



# TaXavvy

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## Movement Control Order - Frequently Asked Tax Questions (updated on 10 April 2020)



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## Movement Control Order (MCO) - FAQs on Tax (“FAQ”)

The Inland Revenue Board (IRB) has updated its FAQ to take into account the extension of the MCO period to 28 April 2020.

Various tax obligations including the submission of returns / forms / notification and payments which are due within the extended MCO period are generally given an extension of time up until 31 May 2020.



### Highlights

Key matters which require immediate attention including those impacting cash flows in the near term are:

- Remittance of monthly tax deduction (CP 38) for March and April remuneration - extended to 31 May 2020
- Payments of income tax and monthly tax instalments which are due within the MCO period - extended to 31 May 2020
- Deferment of tax instalments for April to June 2020 for Small and Medium Enterprises (SME) - SME status to be determined based on information from the tax returns for year of assessment (YA) 2018
- Tax filing and payment deadline for companies with accounting year ending between 1 December 2019 to 31 December 2019 - 2 months grace period given
- Tax refund for audit cases - Refund will only be processed during the MCO period provided that supporting documents are submitted to the IRB during the MCO period (although extension of time is given to 31 May 2020 to submit documents requested by the IRB)

## Summary

### Submission of forms and returns

2 months grace period for filing of tax return for YA 2019 and payment of balance of tax is now **extended to companies with accounting year ending between 1 December 2019 to 31 December 2019**

Due date **extended to 31 May 2020** for submission of:

- Form CP58 (Statement of Monetary and Non-Monetary Incentive Payment to Agent, Dealer or Distributor)
- Form Q (Appeal to Special Commissioners of Income Tax)
- Country-by-Country Report (CbCR) by entities in Malaysia due on 30 April 2020
- CbCR Notification by constituent entities in Malaysia due by 31 March 2020 and 30 April 2020
- Form LE3 (Irrevocable election by Labuan entities) and return forms of Labuan entities
- Form CP204B (Notification of change of accounting period)

Submission to be made **beginning 29 April 2020** for:

- Forms CP21, CP22, CP22A or CP22B (Employer's obligation)
- Application for Certificate of Residence and Tax Clearance Letter

### Tax payment and estimates

Due date which falls within the MCO period **extended to 31 May 2020** for:

- Monthly tax deduction payments (CP 38) and compounds
- Payment of all income taxes and monthly tax instalments including instalment due on 15 May 2020
- Submission of all tax estimates and revised estimates

Deferment of tax instalments for April to June 2020 for SMEs

- SME status to be determined based on information from the tax returns for YA 2018

### Real Property Gains Tax (RPGT)

Due date which falls within the MCO period **extended to 31 May 2020** for:

- RPGT returns
- Payment of RPGT (section 21B or payment of notice of assessment)

### Stamp duty

- Due date **extended to 31 May 2020** for payment of stamp duty assessment due within the MCO period

### Withholding taxes

Payment falling within MCO period can be made **from 29 April 2020 to 31 May 2020** without penalties being imposed

### Responding to IRB

Due date **extended to 31 May 2020** for:

- Submission of documents for audits and investigations
- Replies to IRB letters

### Tax refund

- Supporting documents have to be submitted as usual for tax refund to be processed during the MCO for existing tax audit cases. Otherwise, extension of time to submit documents is given to 31 May 2020.

### Others

- Due date **extended to 30 June 2020** for submission of audited accounts for section 44(6) approved organisations / institutions
- Submission due date for approved Research and Development project (Borang 1) which are due on 31 March 2020 and 30 April 2020 is extended to **30 June 2020**

## In detail

Please refer to following pages for details of changes made to the FAQ (changes and new items as compared to the previous FAQ dated 3 April 2020 are denoted in **amber bolded** fonts):

General	FAQ reference
<b>Tax audit or investigation</b>	
<p><i>Will extension of time be given if taxpayers are required to submit documents for audit or investigation within the period of 18 March 2020 <b>until 15 May 2020</b> (previously until 29 April 2020)?</i></p> <p>Extension of time will be given <b>until 31 May 2020</b> (previously until 30 April 2020).</p>	A2
<b>Feedback to IRB's letters</b>	
<p><i>Will extension of time be given if taxpayers are required to provide feedback to IRB letters within the period of 18 March 2020 <b>until 15 May 2020</b> (previously until 29 April 2020)?</i></p> <p>Extension of time will be given <b>until 31 May 2020</b> (previously until 30 April 2020).</p>	A3
<b>Organisations / institutions approved under Section 44(6) of the Income Tax Act 1967 (ITA 1967)</b>	
<p><i>Will extension of time be given for the submission of the audited accounts by the institution or organisation approved under section 44(6) of the ITA 1967?</i></p> <p>Yes. Extension of time will be given <b>until 30 June 2020</b>.</p>	New A5
<b>Submission of forms</b>	
<b>Submission of Income Tax Return Forms</b>	
<p><i>Will IRB provide extension of time for the submission of return forms either via manually or e-Filing?</i></p> <p>A 2-month grace period for filing of tax return for the YA 2019 and payment of balance of tax payable was previously given to companies, co-operative societies, limited liability partnerships, trust bodies, unit trusts / property trusts, real estate investment trusts / property trust funds, business trusts and Petroleum Income Tax cases with accounting periods ending within the period between 31 July 2019 and 30 November 2019. <b>The 2-month grace period has now been extended to cases with accounting periods ending within the period from 1 December 2019 till 31 December 2019.</b></p>	C1

Submission of forms (con't)	FAQ reference
<p><b>Form CP 58</b></p>	
<p><b><i>Will extension of time be given for the submission of Form CP58 (Statement of Monetary and Non-Monetary Incentive Payment to Agent, Dealer or Distributor) where the due date falls within the MCO period?</i></b>            Extension will be given until <b>31 May 2020</b> (previously 30 April 2020).</p>	C2
<p><b>Tax appeals</b></p>	
<p><b><i>Will extension of time be given for submission of Notice of Appeal to the Special Commissioners of Income Tax (Form Q) where the due date falls within the MCO period?</i></b>            Extension of time will be given until <b>31 May 2020</b> (previously 30 April 2020). However, the taxpayer is required to file Form N and state that the delay is due to the implementation of the MCO.</p>	C3
<p><b>Country-by-Country Report (CbCR)</b></p>	
<p><b><i>Will IRB provide extension of time for the submission of CbCR?</i></b>            Extension of time is given <b>until 31 May 2020</b> (previously until 15 May 2020) for:</p> <ul style="list-style-type: none"> <li>• Submission of CbCR by entities in Malaysia which is due on 30 April 2020;</li> <li>• Submission of CbCR Notification by constituent entities in Malaysia which is due on 31 March 2020; and</li> <li>• Submission of CbCR Notification by constituent entities in Malaysia which is due on 30 April 2020</li> </ul>	C4
<p>In the case of submission of CbCR report by entities in Malaysia which became due on 31 March 2020, the extension of time until 15 May 2020 remains unchanged.</p>	
<p><b>Employer's obligations</b></p>	
<p><b><i>How does one submit the Forms CP21, CP22, CP22A or CP22B within the MCO Period?</i></b>            These forms can be submitted <b>beginning 29 April 2020</b> (previously beginning 15 April 2020).</p>	C5
<p><b>Certificate of Residence</b></p>	
<p><b><i>What alternative is available if e-Residence cannot be used as supporting documents need to be included?</i></b>            The application can be submitted from <b>29 April 2020 onwards</b> (previously from 15 April 2020 onwards). Applications which cannot be delayed can be sent to the following e-mail address: <a href="mailto:lhdn_int@hasil.org.my">lhdn_int@hasil.org.my</a>. The IRB has provided this <a href="#">link</a> for further information.</p>	C6

Submission of forms (con't)	FAQ reference
<b>Tax Clearance Letter</b>	
<p><b><i>How can application for Tax Clearance Letter (TCL) be made within the MCO period?</i></b></p> <p>The application for TCL can be made either:</p> <ul style="list-style-type: none"> <li>• online via e-SPC any time; or</li> <li>• at IRB office <b>beginning 29 April 2020</b> (previously beginning 15 April 2020).</li> </ul> <p>The application will be processed from <b>29 April 2020</b> (previously from 15 April 2020).</p>	C7
<p><i>Comment: There is an Operational Guideline on Application for tax clearance letter for company, Limited Liability Partnership and Labuan entity (GPHDN 2/2019) issued by IRB on 12 November 2019.</i></p>	
<b>Labuan entities</b>	
<p><b><i>Will extension of time be given to Labuan entities for the submission of irrevocable election form (Form LE3) to be taxed under the ITA 1967 where the due date is within the MCO period?</i></b></p> <p>Example of scenario: Accounting period / basis period for a Labuan entity is 1 January 2020 to 31 December 2020. The due date for submission of Form LE3 for YA 2020 is on 31 March 2020.</p> <p>Extension of time will be given <b>until 31 May 2020</b> (previously until 30 April 2020) for the submission of Form LE3 for YA 2020.</p>	C8
<b>Form CP204B</b>	
<p><b><i>Will extension of time be given to taxpayers who are required to submit Form CP204B (notification of change in accounting period) within the MCO period?</i></b></p> <p>Extension of time will be given <b>until 31 May 2020</b> (previously until 30 April 2020) for submission of Form CP204B.</p>	C9
<b>Research and Development project</b>	
<p><b><i>Will IRB provide extension of time for submission of application form (Borang 1) of an approved Research and Development project under Section 34A of the ITA 1967?</i></b></p> <p>Extension of time <b>until 30 June 2020</b> is given for submission of Borang 1 (New Project / Extension Project) which are due on 31 March 2020 and 30 April 2020.</p>	New C10

Payment of taxes and tax estimates	FAQ reference
<b>Tax estimates and payments</b>	
<p><b><i>Is extension of time given to all types of tax estimate submissions which are due within the MCO period?</i></b>            Extension of time will be given <b>until 31 May 2020</b> (previously until 30 April 2020).</p>	D1
<p><b><i>Is extension of time given for tax estimate payments which are due on 15 April 2020 and 15 May 2020? (instalment due on 15 May 2020 is now covered)</i></b>            Extension of time will be given <b>until 31 May 2020</b> (previously until 30 April 2020).</p>	D2
<p><b><i>When is the deadline for the submission of the revised tax estimate in the third month instalment in 2020?</i></b>            The deadline for the submission of the revised tax estimate in the third month instalment in 2020 is based on the company's basis period. An extension of time is given <b>until 31 May 2020</b> (previously until 30 April 2020) for revision in the third month of instalment that falls in April 2020.</p>	D3
<b>SMEs</b>	
<p><b><i>What are the sources of data that will be used by the IRB in order to determine whether the SMEs qualify for the deferment of estimated tax payment?</i></b>            It will be based on the <b>YA 2018 Return Form</b> received by the IRB.</p>	New D7
<p><i>Comment:</i>            The IRB has in item D6 of its FAQ dated 3 April 2020 defined SME for the purpose of the deferment of tax instalment payment as a business which fulfils the following criteria:            Have a paid-up capital of less than or equal to RM2.5 million ordinary shares at the beginning of the basis period for a YA; and</p> <ul style="list-style-type: none"> <li>• Have a gross business income of RM50 million and below ("SME Definition").</li> </ul> <p>The IRB has then in item D7 of its FAQ dated 3 April 2020 stated that the SME Definition will be determined based on the IRB's record. The IRB has now further explained in the new item D7 that the sources of data will be <u>based on the YA 2018 return form</u> that has been submitted to the IRB. Further clarification is required from the IRB. Does this mean:</p> <ol style="list-style-type: none"> <li>1. The SME status as indicated in Item XII of the Form e-C for YA 2018 will be adopted and the RM50 million gross business income ceiling criteria will be relaxed; or</li> <li>2. The SME status as indicated in Item XII of the Form e-C for YA 2018 is not relevant. The SME status will be determined based on the criteria in item D6 of its FAQ dated 3 April 2020, i.e. paid-up capital and gross business income which is applicable to YA 2018.</li> </ol>	

Payment of taxes and tax estimates (con't)	FAQ reference
<b>SMEs</b>	
<p><b><i>Would additional criteria such as Paragraph 2B and 2C of Part I, Schedule 1 of the ITA 1967 be applicable for a business to qualify as SME for this deferment of instalment payment purpose?</i></b></p> <p>No. For this purpose, businesses just need to fulfil the following criteria:</p> <ul style="list-style-type: none"> <li>• Have a paid-up capital of less than or equal to RM2.5 million ordinary shares at the beginning of the basis period for a YA; and</li> <li>• Have a gross business income of RM50 million and below (“SME Definition”).</li> </ul>	New D8
<b>Increase in tax</b>	
<p><b><i>Will a tax increase be imposed for late payment of tax (all types of income taxes) which should be paid within the MCO period?</i></b></p> <p>Tax increase will not be imposed if the payment is made <b>on or before 31 May 2020</b> (previously on or before 30 April 2020).</p>	D15
<b>Deferment of estimated tax instalments</b>	
<p><b><i>Can taxpayer choose to reject the automatic deferment of tax estimates payment and continue payments based on the original payment schedule? If so, does the taxpayer need to notify the IRB?</i></b></p> <p>Yes. Taxpayer can reject and continue paying tax estimates based on the original payment schedule without having to inform the IRBM.</p>	New D18
<p><b><i>Will the IRB issue a notification to the taxpayers who are entitled for deferment of tax estimates payment?</i></b></p> <p>Yes. The IRB will notify taxpayers who are entitled for deferment of tax estimates payment by e-mail registered with IRB in the near future. If the taxpayer is entitled to a deferment based on the criteria outlined in answer No. 6 (Part D)* but has not yet received the e-mail, the taxpayer will not have to make a payment for the instalment which is due on 15 April 2020.</p>	New D19
<p><i>* Have a paid-up capital of less than or equal to RM2.5 million ordinary shares at the beginning of the basis period for a YA; and have a gross business income of RM50 million and below.</i></p>	
<p><b><i>Can a taxpayer make an appeal if it is found that the company is eligible for deferment of tax estimate based on the current situation of the company?</i></b></p> <p>Yes. Taxpayers can appeal by letter / e-mail to the Records Management and Taxation Information Division. A notification e-mail will be issued if the appeal is approved.</p>	New D20

Payment of taxes and tax estimates (con't)	FAQ reference
<b>Labuan entities</b>	
<p><b><i>Will extension of time be given to submit return form and payment for Labuan entity during this period?</i></b>            Extension of time will be given <b>until 31 May 2020</b> (previously until 30 April 2020).</p>	D21
<b>Withholding tax</b>	
<p><b><i>How can withholding tax payment be made within the MCO period?</i></b>            Payment of withholding tax which falls within the MCO period can be made from <b>29 April 2020</b> until <b>31 May 2020</b> (previously from 15 April 2020 to 30 April 2020).</p> <p>Payment can be made via telegraphic transfer (TT) by furnishing complete payment details to IRB via fax at 03-6201 9637 or e-mail at: <a href="mailto:HelpTTpayment@hasil.gov.my">HelpTTpayment@hasil.gov.my</a></p>	D23
<p><b><i>Will penalty be imposed on withholding tax payment which should be made within the MCO period?</i></b>            Payment of withholding tax which is due within the MCO period can be made <b>from 29 April 2020 up to 31 May 2020</b> (previously from 15 April 2020 to 30 April 2020). Penalty will not be imposed on late payment during that period.</p>	D24
<b>Employer's obligations</b>	
<p><b><i>Will there be extension of time to submit Monthly Tax Deduction (MTD) data and make MTD / Salary Deduction Instruction (CP38) payment for March and April (now extended to cover April payment) 2020 remuneration?</i></b>            Extension of time will be given <b>until 31 May 2020</b> (previously until 30 April 2020).</p>	D25
<p><b><i>Will compound payment for MTD which should be paid within the MCO period be deferred?</i></b>            Payment can be made <b>before 31 May 2020</b> (previously before 30 April 2020).</p>	D26
<b>Tax refund</b>	
<p><b><i>Will IRB defer the tax refund process?</i></b>            Tax refunds will be processed as usual. <b>However, in an ongoing audit case, taxpayers are required to submit the supporting documents as requested within the MCO period for the purpose of tax refund.</b></p>	D27

Others	FAQ reference
<b>Real property gains tax (RPGT)</b>	
<p><b><i>Is extension of time provided for the submission of RPGT return forms and payment?</i></b></p> <p>For the submission of RPGT return forms and payment of RPGT (section 21B or payment of notice of assessment) where the due date falls within 18 March 2020 <b>to 31 May 2020</b> (previously to 30 April 2020), the deadline for filing of the forms and payment is <b>31 May 2020</b> (previously 30 April 2020).</p>	E1
<b>Stamp duty</b>	
<p><b><i>How can an individual without business registered with SSM do stamping within the MCO period?</i></b></p> <p>Stamping for individual documents cannot be done within the MCO period.</p> <p>Stamping must be done manually over the counters at any Stamp Offices / Revenue Service Centres / UTC Johor <b>after 28 April 2020</b> (previously after 14 April 2020). No penalty will be imposed as extension of time will be given <b>until 31 May 2020</b> (previously until 30 April 2020) for all documents which should have been duly stamped between 18 March 2020 <b>to 30 May 2020</b> (previously to 14 April 2020).</p> <p>Stamp duty offices nationwide will be open from 3 April 2020 to cater to individual duty payers. However, the services available will be limited to:</p> <ul style="list-style-type: none"> <li>• Stamping for individuals and public who do not have STAMPS user ID<sup>1</sup>.</li> <li>• Payment of stamp duty on the notice of assessment which cannot be made online.</li> </ul> <p><b>Operation hours based on the working days of the relevant state is from 8.00 am to 12.00 pm<sup>2</sup></b> (the operation hours was previously not set out in the FAQ)</p>	F5
<p>1. For individuals, the IRB's STAMPS is only accessible for those with business registered with SSM (Companies Commission of Malaysia).</p> <p>2. For more information, please refer to the IRB's Media Release dated 2 April 2020 which can be downloaded from the IRB's website <a href="http://www.hasil.gov.my">www.hasil.gov.my</a> (Homepage &gt; Media Release &gt; 2 April 2020).</p>	
<p><b><i>Will I be imposed penalty for late payment?</i></b></p> <p>If payment for notice of assessment on stamp duty falls within the <b>MCO period</b> (previously in the period of 18 March 2020 to 14 April 2020), the payment can be made <b>until 31 May 2020</b> (previously until 30 April 2020). No late payment penalty will be imposed.</p>	F9

The IRB's FAQ can be downloaded from the IRB's website [www.hasil.gov.my](http://www.hasil.gov.my) (Homepage > Announcement).

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