



Taxavvy

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Double deduction for training costs under the PROTÉGÉ - Ready To Work (RTW) Programme

The Income Tax (Deduction for Training Costs under the Professional Training and Education for Growing Entrepreneurs [*sic*] PROTÉGÉ-Ready to Work (RTW)) Programme) Rules 2021 was gazetted on 11 May 2021 and comes into operation on 11 September 2019.



The PROTÉGÉ is an initiative through the Ministry of Entrepreneur Development and Cooperatives (MEDAC) to implement programmes to enhance the marketability and cultivate entrepreneurial skills among graduates. This programme was rebranded from the original programme, Skim Latihan 1Malaysia (SL1M) in September 2019.

The Rules provide a double deduction on qualifying expenditure incurred for conducting the PROTÉGÉ-RTW Programme for unemployed graduates or employed graduates whose current employment does not commensurate with their qualification.

The qualifying expenditure comprises the following in respect of each graduate:

- Monthly allowance of RM1,000 or more for a maximum of 12 months; and
- Cumulative expenditure of up to RM5,000 for the following expenses:
 - (a) Expenditure incurred for the training provided
 - (b) Food, travelling and accommodation allowances during the programme
 - (c) Fees paid to a person to conduct soft-skills training

The PROTÉGÉ-RTW Programme is to be approved by MEDAC between 11 September 2019 and 31 December 2025.

Guidelines for Section 44(6) approval of school related funds

The Inland Revenue Board (IRB) has issued the following 3 guidelines dated 28 April 2021 in relation to approval under Section 44(6) of the Income Tax Act 1967 (“ITA 1967”) for school related funds:

- Application for Approval under Section 44(6) of the ITA 1967 for School Public Contribution Fund
- Application for Approval under Section 44(6) of the ITA 1967 for School Construction Fund
- Application for Approval under Section 44(6) of the ITA 1967 for the Purchase of Religious School Fund

Taxpayers (donors) who make donations to school related funds which have obtained the Director General of Inland Revenue’s approval under Section 44(6) of ITA 1967 (“approved school funds”) are allowed to claim a tax deduction for cash contributions made to the approved school funds. The tax deduction is subject to a maximum of 10% of the donor’s aggregate income for the year of assessment (YA).

Some of the points from the IRB’s guidelines are as follows:

	School Public Contribution Fund	School Construction Fund	Purchase of Religious School Fund
<i>Amount which qualifies for Section 44(6) approval</i>	Estimated expenditure accompanied by relevant quotations in respect of project or programme approved by the Ministry of Education	School building construction costs excluding costs relating to land, equipment, furniture, school halls, repairs and maintenance.	Purchase price of school building excluding costs relating to legal fees, equipment and furniture.
<i>Approval period of Section 44(6) status of the fund</i>	The shorter of the following periods from the date of the IRB’s approval: <ul style="list-style-type: none"> • 2 or 3 years; or • when the amount approved has been received. 	The shorter of the following periods from the date of the IRB’s approval: <ul style="list-style-type: none"> • 3 years; • completion of construction; or • up to the date when contribution towards the approved amount has been achieved. 	The shorter of the following periods: <ul style="list-style-type: none"> • 2 years from the date of the IRB’s approval; or • 12 months from the date the contribution towards the approved amounts have been received.

Guideline	School Public Contribution Fund	School Construction Fund	Purchase of Religious School Fund
<i>Excess contribution</i>	The IRB is to be notified on contributions received in excess of amount approved or after the approved project has ended. These amounts are to be donated to the Government or other Section 44(6) approved organisations.	The IRB is to be notified on contributions received in excess of amount approved or after completion of construction. These amounts are to be donated to the Government or other Section 44(6) approved organisations.	The IRB is to be notified on contributions received in excess of amount approved or after purchase of building. An application is to be made to the IRB to channel the excess contribution to the school management fund.

Please refer to the respective guidelines for further details including the following matters:

- Details on eligibility criteria
- Application procedures
- Composition of Committee members of the fund
- Duties of the fund's Committee
- Duty to notify the IRB on changes to members of the fund's Committee
- Maintenance of separate bank accounts
- Obligations to submit separate audited accounts to the IRB
- Implications of breaching approval conditions

The guidelines are available on IRB's website www.hasil.gov.my (Legislation > Technical Guidelines).

Updated guidelines on tax deduction of secretarial and tax filing fees

The IRB has issued an updated guideline in relation to the tax deduction of secretarial and tax filing fees, dated 11 May 2021 (“Guidelines”). The updated guidelines maintain the same position that the secretarial and tax filing fees are deductible in the YA when the fees are paid.



Background

Taxpayers are eligible to claim a special deduction for expenses in relation to secretarial fees and tax filing fees pursuant to the Income Tax (Deduction for Expenses in relation to Secretarial Fee and Tax Filing Fee) Rules 2014 (“2014 Rules”) and the Income Tax (Deduction for Expenses in relation to Secretarial Fee and Tax Filing Fee) Rules 2020 (“2020 Rules”). The special deduction is subject to the following limits per YA:

	YA 2014 to YA 2019 under the 2014 Rules	YA 2020 onwards under the 2020 Rules
Secretarial fees	RM5,000	Combined limit of RM15,000
Tax filing fees	RM10,000	

The Guidelines

The following are the salient points from the Guidelines:

- Timing of claim:** The claim for the special deduction shall be made in the YA in which the payment of the relevant fees have been made. Under Example 3 of the Guidelines, the tax deduction for secretarial fees of RM4,000 is to be claimed in YA 2021 as follows:

Qualifying expenditure	Date of invoice / incurred	Date of payment	Amount paid	Special deduction claim in YA 2020	Special deduction claim in YA 2021
Secretarial fees for YA 2020	2 November 2020	11 January 2021	RM4,000	-	RM4,000

The Guidelines (cont'd)

- **Timing of claim (advance payments):** The special deduction in respect of advance payments is to be made in the YA when the services have been rendered. Under Example 2, the tax treatment of the deduction for secretarial fees which are paid in advance is as follows:

Qualifying expenditure	Date of invoice / incurred	Date of payment	Amount paid	Special deduction claim in YA 2020	Special deduction claim in YA 2021
Secretarial fees for YA 2021	30 November 2020	30 December 2020	RM3,000	-	RM3,000 (when services have been rendered)

- **Claims in excess of RM15,000 due to payments falling under both the 2014 Rules and 2020 Rules:** Under Example 3, the total tax deduction that is claimed in YA 2020 comprises payments made in YA 2020 as follows:

Qualifying expenditure	Applicable Rules	Amounts paid in YA 2020	Special deduction claim in YA 2020
Secretarial fees for YA 2019	2014 Rules	RM6,000	Restricted to RM5,000 under the 2014 Rules
Various qualifying expenditure (refer to Example 3 for details)	2020 Rules	RM10,500	RM10,500
Total deduction to be claimed in YA 2020			RM15,500

The Guidelines are available on IRB's website www.hasil.gov.my (Legislation > Technical Guidelines)

Guideline on Compensation on Late Refund of Overpayment of Tax

The IRB has issued an updated Guideline on Compensation for Late Refund of Overpayment of Tax (“GPHDN 2/2021”). GPHDN 2/2021 supersedes the previous version of the guideline dated 15 May 2014 (“GPHDN 1/2014”).



Effective from YA 2013, taxpayers are eligible for a compensation of 2% per annum on each day that the IRB is late in refunding overpayment of tax. The IRB has a period of 90 days (e-Filing) or 120 days (other than e-Filing) from the due date to file the tax returns to refund the overpaid taxes before the refund is considered to be late.

Salient points arising from GPHDN 2/2021 are as follows:

1. The compensation is applicable for taxpayers who submitted their tax returns on or before the statutory due date and extended due date granted by the IRB under the Return Form Filing Programme.
2. Taxpayers who applied to the IRB for extension of time to file tax returns are not eligible for the compensation.
3. The commencement of the period of 90 days or 120 days is determined as follows (as set out in Examples 2 and 3 of the guideline):
 - Tax return is submitted on or before the statutory due date: The day after the statutory due date
 - Tax return is submitted after the statutory due date but on or before the extended due date granted under the IRB’s Return Form Filing Programme: The day after the extended due date
4. Amounts eligible for compensation refer to taxes overpaid in accordance with instalment schemes pursuant to:
 - Section 107 (monthly tax deduction of employees)
 - Section 107B (CP 500 instalments payments)
 - Section 107C (CP 204 / CP 205 instalment payments for estimate of tax payable by companies / limited liability partnerships / trust bodies / co-operative societies)

The guideline is available on IRB’s website www.hasil.gov.my (Legislation > Operational Guidelines).

Registration and update of income tax file numbers

The IRB has issued a press release dated 16 May 2021 on the registration of income tax file numbers and the update of prefixes for individual tax file numbers.

Registration of income tax file number

Effective from 18 May 2021, the registration of income tax file numbers for Co-operatives (CS), Associations (F), Trust bodies (TA), Unit trusts / property trusts (TC), Business trusts (TN) and Real Estate Investment Trusts / Property Trust Funds (TR) can be made online via e-Daftar (<https://edaftar.hasil.gov.my/>)

Update of prefixes for individual tax file number

Effective from 18 May 2021, the IRB will also be changing the prefixes for individual tax file numbers from the current SG and OG prefixes to IG. The update of the prefixes will be carried out in 2 stages:

- Phase 1 - For newly registered individual taxpayers
- Phase 2 - For existing taxpayers (this will be carried out in stages)

The updating of the prefixes will not affect or change the existing tax file numbers and tax filing due dates for individuals.

IRB's press release is available on IRB's website www.hasil.gov.my (Media Release).



Public Ruling 1/2021 - Taxation of Unit Holders of Real Estate Investment Trusts / Property Trusts Funds (“PR 1/2021”)

The IRB has issued PR 1/2021 which replaces Public Ruling 9/2018 of the same title (“PR 9/2018”).



There is no material change with respect to the tax treatments set out in PR 1/2021 as compared to PR 9/2018. The changes are mainly made to the dates used in examples to reflect current dates and also to incorporate a provision introduced by Finance Act 2020 (Budget 2021) in relation to withholding tax (WHT) as a final tax.

Background in relation to WHT as a final tax

Where a real estate investment trust (REIT) has been exempted from tax*, distribution made by the REIT out of the tax-exempted income to its unit holders (except for resident companies) is subject to WHT at the following rates:

Unit holder	WHT rate
Non-resident companies	24%
Foreign institutional investors	10%
Resident individuals, non-resident individuals, and others**	10%

***excluding resident companies, non-resident companies and foreign institutional investors.*

**on the basis that at least 90% of the REIT’s total income is distributed to its unit holders.*

The IRB had (the latest being reflected in PR 9/2018) provided that the above WHT is to be treated as final tax, i.e. the unit holders are not required to include the gross distribution (amount before deduction of WHT) in computing their chargeable income upon filing of tax returns and are not required to claim the underlying WHT as a tax credit (“the IRB’s practice”). Enabling provisions of law has since been introduced via the Finance Act 2020 to give legislative effect to the IRB’s practice. The enabling provision [i.e. Section 5(1A) of the Income Tax Act 1967] is now incorporated into PR 1/2021.

PR 1/2021 is available on the IRB’s website www.hasil.gov.my (Legislation > Public Rulings).

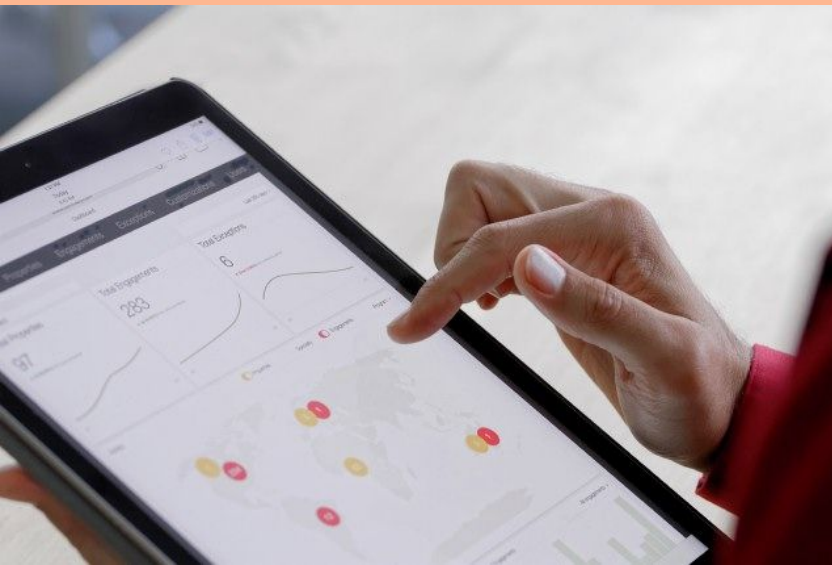
Country-by-Country Reporting (CbCR) Notification using the Form e-C

The IRB has announced that constituent entities of MNE Groups can furnish the CbCR Notification using the Form e-C.

Effective from YA 2021, constituent entities of MNE Groups can furnish the CbCR Notification via an Appendix of the Form e-C. In consequence, the submission of the notification is due on or before the due date to submit Form e-C instead of the last day of the reporting financial year.

Constituent entities of MNE Groups filing other return forms (non Form e-C cases) should continue to furnish the CbCR Notification using the existing method. For these cases, the existing deadline to file the CbCR Notification by the last day of the reporting financial year remains.

IRB's announcement is available on IRB's website www.hasil.gov.my (Announcement).



Double Taxation Agreement between Malaysia and Ukraine

The Double Taxation Agreement (DTA) between Malaysia and Ukraine has been gazetted on 7 May 2021.

The following are the salient points of the DTA:

Withholding tax rates

Type of payment	WHT rate
Interest	10%
Royalty	8%
Technical services	8%

Permanent establishment (PE)

PE includes a building site, a construction, assembly or installation project, or supervisory activities which last more than 12 months.

Labuan

Labuan entities which carry on a Labuan business activity are excluded from the provisions of the DTA. However, the exclusion does not apply to Labuan entities which have made an irrevocable election to be charged to tax in accordance with the Income Tax Act 1967.

Entry into effect

Malaysia

- Malaysian taxes - Tax chargeable for any YA beginning on or after the first day of January in the calendar year following the year in which the DTA enters into force.

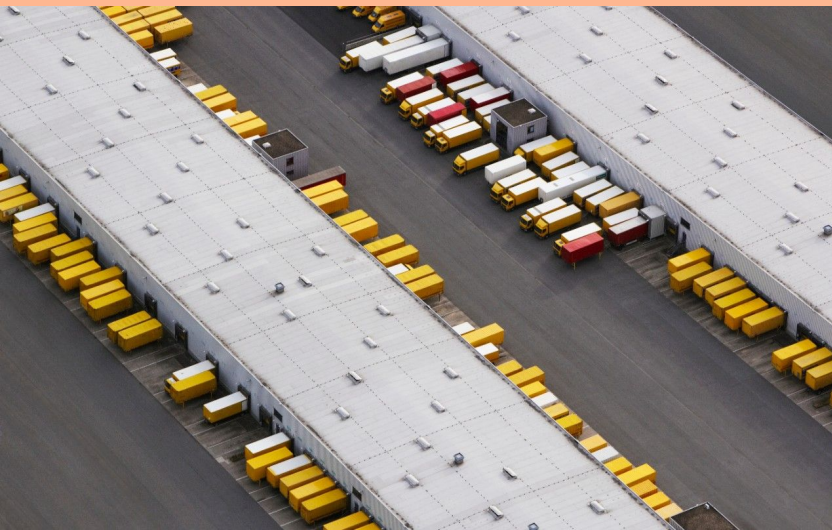
Ukraine:

- Withholding taxes - On or after the first day of January following the calendar year in which the DTA enters into force.
- Other taxes - For the taxable year beginning on or after the first day of January in the year following the year which this DTA enters into force.

Stamp Assessment and Payment System (STAMPS)

IRB has issued a press release to notify that the Stamp Assessment and Payment System (STAMPS) will be replacing the Digital Franking System 2.0 (DFS 2.0) from 1 July 2021 onwards.

- All assessments and payments of stamp duty will be made under STAMPS from 1 July 2021.
- Existing DFS 2.0 facilities can only be used until 30 June 2021.
- Registration for STAMPS user ID can be made through <https://stamps.hasil.gov.my>



Application for stamping and payment of stamp duty will be as follows:

Category	User	Type of stamping	Application and payment
Agent	<ul style="list-style-type: none"> • Legal firms • Banks • Insurance companies • Others (companies, partnerships, sole proprietorship, government agencies / department, statutory bodies) 	<ul style="list-style-type: none"> • Transfer of real property • Transfer of shares • Transfer of business • Securities • Rent / lease • General stamping 	<ul style="list-style-type: none"> • Application for stamping to be made via STAMPS • Stamp duties can be paid online or at the stamp duty counter after assessment is raised.
Non-agent	<ul style="list-style-type: none"> • Individuals 	<ul style="list-style-type: none"> • Transfer of real property • Transfer of shares • Transfer of business • Securities • Rent / lease • General stamping 	<ul style="list-style-type: none"> • Application for stamping and payment of stamp duties to be made at the stamp duty counter and the individual must be present. • Application for stamping and payment of stamp duties to be made at the stamp duty counter. • Details of the agreement are to be completed in STAMPS before the individual presents himself / herself at the stamp duty counter.

The press release is available on IRB's website www.hasil.gov.my (Media Release).

Connect with us

Kuala Lumpur

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

Penang & Ipoh

Kang Gaik Hong
gaik.hong.kang@pwc.com
+60(4) 238 9225

Melaka

Benedict Francis
benedict.francis@pwc.com
+60(7) 218 6000

Tan Hwa Yin

hwa.yin.tan@pwc.com
+60(6) 270 7300

Johor Bahru

Benedict Francis
benedict.francis@pwc.com
+60(7) 218 6000

Kuching

Lee Yuien Siang
yuien.siang.lee@pwc.com
+60(3) 2173 1333

Cynthia Ng

cynthia.hh.ng@pwc.com
+60(3) 2173 1438

Labuan

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

Corporate Tax Compliance & Advisory

Consumer & Industrial Product Services

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

Steve Chia

steve.chia.siang.hai@pwc.com
+60(3) 2173 1572

Specialist services

Corporate Services

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

Dispute Resolution

Tai Weng Hoe
weng.hoe.tai@pwc.com
+60(3) 2173 1600

Global Mobility Services

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

Hilda Liow

hilda.liow.wun.chee@pwc.com
+60(3) 2173 1638

Emerging Markets

Fung Mei Lin
mei.lin.fung@pwc.com
+60(3) 2173 1505

Energy, Utilities & Mining

Lavindran Sandragasu
lavindran.sandragasu@pwc.com
+60(3) 2173 1494

Indirect Tax

Raja Kumaran
raja.kumaran@pwc.com
+60(3) 2173 1701

Yap Lai Han

lai.han.yap@pwc.com
+60(3) 2173 1491

Chan Wai Choong

wai.choong.chan@pwc.com
+60(3) 2173 3100

International Tax Services / Mergers and Acquisition

Gan Pei Tze
pei.tze.gan@pwc.com
+60(3) 2173 3297

Financial Services

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

Services & Infrastructure

Lim Phaik Hoon
phaik.hoon.lim@pwc.com
+60(3) 2173 1535

People & Organisation

Kartina Abdul Latif
kartina.a.latif@pwc.com
+60(3) 2173 0153

Lee Shuk Yee

shuk.yee.x.lee@pwc.com
+60(3) 2173 1626

Tax Technology

Yap Sau Shiung
sau.shiung.yap@pwc.com
+60(3) 2173 1555

Tax Reporting & Strategy

Lavindran Sandragasu
lavindran.sandragasu@pwc.com
+60(3) 2173 1494

Technology, Media, and Telecommunications

Heather Khoo
heather.khoo@pwc.com
+60(3) 2173 1636

Transfer Pricing

Anushia Soosaipillai
anushia.joan.soosaipillai@pwc.com
+60(3) 2173 1419

China Desk

Lorraine Yeoh
lorraine.yeoh@pwc.com
+60(3) 2173 1499

Japanese Business Consulting

Yuichi Sugiyama
yuichi.sugiyama@pwc.com
+60(3) 2173 1191

Clifford Yap

clifford.eng.hong.yap@pwc.com
+60(3) 2173 1446



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