	*Note 1*
	• rental of a building or part of a building located in MWC	*Note 2*
	Stamp duty exemption of 50% on instruments of transfer or lease of land or building in the MWC executed from 1.1.2013 – 31.12.2023	-
• MWC development manager	PS with tax exemption of 100% on SI derived from providing management, consultancy, supervisory or marketing services to MWC Developer in the MWC	*Note 1*
• MWC operator	PS with tax exemption of 70% on SI derived from qualifying activities carried out in the MWC; or	5
	ITA of 60% on QCE set-off against 70% of SI for each YA. (application received from 1.1.2013 to 31.12.2026)	5

Note 1 - From the first YA the MWC developer derives SI until YA 2023

Note 2 - From the first YA the MWC developer derives SI until YA 2026

Types	Incentives	Years
Healthcare & Wellness (cont'd)		
Professional services		
• Export of medical and dental services	Further deduction of qualifying expenditure incurred primarily and principally for the purpose of promoting the export of professional services	-
Hotel & Tourism		
Medium & low cost hotels up to 3 star / Holiday camps & recreational projects / Convention centre / Tourism projects	Income tax exemption of 70% on increased SI; or	5
	ITA of 60% on QCE set-off against 70% of SI	5
New 4 and 5 star hotels (Sabah & Sarawak)	Income tax exemption of 100% on increased SI; or	5
	ITA of 100% on QCE set-off against 100% SI (application received from 30.8.2008 to 31.12.2018. *Extended to 31.12.2020*)	5
New 4 and 5 star hotels (Peninsular Malaysia)	Income tax exemption of 70% on increased SI; or	5
	ITA of 60% on QCE set-off against 70% of SI (application received from 8.10.2011 to 31.12.2018. *Extended to 31.12.2020*)	5
Reinvestment in hotels – companies expanding, modernising and renovating (up to 3 rounds)	ITA of 60% on QCE set-off against 70% of SI	5
Reinvestment in tourism projects (up to 2 rounds)	Income tax exemption of 70% on increased SI; or	5
	ITA of 60% on QCE set-off against 70% of SI	5
Extension and modernisation of existing hotel buildings	*Refer to the chapter on 'Capital Allowance'*	-

Types	Incentives	Years
Hotel & Tourism (cont'd)		
Sponsoring of any approved arts, cultural or heritage activity	Single deduction of up to RM700,000 [of which only RM300,000 is allowed for sponsoring foreign arts, cultural or heritage activity]	-
Hotel / Tour operators	Further deduction for approved training *(refer to incentives for 'Training')*	-
	Further deduction on overseas promotion of tourism in Malaysia	-
Tour operators	Tax exemption of 100% of SI from a business of operating domestic tour packages within Malaysia participated by at least 1,500 tourists per YA (from YA 2013 to YA 2018. *Extended to YA 2020*)	-
	Tax exemption of 100% of SI from a business of operating inbound tour packages to Malaysia participated by at least 750 inbound tourists per YA (from YA 2013 to YA 2018. *Extended to YA 2020*)	-
Logistics & Shipping		
Shipping company or partnership	Income tax exemption of 70% of SI derived from the business of transporting passengers or cargo by sea on a Malaysian ship; or letting out on charter a Malaysian ship owned by him on a voyage or time charter basis	-
Non-resident person who receives income from a Malaysian shipping company	Withholding tax exemption on income from: • rental of a ship on a voyage, time charter or bare boat basis; or • rental of International Standard Organisation containers	-

Types	Incentives	Years
Logistics & Shipping (cont'd)		
Company providing chartering services of luxury yacht	Income tax exemption of SI	5
Company undertaking or intending to expand / diversify into integrated logistics service	Income tax exemption of 70% of SI, or	5
	ITA of 60% on QCE set-off against 70% of SI	5
Manufacturing		
Main incentives		
Manufacturers producing promoted products or engaged in promoted activities	PS with tax exemption of 70% on SI; or	5
	ITA of 60% on QCE set-off against 70% of SI	5
Enhanced incentives		
Manufacturer of selected M&E and specialised M&E	PS with tax exemption of 100% on SI; or	10
	ITA of 100% on QCE set-off against 100% of SI	5
High technology projects	PS with tax exemption of 100% on SI; or	5
	ITA of 60% on QCE set-off against 100% of SI	5
Less Developed Areas		
Refer to the incentives for 'Others'		
Automation capital allowance		
Refer to the chapter on 'Capital Allowance'		
Reinvestment		
Company undertaking qualifying project in expansion, modernisation, automation or diversification of existing manufacturing business • *Similar to Reinvestment incentives under 'Agriculture' sector*		

Types	Incentives	Years
Manufacturing (cont'd)		
Transformation to Industry 4.0		
Accelerated capital allowance and Automation equipment allowance on the first RM10 million QCE incurred in YA 2018 to YA 2020 (application received from 1.1.2018 to 31.12.2020)		
Allowance for increased exports (AIE)		
Manufacturer attaining:	*Rates of allowance, deductible up to 70% of SI:*	
• 30% or 20%* of value added exports	• 10% of the value of increased exports	-
• 50% or 40%* of value added exports	• 15% of the value of increased exports	-
Enhanced AIE		
Similar to Enhanced AIE incentives under Agriculture' sector		
Deductions		
Manufacturer shipping goods from Sabah or Sarawak to any port in Peninsular Malaysia	Further deduction of freight charges incurred on the shipment of goods	-
Manufacturers	Further / double deduction on the promotional expenditure incurred in seeking opportunities or in creating or increasing demand for the exports	-

* Companies with paid-up capital not exceeding RM2.5 million for YA 2016 to YA 2018

Types	Incentives	Years
Multimedia Super Corridor (MSC)		
MSC multi-tiered incentives for MSC status company:		
• Tier 1 & 2 located within Cybercity / centre	PS with tax exemption of 100% of SI or	Up to 10
	ITA of 100% on QCE set-off against 100% of SI	5
	Import duty exemption for multimedia equipment	-
• Tier 3 & MSC4Startups located outside Cybercity / centre	Partial tax exemption of 70% of SI *(Extendable for another 5 years under tier 1 or tier 2 with 100% tax exemption and must be located within Cybercity / centre)*	5+5
	Import duty exemption for multimedia equipment	-
Owner of a building in Cyberjaya Flagship Zone used for his business or rent out to an approved MSC status company	Industrial building allowance rate of 10%	10
Non-resident company who receives income* from MSC status company engaging in selected activities and located in designated areas	Withholding tax exemption under section 109 and 109B of the Income Tax Act 1967	-
Other incentives under the MSC Bill of Guarantee		

* Refers to income from technical advice or services fees, licensing fees in relation to technology development, and interest on loans for technology development

Types	Incentives	Years
National & Strategic Projects		
Approved business eligible for special incentive scheme (pre-package)	PS with tax exemption on SI	*Note 1*
	ITA on QCE set-off against SI	*Note 1*
Approved services projects (*transportation, communications and utilities)*	Investment Allowance of 60% to 100% of QCE set-off against 70% to 100% of SI *(Note 1)*	5
	Tax exemption of 70% to 100% of SI *(Note 2)*	5 to 10
	Industrial building allowance	-
	Import duty exemption on and equipment	-
	Double deduction for various expenditure incurred	-
Projects / products of national strategic importance	PS with tax exemption of 100% of SI (extendable for another 5 years)	5
	ITA on QCE set-off against 100% of SI	5
Oil & Gas		
Chargeable person carrying out petroleum operations in qualifying project	Investment Allowance of 60% of QCE set-off against 70% of SI in respect of a qualifying project or on an infrastructure asset as determined by the Minister	10

Note 1 - Incentives rates and incentive period as determined by the Minister

Note 2 - Tax exemption under section 127 of the Income Tax Act 1967

Types	Incentives	Years
Oil & Gas (cont'd)		
Qualifying person undertaking qualifying activity in Refinery & Petrochemical Integrated Development (RAPID) complex	Income tax exemption of SI (extendable for another 5 years at 50% tax exemption, subject to application and approval)	15+5
	Income tax exemption equivalent to 100% of QCE (extendable for another 5 years subject to application and approval)	10+5
	Single deduction for pre-commencement expenses	-
	Withholding tax exemption on any payments made to non-residents (w.e.f 10.10.2011 to 31.12.2021)	-
	Stamp duty exemption on all instruments executed in relation to qualifying activity (executed on or after 10.10.2011 but not later than 31.12.2021)	-
Labuan International Commodity Trading Company (LITC) which undertakes qualifying activity under the *Global Incentives for Trading programme (GIFT)*	Tax exemption on income derived purely from the trading of physical and related derivatives instruments of liquefied natural gas (LNG) in any currency other than the Malaysian Ringgit.	3
	Taxed at 3% on chargeable profits derived from the trading of physical and related derivatives instruments of: a) petroleum and petroleum-related products including LNG, b) minerals, c) agriculture products, d) refined raw materials, e) chemicals and f) base minerals, in any currency other than the Malaysian Ringgit.	-
Property & Construction		
Original purchasers of an abandoned housing project	Stamp duty exemption on loan instrument and instrument of transfer executed between 1.1.2013 and 31.12.2017	-

Types	Incentives	Years
Property & Construction (cont'd)		
Rescuing Contractors appointed or approved by the Minister of Housing and Local Government or liquidator to carry on rehabilitation works for an abandoned project	Stamp duty exemption on loan instrument and instrument of transfer executed between 1.1.2013 and 31.12.2017	-
Research & Development (R&D)		
In-house R&D project	ITA of 50% on QCE set-off against 70% of SI	10
Contract R&D company	• PS of 100%; or	5
	• ITA of 100% on QCE set-off against 70% of SI	10
R&D company	ITA of 100% on QCE set-off against 70% of SI	10
	Industrial building allowance (initial allowance of 10% & annual allowance of 3%)	-
Approved research company / institute	Tax exemption on adjusted income	5
Any person (non-related company of a R&D company)	Double deduction for R&D payments: • cash contribution to an approved research institute • payment for use of services of an approved research institute/company • payment for use of services of a R&D company or a contract R&D company	-
In house R&D (includes IT & software)	Double deduction for approved in-house R&D expenditure	-

Types	Incentives	Years
Research & Development (R&D) (cont'd)		
Scientific research undertaken by a person or on his behalf	Single deduction for scientific research	-
Building used for approved research	*Refer to the chapter on 'Capital Allowance'*	-
Qualifying company undertaking commercialisation of public R&D findings *(investee company)*	Tax exemption on SI derived from the commercialisation of non-resource based public R&D findings	10
Qualifying company investing in commercialisation of public R&D findings *(investor company)*	Single deduction for value of investment made: • resource based, or • non-resource based (applications received by MIDA from 29.9.2012 to 31.12.2017)	-
Approved New Technology Based Firm (NTBF)	Tax exemption on income consisting of the development or commercialisation of technological innovations	5
Regional operations		
Representative office/ Regional office	Not subject to tax in Malaysia	-
	Expatriate post based on functions and activities of the representative office / regional office	-
Principal Hub (PH)		
New company*	Reduced corporate income tax rate of 0%, 5% or 10% for tier 1, 2 or 3 respectively (extendable for another 5 years subject to approval);	5+5

* Manufacturing / Services / Commodity based company that integrates the supply chain management for upstream & downstream activities under the PH operation

The PH incentive is applicable for application received from 1.5.2015 to 30.4.2018. *Extended to 31.12.2020*

Types	Incentives	Years
Regional operations (cont'd)		
Principal Hub (PH) (cont'd)		
Existing approved OHQ / IPC / RDC status	Full tax exemption on value added income • Company with incentive • Company without incentive	 5 5+5
Existing company*	Full tax exemption on value added income	5+5
Facilities accorded to Principal Hub include:	Expatriate post based on requirements of applicant's business plan; and	-
	Customs duty exemption for raw materials, components or finished products.	-
Telecommunication		
Approved services projects	*Refer to incentives for National & Strategic projects*	-
Company paying for the use of spectrum assignment	A deduction of an amount equal to the fee paid to Malaysian Communications and Multimedia Commission (MCMC) (w.e.f YA 2007 to YA 2018)	-
Tun Razak Exchange (TRX)		
Approved property developer undertaking development in TRX	Income tax exemption of 70% of SI from the: • disposal of any building or rights over any building or part of a building within TRX (w.e.f YA 2013 to YA 2022); • rental of building or part of a building within TRX (w.e.f YA 2013 to YA 2027)	5

* Manufacturing / Services / Commodity based company that integrates the supply chain management for upstream & downstream activities under the PH operation

The PH incentive is applicable for application received from 1.5.2015 to 30.4.2018

Types	Incentives	Years
Tun Razak Exchange (TRX) (cont'd)		
TRX Marquee status company	Accelerated capital allowance (initial allowance of 20% and annual allowance of 40%) on renovation costs incurred on a building or part of a building located in TRX (w.e.f 1.1.2014 to 31.12.2020)	-
	Industrial building allowance at the rate of 10%	10
	50% further deduction for rental of commercial building used for the purpose of its business in the TRX	10
	Stamp duty exemption in relation to instrument of service agreement chargeable to duty executed between 1.1.2014 and 31.12.2022	-
	Stamp duty exemption for the following instruments executed between 31.1.2013 and 31.12.2020: • Instrument of transfer for the purchase of commercial property within TRX • Loan agreement to finance the purchase of that property • Lease agreement for the lease of commercial property (applicable for first lessee only)	-
	• Single deduction for prescribed relocation costs to relocate part or whole business to TRX. Relocation to take place no later than 31.12.2020.	-
Others		
Industrial Area Management		
New or existing company appointed by a Local Authority	Income tax exemption of 100% of SI (application received from 1.1.2015 to 31.12.2017)	5

Types	Incentives	Years
Others (cont'd)		
Less Developed Areas (LDA)		
New company undertaking manufacturing or services in LDA or existing company expanding its operation into LDA	Income tax exemption of 100% of SI; or	Up to 15
	ITA of 100% on QCE set-off against 100% of SI	10
	Stamp duty exemption on transfer or lease of land and building used for the development in relation to manufacturing and services activities	-
	Withholding tax exemption on fees for technical advice, assistance or services; or royalty in relation to manufacturing and services up to 31.12.2020	-
	Import duty exemption on: • raw materials and components not locally produced and directly used in the manufacturing of finished goods; and • machinery and equipment not produced locally and directly used in the activities for selected services (application received from 1.1.2015 to 31.12.2020)	 - -
Anchor Companies under Vendor Development Programme		
Memorandum of Understanding with Ministry of International Trade and Industry signed from 1 January 2014 to 31 December 2020	Double deduction for qualifying operating expenses incurred (not exceeding RM300,000 per YA) to carry out specified activities	-

Types	Incentives	Years
Others (cont'd)		
Independent Conformity Assessment Body (ICAB) *Provision of services to its clients to test their products, materials, systems or services for conformance to international specifications or safety standards and other conformities.*		
Existing ICAB	ITA of 60% on QCE set-off against 100% SI (application received from 1.1.2016 to 31.12.2018)	5
New ICAB	• 100% tax exemption on SI arising from qualifying activities	5
	• ITA of 60% on QCE set-off against 100% SI (application received from 1.1.2016 to 31.12.2018)	5

Types of incentive
Others (cont'd)
Further deduction for advertising expenditure incurred on Malaysian brand names registered locally or overseas and professional fees paid to companies promoting / advertising Malaysian brand names
Double deduction for cost of obtaining quality system and standards certification
Single deduction for cost of obtaining accreditation for a laboratory or as a certification body
Export incentives for services sector
Further deduction of qualifying expenditure for the purpose of export of services / professional services
Allowance for increased export equal to 50% of the value of the increased export, deducted against 70% of statutory income
Employer related incentives
Further deduction for the remuneration paid to an employee who is physically or mentally handicapped
Further deduction on expenditure incurred for the provision and maintenance of child care centre for the benefit of their employees or childcare allowance given to their employees
Further deduction for employers hiring workers affected by accidents or critical illnesses and certified by SOCSO to be fit to work (w.e.f YA 2018).

INCOME EXEMPT FROM TAX

- **Compensation for loss of employment and payments for restrictive covenants**
  - full exemption if due to ill health; or
  - RM10,000 for every completed year of service with the same employer / companies in the same group.
- **Death gratuities** or sums received as consolidated compensation for death or injuries.
- **Dividends** paid, credited or distributed by co-operative societies to their members.
- **Fees or honorarium** (not part of official duties) for validating, moderating or accrediting franchised educational programmes in higher educational institutions.
- **Foreign income** of any person (other than a resident company carrying on the business of banking, insurance or sea or air transport) arising from sources outside Malaysia and remitted into Malaysia.
- **Grant or subsidy** received from the Federal or State Government.

50% of housing and Labuan Territory allowance received by a Malaysian citizen from an employment in Labuan with a Labuan entity (YA 2011 to YA 2020).

- **Income** of any person from the **provision of qualifying professional services** rendered in Labuan to a Labuan entity is exempt to the extent of 65% of the statutory income (YA 2011 to YA 2020).
- **Income (other than dividends, lending fees, interest earned on collateral and rebates)** arising from a loan of securities listed on Bursa Malaysia and the return of the same or equivalent securities, and the corresponding exchange of collateral, in respect of securities borrowing and lending transaction under a Securities Borrowing and Lending Agreement
- **Income from employment on board a ship** (defined) used in a business operated by a resident owner of a ship registered under the Merchant Shipping Ordinance 1952.

- **Income from director's fees** received by a non-Malaysian citizen director of a Labuan entity (YA 2011 to YA 2020).
- **50% of gross income of a non-Malaysian citizen** from exercising of an employment in a managerial capacity with a Labuan entity in Labuan, co-located office or marketing office (YA 2011 to YA 2020).
- **Interest** paid / credited to non-resident companies, (except within the same group in respect of :
  - government securities; or
  - sukuk or debentures issued in Ringgit Malaysia*, approved or authorised by, or lodged with, the Securities Commission.
- **Interest or bonus, gains or profits** received by a resident individual from deposits placed in licensed institutions.
- **Interest or discount** paid / credited to any individual, unit trust and listed closed-end fund in respect of:
  - bonds or securities issued or guaranteed by the Government;
  - debentures or sukuk*, approved or authorised by, or lodged with, the Securities Commission; or
  - Bon Simpanan Malaysia issued by the Central Bank of Malaysia.
- **Interest** paid / credited to any individual in respect of Merdeka bonds issued by the Central Bank of Malaysia.
- **Interest** paid / credited to any person in respect of any savings certificate issued by the government.
- **Interest** paid / credited to any person (except within the same group; or a licensed bank, licensed Islamic bank and prescribed development financial institution) in respect sukuk originating from Malaysia*, issued in any currency other than Ringgit and approved or authorised by, or lodged with, the Securities Commission, or approved by the Labuan Financial Services Authority (Labuan FSA).
- ***Green SRI sukuk grant** issued in line with the Securities Commission's guidelines (applications received from 1 January 2018 to 31 December 2020).*
- **Pensions**, which is derived from an employment exercised in Malaysia where the recipient has reached the age of 55, or the

*other than convertible loan stocks

compulsory retirement age or retire due to ill health.

- **Perquisites** (in cash or in kind) for long service (more than 10 years of employment with the same employer), past achievement or service excellence, innovation, or productivity award up to an amount or value of RM2,000 per YA.
- **Profits earned by individual investors** from investments made (between 1 April 2016 to 31 March 2019) through an Investment Account Platform is exempted from tax for 3 consecutive years.
- **Retirement gratuities are fully exempt:**
  - where the retirement is due to ill health; or
  - on or after reaching the age of 55 or other compulsory age of retirement*
  - upon reaching compulsory retirement age pursuant to an employment contract or collective agreement at the age of 50 but before 55*

*Employment has lasted 10 years with the same employer or with companies in the same group.

- **Retirement gratuity or termination payment other than gratuities which are fully exempted,** up to an amount not exceeding RM1,000 per completed year of service.
- **Royalties** received by an individual resident in Malaysia in respect of:

	Amount exempted per YA RM
Publication of, or the use of, or the right to use, any artistic work	10,000
Recording discs or tapes	10,000
Publication of, or the use of, or the right to use, any literary work or any original painting	20,000
Any musical composition	20,000

- **Royalties** received by non-resident franchisors from registered private higher educational institutions for approved franchised educational programmes.
- **Statutory income derived from members'** subscription fees received by trade associations.
- *50% income tax exemption on **rental income** not exceeding RM2,000 per month for each residential home, received by Malaysian resident individuals, with a maximum period of 3 consecutive YAs (wef YA 2018 to YA 2020).*

DOUBLE TAX TREATIES AND WITHHOLDING TAX RATES

Withholding tax is a method of collecting taxes from non-residents who have derived income which is subject to Malaysian tax. Any tax resident person who is liable to make certain specified types of payments to a non-resident is required to deduct withholding tax at a prescribed rate applicable to the gross payment and remit it to the Malaysian IRB within one month of paying or crediting.

Payments subject to Withholding Tax	Rates*
Interest	15%
Royalties	10%
Dividends	Nil
Contract payments (services rendered in Malaysia) • Contractor's liability • Employees' liability	 10% 3%
Special classes of income • Technical services in Malaysia** • Rental of movable properties	10%
Section 4(f) gains or profits • Other income not of a business / employment source	10%

* A reduced rate may be provided under the double tax agreement with certain treaty partners

** Only services rendered in Malaysia are liable to tax. However from 17 January 2017 to 5 September 2017, services rendered in and outside Malaysia are liable to tax.

Double Tax Treaties and Withholding Tax Rates

The following countries have concluded double tax treaties with Malaysia:

Treaty countries	Rate of withholding tax %		
	Interest	Royalties	Technical Fees
Albania	10 or Nil	10	10
Australia	15 or Nil	10 or Nil	Nil
Austria	15 or Nil	10	10
Bahrain	5 or Nil	8	10
Bangladesh	15 or Nil	10 or Nil	10
Belgium	10 or 15 or Nil	10	10
Bosnia & Herzegovina	10 or Nil	8	10
Brunei	10 or Nil	10	10
Canada	15 or Nil	10 or Nil	10
China, People's Republic	10 or Nil	10	10
Chile	15 or Nil	10	5
Croatia	10 or Nil	10	10
Czech Republic	12 or Nil	10	10
Denmark	15 or Nil	10	10
Egypt	15 or Nil	10	10
Fiji	15 or Nil	10	10
Finland	15 or Nil	10 or Nil	10
France	15 or Nil	10 or Nil	10
Germany	10 or Nil	7	7
Hong Kong	10 or Nil	8	5
Hungary	15 or Nil	10	10
India	10 or Nil	10	10
Indonesia	10 or Nil	10	10
Iran	15 or Nil	10	10
Ireland	10 or Nil	8	10
Italy	15 or Nil	10 or Nil	10
Japan	10 or Nil	10	10
Jordan	15 or Nil	10	10
Kazakhstan	10 or Nil	10	10
Korea Republic	15 or Nil	10 or Nil	10

Treaty countries	Rate of withholding tax %		
	Interest	Royalties	Technical Fees
Kyrgyz Republic	10 or Nil	10	10
Kuwait	10 or Nil	10	10
Laos	10 or Nil	10	10
Lebanese Republic	10 or Nil	8	10
Luxembourg	10 or Nil	8	8
Malta	15 or Nil	10	10
Mauritius	15 or Nil	10	10
Morocco	10 or Nil	10	10
Mongolia	10 or Nil	10	10
Myanmar	10 or Nil	10	10
Namibia	10 or Nil	5	5
Netherlands	10 or Nil	8 or Nil	8
New Zealand	15 or Nil	10 or Nil	10
Norway	15 or Nil	10 or Nil	10
Pakistan	15 or Nil	10 or Nil	10
Papua New Guinea	15 or Nil	10	10
Philippines	15 or Nil	10 or Nil	10
Poland	15 or Nil	10 or Nil	10
Poland (New)[1]	10 or Nil	8	8
Qatar	5 or Nil	8	8
Romania	15 or Nil	10 or Nil	10
Russian Federation	15 or Nil	10	10
San Marino	10 or Nil	10	10
Saudi Arabia[2]	5 or Nil	8	8
Senegal[1]	10 or Nil	10	10
Seychelles Republic	10 or Nil	10	10
Singapore	10 or Nil	8	5
Slovak Republic	10 or Nil	10	5
Sri Lanka	10 or Nil	10	10
South Africa	10 or Nil	5	5
Spain	10 or Nil	7	5
Sudan	10 or Nil	10	10
Sweden	10 or Nil	8	8
Switzerland	10 or Nil	10 or Nil	10
Syria	10 or Nil	10	10

Treaty countries	Rate of withholding tax %		
	Interest	Royalties	Technical Fees
Thailand	15 or Nil	10 or Nil	10
Turkey	15 or Nil	10	10
Turkmenistan	10 or Nil	10	Nil
United Arab Emirates	5 or Nil	10	10
United Kingdom	10 or Nil	8	8
Uzbekistan	10 or Nil	10	10
Venezuela	15 or Nil	10	10
Vietnam	10 or Nil	10	10
Zimbabwe	10 or Nil	10	10

[1]Pending ratification

[2]Malaysia also has Air Transport Agreement with Saudi Arabia

Notes:

- Argentina and the United States of America – Restricted double tax treaty covering air and sea transport operations in international traffic.
- There is no withholding tax on dividends paid by Malaysian companies.

REAL PROPERTY GAINS TAX

Scope

Every person whether or not resident is chargeable to RPGT on gains arising from disposal of real property including shares in real property company (RPC).

Real property is defined as any land situated in Malaysia and any interest, option or other right in or over such land.

RPC is essentially a controlled company which total tangible assets consists of 75% or more in real property and/or shares in another RPC.

A controlled company is essentially a company owned by not more than 50 members and controlled by not more than 5 persons.

Disposal is generally triggered upon transfer of ownership from one person to another whether by way of sale, conveyance, assignment, settlement, alienation, etc.

RPGT rates

Disposal	RPGT rates		
	Companies	Individual (citizens and permanent residents)	Individuals *and Executor of the estate of a deceased person (non-citizen)*
Within 3 years	30%	30%	30%
In the 4th year	20%	20%	30%
In the 5th year	15%	15%	30%
In the 6th and subsequent years	5%	0%	5%

Returns and assessment

For each disposal, both the disposer and acquirer are required to submit RPGT return respectively within 60 days from the date of disposal.

The DGIR shall raise an assessment based on the RPGT returns.

Date of disposal

The date of disposal is taken as the date of the written agreement of the disposal. In the absence of a written agreement, the date shall be taken as the earlier of full payment of the purchase consideration or the date when all things which is necessary for the transfer of ownership of the real property under any written law has been done. Where the disposal is subject to approval from the Government or State Government the date of disposal is date of such approval or if the approval is conditional, the date when the last condition is satisfied.

Withholding by acquirer

Where the purchase consideration consists wholly or partly of cash, the acquirer is required to withhold the lower of the entire cash consideration or 3% of the total acquisition price *(7% where the disposer is not a citizen and not a permanent resident, with effect from 1 January 2018)*. That amount, whether or not withheld by the acquirer, is to be remitted to the DGIR within 60 days from the date of disposal. The amount remitted to the DGIR is to be applied against RPGT payable by the disposer.

Payment by disposer

The disposer is required to settle the balance of RPGT payable within 30 days from the date of the notice of assessment.

Exemptions

The following are some examples of exemptions from RPGT:

- an amount of RM10,000 or 10% of the chargeable gain, whichever is greater, accruing to an individual.
- gain accruing to an individual who is a citizen or a permanent resident in respect of the disposal of one private residence.
- disposal of assets in connection with securitisation of assets.
- disposal of assets to REITs and Property Trust Funds.

The following are some examples of transactions where the disposal price is deemed to be equal to its acquisition price:

- devolution of assets of a deceased individual
- transfer of assets between spouses *(w.e.f from 1 January 2018, applies only to asset owned by a citizen).*

- gifts made to the Government, State Government, local authority or approved charity.
- disposal of asset as a result of compulsory acquisition under any law.
- disposal of chargeable asset pursuant to a scheme of financing approved by the Central Bank of Malaysia, Labuan FSA, Malaysian Co-operation Societies Commission or the Securities Commission as a scheme which is in accordance with the principles of Syariah.

The following is an example of transactions where the disposer is treated to have received no gain and suffered no loss from the transfer:

- Transfer of real property with prior approval of the DGIR by a resident company to companies in its same group to bring about greater efficiency in operation for a consideration consisting of not less than 75% in shares.
- Transfer by way of gift between husband and wife, parent and child, or grandparent and grandchild, provided the donor is a citizen.

STAMP DUTY

Basis of taxation

Stamp duty is chargeable on instruments and not on transactions. If a transaction can be effected without creating an instrument of transfer, no duty is payable.

An unstamped or insufficiently stamped instrument is not admissible as evidence in a court of law, nor will it be acted upon by a public officer.

Payment of stamp duty by way of electronic medium is available for persons who have registered with the Collector.

Rates of duty

The rates of duty vary according to the nature of the instruments and transacted values.

Generally, transfer of properties can give rise to significant stamp duty:

- **Properties (other than shares or marketable securities)**

	Value RM	Rate	Duty payable RM
On the first	100,000	RM1 per RM100 or part thereof	1,000
On the next	400,000	RM2 per RM100 or part thereof	8,000
	500,000		9,000
In excess of	500,000	RM3 per RM100 or part thereof	

- **Shares**

RM3 for every RM1,000 or any fraction thereof based on consideration, or value whichever is greater. The Stamp Office generally adopts one of the 3 methods for valuation of ordinary shares for purposes of stamp duty:

- price earnings ratio;
- net tangible assets; and
- sale consideration.

- **Service Agreements and Loan Agreements**

Stamp duty of 0.5% on the value of the services / loans. However, stamp duty may be remitted in excess of 0.1% for the following instruments:

1. Service agreement

		Stamp duty
All service agreement (one tier)		Ad valorem rate of 0.1%
Multi-tier service agreement:		
a) Non-government contract (i.e. between private entity and service providers	First level	Ad valorem rate of 0.1%
	Subsequent level(s)	Up to RM50
b) Government contract (i.e. between Federal /State Government of Malaysia or State / local authority and service providers)	First level	Exempted
	Second level	Ad valorem rate of 0.1%
	Subsequent level(s)	Up to RM50

2. Loan agreement / loan instrument

Ringgit Malaysia loan agreements generally attract stamp duty at 0.5% However, a reduced stamp duty liability of 0.1% is available for RM loan agreements or RM loan instrument without security and repayable on demand or in single bullet repayment.

Stamping

Instruments executed in Malaysia which are chargeable with duty must be stamped within 30 days from the date of execution. When the instruments are executed outside Malaysia, they must be stamped within 30 days after they have first been received in Malaysia.

Penalty

The penalty imposed for late stamping varies based on period of delay. The maximum penalty is RM100 or 20% whichever is higher.

Relief / Exemption / Remission from stamp duty

Examples of the exemptions, remissions or reliefs of stamp duty available are as follows:

1. Financing instrument

- Stamp duty exemption on instrument of agreement for a loan or financing in relation to a **Micro Credit Scheme** (approved by the National Small and Medium Enterprise Development Council) between a borrower and a participant bank of financial institutions.
- Stamp duty exemption on all loan or financing instruments in relation to the **Professional Services Fund** for an amount up to RM50,000 between a borrower and Bank Simpanan Nasional.
- Remission of stamp duty chargeable on loan agreement is available to finance the **purchase of the first unit of residential property the value of which is not more than RM500,000** executed by a Malaysian citizen named in the sale and purchase agreement and certain banks and financial institutions. The remission is applicable to sale and purchase agreements executed from 1 January 2017 to 31 December 2018:

Loan amount (RM)	Amount remitted
Up to 300,000	100%
300,001 – 500,000	RM1,500 from the total amount of stamp duty chargeable

- Stamp duty exemption on all instruments of an Asset Sale Agreement & Asset Lease Agreement executed between customer and financier made under Syariah law principles for **renewing any Islamic revolving financing facility**, provided instrument for existing facility is duly stamped.
- Stamp duty on any instruments of an Asset Lease Agreement executed between a customer and a financier made under the Syariah principles for **rescheduling or restructuring any existing Islamic financing facility** is remitted to the extent of the duty that would be payable on the balance of the principal amount of the existing Islamic financing facility, provided instrument for existing Islamic financing facility has been duly stamped.
- Stamp duty exemption on all instruments relating to the **purchase of property by any financier for the purpose of lease back** under the principles of Syariah or any instrument by which the financier shall assume the contractual obligations of a customer under a principal sale and purchase agreement.
- Remission of 20% of stamp duty chargeable on the principal or primary instrument of financing made in accordance with the principles of Syariah for the **purchase of a residential property** (from 1 January 2016 to 31 December 2017)

2. Instrument of transfer

- Relief on the **transfer of assets between associated companies**, where either company owns 90% or more of the other company, or where a third company owns 90% or more of both associated companies (conditions apply).
- Remission of 50% of stamp duty chargeable on the instrument of **transfer of immovable property operating as voluntary disposition between parent and child**. Exemption for instruments of transfer of immovable property operating as voluntary disposition between husband and wife.

- Remission of stamp duty chargeable on any instrument of transfer for the **purchase of the first unit of residential property the value of which is not more than RM500,000** by a Malaysian citizen.
- The remission is applicable to sale and purchase agreements executed from 1 January 2017 to 31 December 2018:

Value of property (RM)	Amount remitted
Up to 300,000	100%
300,001 – 500,000	RM5,000 from the total amount of stamp duty chargeable

- Stamp duty exemption on all instruments of transfer of land, business, asset and share in relation to the **conversion of a conventional partnership or a private company to be a limited liability partnership**.

3. Scheme of merger, acquisition or amalgamation

- Relief on the transfer of the undertakings or shares under a **scheme of reconstruction or amalgamation of companies** (conditions apply).

4. Others

- Stamp duty exemption on specified instruments for the purpose of a **securitisation transaction.**
- Stamp duty exemption on all instruments relating to the issue of, offer for subscription or purchase of, or invitation to subscribe for or purchase **debentures or Islamic securities** approved by the Securities Commission and the transfer of such debentures or Islamic securities.
- Stamp duty remission in excess of RM200 is remitted for all instruments of **contract notes relating to the sale of any shares, stock or marketable securities:**
  - listed on a stock market of an approved stock exchange; or
  - in companies in Malaysia or elsewhere between a local broker and an authorised nominee on behalf of a foreign broker.
- *Stamp duty exemption on contract notes for trading of Exchange-traded Fund and Structured Warrants, executed from 1 January 2018 to 31 December 2020.*

GOODS AND SERVICES TAX

Effective date and rate of tax

GST has been implemented w.e.f 1 April 2015 at a rate of 6%.

Scope of taxation

- GST is chargeable on all taxable supplies of goods and services made in the course or furtherance of a business in Malaysia by a taxable person.
- GST is also charged on the importation of goods and services into Malaysia.
- Supplies made by the Federal and State Government *and local authorities (w.e.f 1 April 2018 or 1 October 2018 as opted by the local authorities)* are not within the scope of GST except for services prescribed by the Minister of Finance. Supplies made by local authorities and statutory bodies in respect of their regulatory and enforcement functions are also not within the scope of the tax.

Taxable person and registration

- A taxable person is a person who makes taxable supplies in Malaysia with annual turnover exceeding RM500,000. Such a person is required to notify his liability to be registered for GST within 28 days from the end of the month where the annual sales turnover exceeds or is expected to exceed RM500,000.
- Calculation of annual turnover for registration purposes is based on the total value of taxable supplies for any rolling 12-month period.
- A person who makes taxable supplies below the threshold is not liable to be registered but may register on a voluntary basis.

Type of supplies

1. Standard-rated supply

A standard-rated supply is a supply of goods or services which is subject to GST at the standard rate of 6%. All supplies of goods or services, imported goods and services except those which are prescribed as zero-rated and exempt supplies will be standard-rated supplies.

2. Zero-rated supply

A zero-rated supply is a supply of goods or services which is subject to GST at a rate of 0%.

Zero-rated supplies include but are not limited to the following:

- certain essential goods (e.g. rice, sugar, plain flour, cooking oil)
- certain medicines and medical devices
- treated water to domestic consumers
- the first 300 units of electricity for domestic consumers
- exports of goods
- international services

3. Exempt supply

An exempt supply is a supply of goods or services that is exempt from GST. Exempt supplies are prescribed in the GST (Exempt Supply) Order 2014.

Exempt supplies include but are not limited to the following:

- the sale, lease or letting of residential property
- public transportation
- the supply of investment precious metals for investment purposes
- life insurance and life reinsurance
- healthcare services by private healthcare facilities

Supply of goods and services

1. Definition

"Goods" are defined to mean any kind of movable and immovable property but exclude money.

"Services" are defined as anything done or to be done including the granting, assignment or surrender of any right or making available of any facility or benefit but excludes supply of goods or money. Further, supply includes all forms of supply done for a consideration, and anything which is not a supply of goods but is done for a consideration is a supply of services in money or in something else that has a monetary value.

2. Place of supply

Goods are treated as supplied in Malaysia if the supply involves the removal of the goods from a place in Malaysia to another place in Malaysia (i.e. local supply) or to a place outside Malaysia (i.e. exported).

A supply of services will be treated as made in Malaysia if the supplier of those services belongs in Malaysia. Services are treated as not made in Malaysia if the person supplying the services does not belong in Malaysia.

To belong in Malaysia, a person would have to have a business establishment or fixed establishment in Malaysia, or their normal place of residence is in Malaysia. A fixed establishment includes a branch or an agency through which a person carries on a business. Where a supplier has establishments in more than one country, the place most closely connected with the supply would be treated as the place from where the supply is made.

3. Time of supply

The time when a supply is deemed to have taken place is governed by the "time of supply" rules. The time of supply for any particular supply is also referred to as the tax point for that supply.

For a supply of goods, the basic tax point is:

a) When the goods are removed if the goods are to be removed; or

b) When the goods are made available to the recipient if the goods are not to be removed.

For supplies of services, the basic tax point is when the services are performed.

However, if an invoice is issued or payment is received before the basic tax point, the tax point shall be the earlier of the date when:

a) The tax invoice is issued; or

b) The payment is received.

In addition, if a tax invoice is issued within 21 days after the basic tax point, the date of the invoice would be taken to be the tax point.

4. Value

The value of a supply is the amount upon which the GST is charged. Where the supply is for a consideration in money, the value of the supply is taken to be an amount, with the addition of GST, equal to the consideration.

Relief from charging or payment of GST

The Minister of Finance is empowered to grant relief, as he deems fit, to:

- any person from payment of GST on any taxable supplies or imports; and
- any taxable person from charging GST on any taxable supplies.

Conditions may be imposed for the above relief to be granted.

Examples of taxable supplies granted relief from GST are:

- retail sales of RON95 petrol and diesel
- approved medical equipment supplied to private healthcare facilities
- goods supplied at duty free shops
- approved goods used by disabled persons with valid OKU cards

Special schemes

There are a number of special schemes which prescribe special GST treatment for certain transactions in specific businesses or industries. Examples of the special schemes are:

- Approved Trader Scheme
- Approved Toll Manufacturer Scheme
- Approved Jeweller Scheme
- Flat Rate Scheme
- Margin Scheme
- Warehousing Scheme

Designated Areas and Free Zones

Special GST treatment also applies to supplies of goods and services or movement of goods relating to Free Zones and Designated Areas.

Free Zone means Free Commercial Zone and Free Industrial Zone.

Designated Areas means Labuan, Langkawi and Tioman.

Recovery of input tax

1. General

GST incurred on acquisitions (input tax) of goods and services attributable to making taxable supplies (i.e. standard-rated or zero-rated supplies) may be deductible against GST payable.

Input tax incurred on purchases of goods and services attributable to making exempt supplies is not deductible against GST payable.

2. Partial exemption

A GST registered person who makes both taxable and exempt supplies is only allowed to claim input tax related to his taxable supplies. Input tax that relates to both taxable and exempt supplies must be apportioned, based on the value of taxable supplies as a percentage of total supplies (taxable and exempt).

3. Blocked input tax

Input tax recovery is disallowed for certain types of purchases, e.g. passenger motor cars, recreational club subscriptions, benefits for employee's family members, entertainment to non-employees or non-customers, etc.

Time limit for making claim of input tax

Any input tax claimable should be claimed in the taxable period in which the taxable person holds the tax invoice for the acquisition. Otherwise, the Director General (DG) of Customs may allow the person to make the claim within six years from the date of supply.

Tax invoice

A registered person is required to issue a tax invoice when he makes a taxable supply. The following particulars must be shown on the tax invoice:

- the word "tax invoice" in a prominent place
- the tax invoice serial number
- the date of issuance of the tax invoice
- the name, address and GST identification number of the supplier
- the name and address of the recipient of the goods or services
- a description sufficient to identify the goods or services supplied
- for each description, distinguish the type of supply for zero rated, standard rated and exempt, the quantity of the goods or the extent of the services supplied and the amount payable, excluding tax
- any discount offered
- the total amount payable excluding tax, the rate of tax and the total tax chargeable to be shown separately
- the total amount payable inclusive of the total tax chargeable
- if the amount for the above 2 items is expressed in any foreign currency, that amount shall be converted to Ringgit Malaysia.

A registered person may apply to the DG of Customs for certain particulars of the tax invoice to be omitted. A registered person is also allowed to issue an electronic tax invoice in-lieu of a tax invoice in paper form.

A person who is not registered for GST is not allowed to issue an invoice which purports to be a tax invoice.

Records and retention period

Every taxable person must keep full and up-to-date records for all transactions which affect or may affect his tax liability, including the following records:

- all records of goods and services supplied by or to that taxable person including tax invoices, invoices, receipts, debit notes, credit notes and export declaration forms
- all records of importations of goods
- all other records as the DG may determine

The records described above must be kept for a period of 7 years in either Malay or English language. The records can be kept in electronic format but must be readily accessible and convertible in writing.

Returns

1. Periods

Every registered person will be allocated monthly or quarterly taxable periods depending on the person's annual business turnover. The return must be furnished to the Royal Malaysian Customs Department (RMCD) no later than 1 month after the end of the given period.

2. Payment

Any payment due with a GST return must be made no later than the last day on which the GST return is due to be furnished.

3. Refund

When a refund is due from the RMCD, it is to be made within:

- 14 working days from the date of the online submission of the return; or
- 28 working days from the date of the manual submission of the return.

Refund periods may be subject to verification of the returns.

4. Bad debts

A GST registered business can claim the GST paid on bad debts. The debt must be over 6 months old and all reasonable efforts must have been made to collect it. Subject to complying with certain requirements, a claim can be made for the GST element of the unpaid debt in the next return.

Penalties

There are penalties for various offences and errors such as the following:

- Failure to register for GST
- Incorrect GST return
- Late submission of GST return
- Late payment of GST
- Evading GST
- Knowingly obtaining a false GST refund
- Issuing tax invoice with GST whilst not registered
- Failure to keep records
- Obstruction of RMCD officer

The maximum amount of penalty on conviction per offence is RM50,000. Imprisonment term may also be imposed in addition to the penalty. The RMCD has the power to compound offences and effectively reach out of court settlements. The amount compounded is restricted to 50% of the maximum penalties on conviction.

The penalties for late payment of GST from 1 January 2016 to 31 December 2016 are as below if no prosecution is instituted:

Number of days late	Penalty
1 to 30	5% of GST due and payable
31 to 60	15% of GST due and payable
61 or more	25% of GST due and payable

The penalties for late payment with effect from 1 January 2017 are as below if no prosecution is instituted:

Number of days late	Penalty
1 to 30	10% of GST which remains unpaid
31 to 60	25% of GST which remains unpaid
61 or more	40% of GST which remains unpaid

Prosecution may be initiated if the amount of GST due and payable is still not paid after 90 days.

OTHER DUTIES

Import duties

1. Rates of duties

Import duties are levied on goods that are subject to import duties and imported into the country. Import duties are generally levied on an ad valorem basis but may also be imposed on a specific basis. The ad valorem rates of import duties defined in terms of a fixed percentage of value ranging from 0% to 60%. Raw materials, machinery, essential foodstuffs and pharmaceutical products are generally non-dutiable or subject to duties at lower rates. However, the specific basis of import duties defined in terms of a specific amount per unit.

2. Tariff rate quota

Effective 1 April 2008, Malaysia implemented tariff rate quota (TRQ) on selected agricultural products, such as chicken, milk and cream, hen eggs, cabbages. Under TRQ, the tariff charged depends on the volume of imports. Imports within quota (volume) attract duties at a lower tariff rate while a higher tariff rate applies on goods in excess of the quota volume “out-quota tariff rate”. The quota applicable is determined by the relevant agency, e.g. Department of Veterinary Services.

3. Value of goods

The value of goods for the purpose of computing import duties is determined largely in accordance with the World Trade Organisation principles of customs valuation.

4. Exemptions

There is a range of duty exemptions on specific goods that prescribed persons are eligible to claim, subject to prescribed conditions under an Order made by the Minister. In addition, manufacturers are eligible to apply for merit-based duty exemptions on:

- raw materials and components used directly for the manufacture of goods for export and domestic markets.
- dutiable machinery and equipment which are used directly in the manufacturing process.

Approval is subject to Confirmation of “Local Non-Availability” and “Directly Used in Manufacturing” rules.

Manufacturers are required to apply to the relevant authorities for exemption. For example, Malaysian Investment Development Authority (MIDA) and Royal Malaysian Customs Department (RMCD).

5. Prohibition of imports

Import restrictions are imposed on a range of products for protection of local industries or for reasons of security and public safety. An import licence has to be obtained for the importation of prohibited goods.

Categories of goods requiring an import licence / permit from relevant authorities into Malaysia include, but are not limited to:

- Certain food products, medical devices, pharmaceuticals and cosmetics
- Certain electrical operated machinery
- Motor vehicles for the transport of persons, goods or materials
- Motor cycles, auto-cycles and cycles fitted with an auxiliary motor
- Used televisions including video or visual display with TV tuner, used air conditioners, used personal computers and used mobile phones
- Billets of iron or steel
- Alloy steel and high carbon steel
- Stranded wire, cables, cordage, ropes, plaited bands and the like of aluminium wire
- Natural or synthetic rubber insulated or plastics insulated electric wire, cable, bars and strip and the like, whether or not fitted with connectors
- Polymers of ethylene and propylene in primary forms
- Heavy machineries
- Petroleum
- Rags, plastics, papers or filters contaminated with scheduled wastes
- Chlorofluorocarbons (CFCs)
- Telecommunications equipment
- Tobacco products, alcoholic beverages
- Radioactive / nuclear materials / prescribed substances
- Imitation arms, toy gun, hand grenades, toy grenades
- Arms and ammunition
- Bullet proof vests, steel helmets and other articles of clothing intended as protection against attack or explosives

6. Prohibition of exports

Export restrictions are seldom imposed except on a limited range of products for reasons of security and public safety. An export licence has to be obtained for the exportation of prohibited goods.

Categories of goods requiring an export licence include, but are not limited to:

- Cement clinker
- Portland cement
- Military clothing and equipment
- Slags, dross, scaling and similar waste of iron and steel, zinc, nickel, copper, lead, aluminium
- Tin slag and hardhead of tin
- Zinc dust and sludge form
- Used televisions including video or visual display with TV tuner, used air conditioners, used personal computers and used mobile phones

Import and export licence applications may be submitted electronically via DagangNet (e-Permit) or manually to the relevant licence / permit processing authority.

Export duties

Export duties are generally imposed on the country's main commodities such as crude petroleum and palm oil for revenue purposes.

Excise duties

1. Basis of taxation

Excise duties are imposed on a selected range of goods manufactured in Malaysia or imported into Malaysia. Goods which are subject to excise duty include beer / stout, cider and perry, rice wine, mead, indentured ethyl alcohol, brandy, whisky, rum and tafia, gin, cigarettes containing tobacco, motor vehicles, motorcycles, playing cards and mah-jong tiles.

2. Rates of duties

The rates of excise duties vary from a composite rate of 10 cents per litre and 15% for certain types of spirituous beverages, to as much as 105% for motorcars (depending on engine capacity).

3. Excise licensing

Unless exempted from licensing, a manufacturer of tobacco, intoxicating liquor or goods subject to excise duties must have a licence to manufacture such goods.

A warehouse licence is required for storage of goods subject to excise duty.

However, a licence to manufacture tobacco, intoxicating liquor or goods subject to excise duty also permits the holder to store such goods.

4. Payment of duty

As a general rule, duty is payable at the time the goods leave the place of manufacture. However, excise duty on a predefined list of motor vehicles for transport of persons is not payable until the vehicles are registered with the Road Transport Department, provided that a security is provided (up to maximum of 4 years from the date of removal from the place of manufacture).

5. Exports

No excise duty is payable on dutiable goods that are exported.

Licensed Manufacturing Warehouse

Manufacturers who export 80% or more of their finished products can apply for LMW status. Raw materials, components and machinery used in the manufacturing process are exempted from import duties.

Although Import Duty is exempted for goods delivered to LMW, GST is charged at the point of Customs clearance. As all exports are zero rated, LMW operators / exporters who mainly re-export their finished products do not collect output tax on their supplies or only collect a minimum amount of output tax which can help them offsetting against the GST paid on their imports. This would therefore cause a cash flow problem to them because they would have to pay GST upfront.

To help to alleviate their cash flow problem, the Approved Trade Scheme (ATS) has been introduced to allow a LMW to suspend the GST payable on imported goods (i.e. raw materials) until the finished goods are subsequently re-exported.

Free Zone

A free zone is deemed to be a place outside Malaysia for customs purposes. Subject to certain exclusions, goods and services can be brought into, produced or provided in a free zone without payment of customs duty or excise duty.

Free Zone is an area that is considered outside Malaysia as provided under Section 2 of the Customs Act 1967, Section 2 of the Excise Act 1976. There are two types of Free Zones in Malaysia: (a) Free Industrial Zone (FIZ) and (b) Free Commercial Zone (FCZ). Manufacturing activities are allowed to be conducted in FIZ while trade activities are allowed to be conducted in FCZ.

Free Trade Agreements

Malaysia has concluded several regional and bilateral free trade agreements and several more are still under negotiation. One of the key features of free trade agreements is the preferential tariff treatment accorded to member countries. Currently, the following free trade agreements are in force:

- ASEAN Trade in Goods Agreement
- ASEAN-China Free Trade Agreement
- ASEAN-Korea Free Trade Agreement
- ASEAN-Australia-New Zealand Free Trade Agreement
- ASEAN-Japan Comprehensive Economic Partnership Agreement
- ASEAN-India Trade in Goods Agreement
- Preferential Trade Agreement Amongst D-8 Member States
- Malaysia-Pakistan Closer Economic Partnership
- Malaysia-Japan Economic Partnering Agreement
- Malaysia-Chile Free Trade Agreement
- Malaysia-India Comprehensive Economic Cooperation Agreement
- Malaysia-New Zealand Free Trade Agreement
- Malaysia-Australia Free Trade Agreement
- Malaysia-Turkey Free Trade Agreement

The preferential tariff treatment and the rules of origin may vary from one free trade agreement to another.

IMPORTANT FILING / FURNISHING DATES

Type of return	Form	Due date
Income tax		
All taxpayers		
Notification of change of address	CP 600B	Within 3 months of change
Individuals without business income		
Notification of chargeability of an individual who first arrives in Malaysia	No prescribed form	Within 2 months of date of arrival
Submission of income tax return* - Resident - Non-resident	 BE/BT M/MT	 By 30 April in the year following tax YA
* Tax returns are not required to be filed for specific groups of employees where requirements are met. Monthly Tax Deduction will be final tax.		
Individuals with business income		
Submission of income tax return - Resident - Non-resident	 B/BT M/MT	 By 30 June in the year following that YA
Companies		
Submission of estimate of tax payable	CP 204	30 days before the beginning of the basis period
Submission of revised estimate of tax payable	CP 204A	In the 6th or/and 9th month of the basis period
Submission of income tax return (must be prepared based on audited accounts)	e-C	Within 7 months from the date following the close of its accounting period
Furnishing of particulars of payment made to agent, dealer & distributor	CP 58	By 31 March of the following year

Type of return	Form	Due date
Income tax (cont'd)		
Other entities – Submission of income tax return		
Deceased person's estate / Association	TP/TF	By 30 April (without business income) or 30 June (with business income) in the year following that YA
Partnership	P	By 30 June in the year following that YA
Limited Liability Partnership	PT	Within 7 months from the date following the close of its accounting period
Co-operative society	C1	
Trust body	TA	
Unit trust / Property trust	TC	
Business trust	TN	
Real estate investment trust / property trust fund	TR	
Employers		
Return of remuneration by an employer	E	By 31 March of the following year
Statement of remuneration of employee	EA	By the last day of February of the following year
Notification of employee's commencement of employment	CP 22	Within 1 month of commencement of employment
Notification of employee's cessation of employment (in certain prescribed cases)	CP 22A	Not less than 1 month before cessation
Notification of employee leaving Malaysia for more than 3 months	CP 21	Not less than 1 month before expected date of departure
Statement of tax deduction by employer under the Monthly Tax Deduction scheme	CP 39	Within 15 days after month end

Type of return	Form	Due date
Withholding tax		
Interest or royalty to non-residents	CP 37	Within 1 month of paying or crediting the non-resident, whichever is earlier
Contract payments to non-resident contractors	CP 37A	
Technical and management service fees, rental of moveable properties, etc. to non-residents	CP 37D	
Technical and management service fees, rental of moveable properties, etc. to non-residents carrying out activities in the Joint Development Area	CP 37 D(1)	
Real estate investment trust income exempted at the trust level distributed to unit holders (other than resident companies)	CP 37E	Within 1 month of distributing the income to the unit holders
Family fund, family re-Takaful fund or general fund income distributed to participants	CP 37E(T)	Within 1 month of distributing or crediting the income, whichever is earlier
Payments to a non-resident person in relation to any gains or profits falling under Section 4(f)	CP 37F	Within 1 month of paying or crediting the non-resident, whichever is earlier
Withdrawal of contribution from a private retirement scheme fund	CP 37G	Within 1 month of paying the amount
Real property gains tax		
Return of disposal of real property / shares in real property company	CKHT 1A/1B & CKHT 3*	Within 60 days after disposal of real property / shares in real property company ** If applicable*
Return of acquisition of real property / shares in real property company	CKHT 2A & CKHT 502*	

Type of return	Form	Due date
Goods and services tax		
GST registration		
Person whose annual turnover exceeds or expected to exceed RM500,000	GST-01	28 days from the end of the month the annual turnover exceeded or is expected to exceed RM500,000
GST return / declaration		
Registered person	GST-03	Last day of the month following the end of the taxable period OR 30 days from the end of the taxable period (where taxable period is varied)
Non-registered person who consumes imported services for purpose of business	GST-04	Last day of the following month after the earlier of: • payment is made; or • invoice is received from the foreign supplier.
Non-registered person who receives goods in Malaysia under ATMS or sells goods in an auction or in satisfaction of debt on behalf of a taxable person	GST-04	Last day of the month after the month in which the supply is made or treated as taken place

PwC in Malaysia

	Telephone/Telecopier	Mail Address	Tax Contacts
Kuala Lumpur Level 10, 1 Sentral Jalan Rakyat Kuala Lumpur Sentral 50470 Kuala Lumpur	Telephone: [60] (3) 2173 1188 Telecopier: [60] (3) 2173 1288	PO Box 10192 50706 Kuala Lumpur	Jagdev Singh Telephone: [60] (3) 2173 1188
Pulau Pinang 16th Floor, Bangunan KWSP Jalan Sultan Ahmad Shah 10050 Pulau Pinang	Telephone: [60] (4) 238 9188 Telecopier: [60] (4) 238 9288	PO Box 856 10810 Pulau Pinang	Tony Chua Telephone: [60] (4) 238 9188
Ipoh Standard Chartered Bank Chambers 1st Floor, 21-27 Jalan Dato' Maharaja Lela 30000 Ipoh Perak Darul Ridzuan	Telephone: [60] (5) 254 9545 Telecopier: [60] (5) 253 2366	PO Box 136 30710 Ipoh Perak	Tony Chua Telephone: [60] (4) 238 9188
Melaka Level 15-1, Tower B Jaya 99 99, Jalan Tun Sri Lanang 75100 Melaka	Telephone: [60] (6) 283 6169 Telecopier: [60] (6) 284 4368	PO Box 140 75720 Melaka	Benedict Francis Telephone: [60] (7) 218 6000 Au Yong Telephone: [60] (6) 283 6169
Johor Bahru Level 16, Menara Ansar, Jalan Trus 80000 Johor Bahru Johor Darul Takzim	Telephone: [60] (7) 218 6000 Telecopier: [60] (7) 224 8088	PO Box 296 80730 Johor Bahru Johor	Benedict Francis Telephone: [60] (7) 218 6000
Labuan Level 13F, Main Office Tower Financial Park Labuan Jalan Merdeka 87000 Wilayah Persekutuan Labuan	Telephone: [60] (87) 42 2088 [60] (87) 42 1618 Telecopier: [60] (87) 42 2198	Level 13F, Main Office Tower Financial Park Labuan Jalan Merdeka 87000 Wilayah Persekutuan Labuan	Jennifer Chang Telephone: [60] (3) 2173 1188

Visit our website at http://www.pwc.com/my pwc.com/my

twitter.com/PwC_Malaysia

linkedin.com/company/pwc-malaysia

instagram.com/pwc_malaysia

youtube.com/pwcmalaysia

facebook.com/pwcmsia

www.pwc.com/my