



Taxavvy

17 January 2022 | Issue 1-2022

This issue cover recent tax developments in the areas of:

- Tax administration
- Public Rulings and Guidelines
- Gazettes for incentives and tax deductions
- Labuan
- International tax
- Stamp Duty



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Deferment of Tax Payments for Flood Affected Cases

The Inland Revenue Board (IRB) has issued a press release on 28 December 2021 on the deferment of tax payments for taxpayers and employers affected by the recent floods in Peninsular Malaysia.

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



The deferment of tax payment is provided (subject to application by the taxpayer) as follows:

Tax payment	Deferred to	Application to be made via
Estimated tax instalment under CP 204 for the month of December 2021	31 January 2022	Email to: anggarancukai@HASIL.GOV.MY
Instalments in relation to audit / investigation / collection / civil suits for the month of January 2022	February 2022	
Payment of PCB / CP 38 in relation to monthly tax deductions of employee's remuneration for the month of December 2021	31 January 2022	Completion of the form at this link: https://borangmaklumbalas.hasil.gov.my/Submission/Submission/?id=5001#/create/1
Balance of tax payable	A deferred date based on taxpayer's application as approved by the IRB	

Supporting documents to be submitted for the applications are based on the merits of each case.

Tax Identification Number

Following the announcement in Budget 2022 of the implementation of the Tax Identification Number (TIN) from 1 January 2022, the IRB has issued a Frequently Asked Questions on TIN dated 31 December 2021 (FAQ).

The FAQ is available on the IRB's website www.hasil.gov.my (Homepage > Quick Links > TIN).

The following are the salient points of the FAQ:

FAQ	Reference
<p>What is a TIN and when is it effective? The TIN is the income tax reference number as per IRB's existing records. The implementation of the TIN is effective from 1 January 2022.</p>	Q1, 4, 7, 15, 18
<p>Who needs to have a TIN? Any of the following taxpayers*:</p> <ul style="list-style-type: none"> ● A taxpayer who is assessable and chargeable to tax. ● A taxpayer who is required to submit a tax return. ● A Malaysian citizen aged 18 years and above. ● A retired individual if the person is required to submit an income tax return, undertakes a disposal or acquisition of real property or shares in real property companies under the Real Property Gains Tax Act 1976 ("RPGTA 1976") or undertakes stamping of an instrument or document under the Stamp Act 1949 ("SA 1949"). <p><i>*Taxpayer is an individual (natural person) or a person (which includes a company, a body of persons, a limited liability partnership (LLP) and a corporation sole), as defined under section 2 of the Income Tax Act 1967 ("ITA 1967").</i></p>	Q2, 9, 11
<p>How can a TIN be obtained? The existing income tax numbers assigned to taxpayers on or before 1 January 2022 are deemed to be the TIN. New application is not required to be made. Any taxpayer without an existing income tax number may obtain a TIN through the following methods:</p> <ul style="list-style-type: none"> ● Automatic registration: <ol style="list-style-type: none"> i) For individuals through the monthly tax deduction scheme ii) For a newly incorporated company that is registered with SSM via the MyCoID portal. ● Online application via e-Daftar at https://mytax.hasil.gov.my ● Submission of an application at any IRB branch. 	Q3, 5

FAQ	Reference
<p data-bbox="107 235 769 268">Filing of income tax returns under the ITA 1967</p> <p data-bbox="107 274 1396 342">All taxpayers as specified in sections 77 and 77A of the ITA 1967 are required to file income tax returns.</p> <p data-bbox="107 388 1388 496">The IRB states that an individual aged 18 years who is still studying full time is not required to file an income tax return. However, taxpayers as specified under Section 77* of the ITA 1967 are required to submit income tax return forms.</p> <p data-bbox="107 535 919 568">* Which includes individuals who have chargeable income, etc.</p>	Q8, 9, 10
<p data-bbox="107 592 958 625">Real Property Gains Tax (RPGT) transactions subject to TIN</p> <p data-bbox="107 631 1319 699">All parties making a disposal or acquisition of real property or shares in a real property company are required to have a TIN. A TIN is required for the following documents:</p> <ul data-bbox="140 745 1345 963" style="list-style-type: none">• Form CKHT 1A - disposal of real property• Form CKHT 1B - disposal of shares subject to the RPGTA 1976• Form CKHT 2A - acquisition of real property or shares subject to RPGTA 1976• Form CKHT 3 - notification of non-application or exemption from RPGT• Payment of retention sum under section 21B via Form CKHT 502 by the acquirer• Correspondences and appeals	Q12, 13, 14
<p data-bbox="107 1006 715 1039">Transactions under SA 1949 subject to TIN</p> <p data-bbox="107 1045 1370 1143">TIN is required for all transactions under SA 1949. For the initial phase of implementation, this includes documents and instruments involving the transfer of real property, transfer of shares, and transfer of business of a company or individual.</p>	Q16, 17



Filing Programme for Year 2022

The IRB has issued the Filing Programme for Year 2022. The filing programme outlines the statutory filing and tax payment due dates, grace period and method of submission for the various return forms.

The Filing Programme for Year 2022 is available on the IRB's website at www.hasil.gov.my (Forms > Filing Programme for Year 2022).

Grace period for submission of return forms and payment of balance of taxes

The following is the grace period for submission of the relevant tax return forms from the stipulated filing due date, and payment of balance of tax under section 103(1) of the ITA 1967 or section 48(1) of the Petroleum Income Tax Act 1967 ("PITA 1967"):

Category of forms	Method of submission	Grace period
Income tax return forms for year of assessment (YA) 2022		
Companies	e-Filing	1 month
Limited Liability Partnerships		
Co-operatives Societies		
Trust Bodies	<ul style="list-style-type: none"> e-Filing Postal Hand delivery 	<ul style="list-style-type: none"> 1 month 3 working days None
Unit Trusts / Property Trusts		
Business Trusts		
Real Estate Investment Trusts / Property Trust Funds	<ul style="list-style-type: none"> Postal Hand delivery 	<ul style="list-style-type: none"> 3 working days None
Income tax return forms for YA 2021		
Individuals		
Partnerships	<ul style="list-style-type: none"> e-Filing Postal Hand delivery 	<ul style="list-style-type: none"> 15 days 3 working days None
Associations		
Deceased Persons' Estate		
Hindu Joint Families	<ul style="list-style-type: none"> Postal Hand delivery 	<ul style="list-style-type: none"> 3 working days None

Category of forms	Method of submission	Grace period
Petroleum income tax return form		
Petroleum - exploration	<ul style="list-style-type: none"> e-Filing 	<ul style="list-style-type: none"> 1 month
Petroleum - production	<ul style="list-style-type: none"> Postal Hand delivery 	<ul style="list-style-type: none"> 3 working days None
Returns by employers for year of remuneration 2021		
Company / Labuan company employers	e-Filing	1 month
Non-company / Non-Labuan company employers	<ul style="list-style-type: none"> e-Filing Postal Hand delivery 	<ul style="list-style-type: none"> 1 month 3 working days None

If submission is not made within the grace period, the submission will be deemed to be late and penalties under Section 112 of ITA 1967 / section 51 of PITA 1967 will be computed from the statutory filing due date and not from the extended due date.

Grace period for payment of tax / balance of tax

For assessments raised by the IRB under sections 91, 92, 96A, 90(3) and 101(2) of ITA 1967, the tax / balance of tax must be paid within 30 days from the date of assessment. However, there is a grace period of 7 days.

Repayment cases

For repayment cases, the following appendices / working sheets have to be submitted together the income tax return form.

- Appendix B2 / HK-6 [tax deduction under section 110 of ITA 1967]
- Appendix B3 / HK-8 [claim for tax relief under section 132 of ITA 1967]
- Appendix B4 / HK-9 [claim for tax relief under section 133 of ITA 1967]

Entities which are dormant or have not commenced operations

Similar to prior years, companies, co-operative societies, limited liability partnerships and trust bodies are required to submit tax returns even if they are dormant. However, they need not submit the estimated tax payable (Form CP204) if they have not commenced operations.

“Dormant” is explained as follows:

- Never commenced operations since the date it was incorporated / established, or
- Had previously been in operation or carried on business but has now ceased operations or business.

A person which owns shares, real properties, fixed deposits and other similar investments, is not considered as “dormant”.

For dormant companies, the following are the mandatory fields to be completed in the return form:

- Accounting period
- Basis period
- Business / partnership statutory income
- Business code

Access to Taxpayers' Bank Accounts

The IRB has issued a media release on 18 December 2021 to explain its powers under the new Section 106A of ITA 1967.

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

The new Section 106A was inserted into the ITA 1967 to empower the Director General to require any financial institution to furnish bank account information of a person on whom civil proceedings under Section 106 of the ITA 1967 has been instituted and a judgement has been obtained, for the purpose of making an application to court for a garnishee order.

The IRB has clarified in the media release that the garnishee proceedings is a process to enforce judgement debt by seizing or holding money due to the debtor, and in this instance, it would be the outstanding tax liability of the particular taxpayer.

The IRB has also explained that the powers conferred under the new Section 106A do not grant IRB absolute power to access taxpayer bank accounts arbitrarily. The access to taxpayer's bank accounts has to go through a predetermined court judgment procedure and is restricted to particular cases that have gone through the civil proceedings.

The IRB has emphasised that taxpayers' existing bank accounts information will not be made accessible to the IRB under the new provision unless it involves the filing of application for garnishee order to the courts.



Withholding Tax on Payments Made to Agents, Dealers and Distributors

The IRB has issued a media release on the implementation of deduction of tax at 2% on payments made to an agent, a dealer or a distributor by a company under Budget 2022.

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

A new Section 107D has been inserted into the ITA 1967 (Budget 2022 measure) where withholding tax at the rate of 2% is to be imposed on payments in monetary form made to agents, dealers or distributors, arising from sales, transactions or schemes carried out. Section 107D is effective from 1 January 2022.

The withholding tax is applicable where the payments above are made to resident agents, dealers or distributors who are individual residents and who have received more than RM100,000 of such payments in monetary form and/or non-monetary form from the same company in the immediately preceding YA.

The tax withheld is to be remitted to the IRB within 30 days from date of payment or crediting the payment to the agent, dealer or distributor. Companies which fail to comply with this requirement will be subject to an increase in tax equivalent to 10% of the outstanding withholding tax and the underlying gross expenses which are subject to the withholding tax would be denied a tax deduction.

To ensure that all companies which are liable to make payment (payers) are able to make appropriate preparations and notifications to their agents, dealers or distributors, the IRB has agreed to defer the “**remittance**” of the withholding tax under Section 107D of the ITA 1967 until 31 March 2022.

In this connection, the payer is allowed to remit the withholding tax related to payments for the months of January until March 2022 **from 1 April 2022*** without being subject to any increase in tax.

IRB has also stated that an FAQ in relation to the above matter will be issued.

**Comment:*

It is hoped that the actual deadline “from” 1 April 2022 will be provided by the IRB in the FAQ which is to be issued in due course.



Income Tax (Exchange of Information) Rules 2021

The Income Tax (Exchange of Information) Rules 2021 (“2021 Rules”) have been gazetted on 1 December 2021.

Background

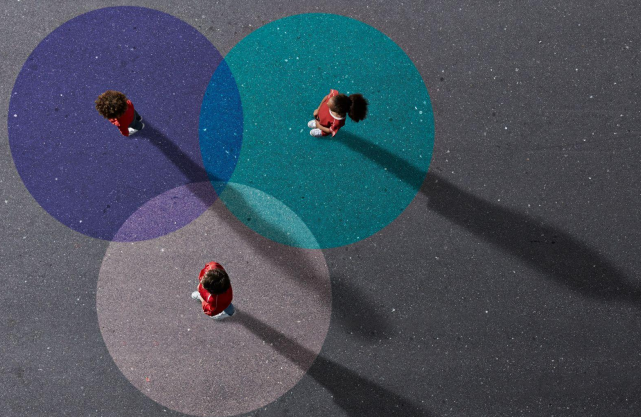
Malaysia has committed to exchange of information (EOI) arrangements under the respective Malaysian double tax agreements (DTAs). Rules in relation to EOI under DTAs have been gazetted under the Income Tax (Exchange of Information) Rules 2011 (the “2011 Rules”) which amongst others, provides:

- A competent authority (as defined) to request information of a specified person from the Director General of Inland Revenue (DGIR).
- The DGIR may by notice require the person to provide information as requested by the competent authority within a specified time frame pursuant to Section 81 of the ITA 1967.
- The DGIR may require a bank (as defined) to provide the information of the person.

Updates by the 2021 Rules

The 2021 Rules have been gazetted on 1 December 2021. It replaces the 2011 Rules. Key updates as compared to the 2011 Rules are as follows:

- The scope of a “bank” has been expanded to include a Labuan company or bank licensed under the Labuan Financial Services and Securities Act 2010 and Labuan Islamic Financial Services and Securities Act 2010.
- In addition to EOI under DTAs, the scope of the 2021 Rules also covers EOI under a Tax Information Exchange Agreement, the Convention on Mutual Administrative Assistance in Tax Matters, any bilateral or multilateral tax convention, and any bilateral or multilateral competent authority agreements.



Public Rulings and Guidelines

Public Rulings (PRs) and Guidelines have been issued by the IRB on the following subjects:

- Special Deduction for Research & Development (R&D) Expenditure
- Taxation of Partnerships
- Private Retirement Scheme
- Notification of Change of Accounting Period
- Bilateral Credit and Unilateral Credit
- Green Technology Incentives

Special Deduction for R&D Expenditure

The IRB has issued the following PRs:

- Public Ruling 10/2021 - Tax Treatment of Research And Development Expenditure Part II - Special Deductions ("PR 10/2021") dated 29 December 2021 which replaces PR 6/2020 of the same title.
- Guidelines on the Application Procedure for a Special Deduction in respect of a Qualifying Research and Development Activity ("R&D Guidelines") dated 29 December 2021, and its related forms. The R&D Guidelines replaces an earlier guideline of the same title.

PR 10/2021 and the R&D Guidelines explain the special tax deductions (double or single deduction) in respect of qualifying R&D activity. The following are the salient updates:

Outsourcing of R&D

- Following the amendment by Finance Act 2020 (Budget 2021 measure), with effect from 1 January 2021, where R&D services are outsourced to a company outside of Malaysia and the R&D service fee thereof exceeds 30% of the total qualifying R&D expenditure, the whole amount of the qualifying R&D expenditure will not be allowed a double deduction under section 34A of the ITA 1967 (i.e. double deduction for R&D expenditure). However, single deduction under section 34A(4) is still available.
- For purposes of claims under sections 34B¹ and 34(7)² of the ITA 1967, new paragraphs have been inserted to state that where the services of a R&D service provider is used, the company and the R&D service provider have to identify and determine any novelty or technical risk involved in the systematic, investigative and experimental (SIE) study, and supporting documents should be retained to support the claim and for purposes of audit by IRB.

¹Section 34B - Double deduction for contribution to an approved research institute or payment for use of services of an approved research institute or company.

²Section 34(7) - Single deduction for R&D expenditure.

Type of qualifying R&D expenditure

- Under paragraph 6 of PR 10/2021 which explains explains the types of qualifying R&D expenditure eligible for tax deduction and keeping records of types of expenditure, reference (i.e. its application) to section 34B has been removed.

Comment: Reference to section 34B has been removed as section 34B relates to payments for R&D service fee to an external service provider which generally do not provide a breakdown on the cost components of their fees.

Taxation of Partnerships

The IRB has recently issued the following new PRs on partnerships taxation:

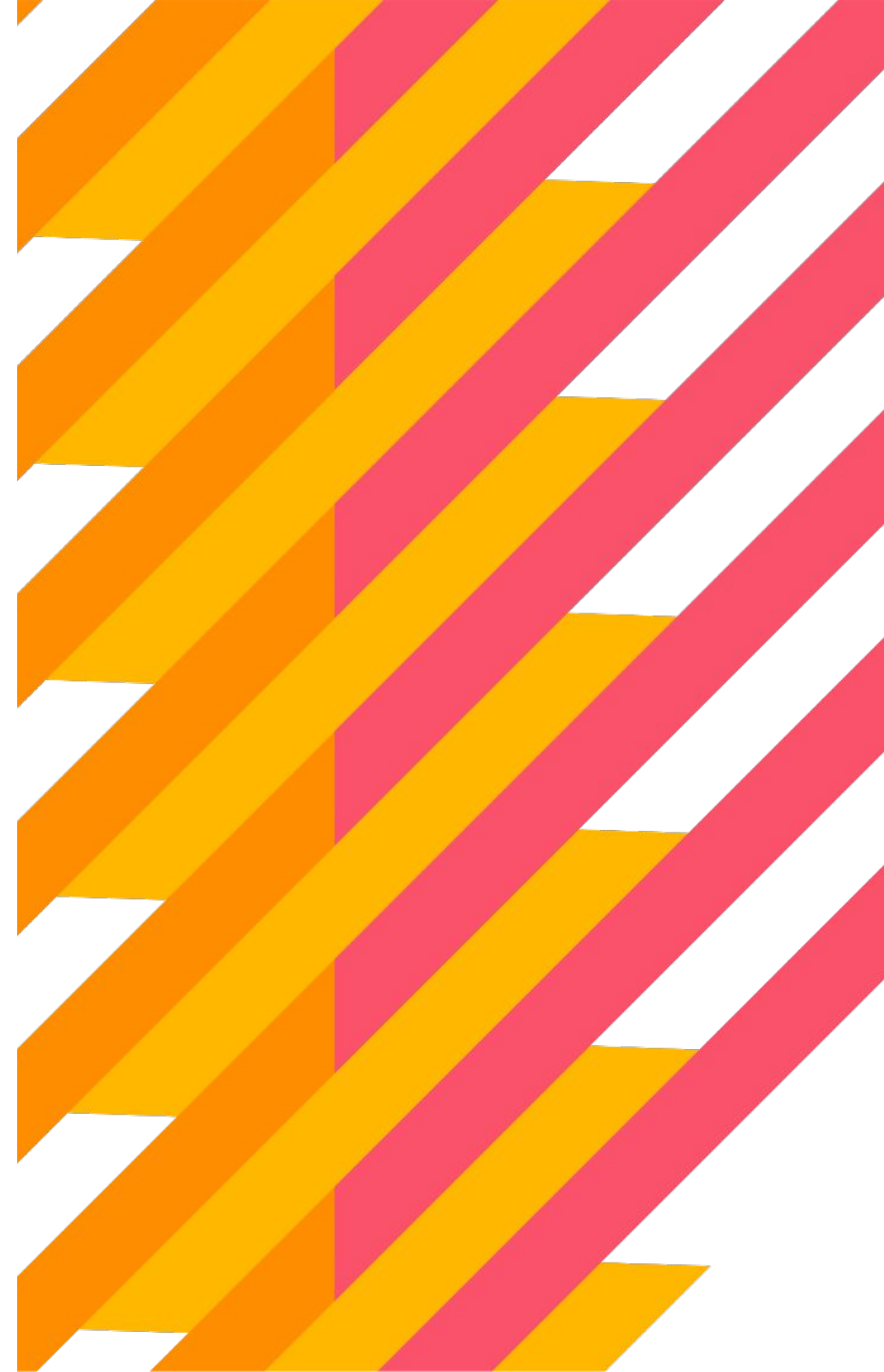
- Public Ruling 7/2021 - Partnerships Taxation Part I - Determination of the Existence of a Partnership (“PR 7/2021”); and
- Public Ruling 8/2021 - Partnerships Taxation Part II - Computation and Allocation of Income (“PR 8/2021”)

PR 7/2021 outlines the characteristics of a partnership and provides guidance on the determination of the existence of a partnership for income tax purposes. The salient points of PR 7/2021 are as follows:

Characteristics of a Partnership

Paragraph 4 of PR 7/2021 explains that a partnership is generally an agreement of 2 or more persons to carry on business in common with a view of profit. Although a partnership is a legal relationship, it is not recognised in law as a separate legal entity as a partnership is not distinct from its partners who constitute it.

The business profits of a partnership are not taxed at the partnership level but is taxed in the hands of each partner based on his/her share of income from the partnership at the relevant tax rates.



For income tax purposes, partnership is defined in Section 2 of the ITA 1967 as an association of any kind (including joint adventures, syndicates and cases where a party to the association is itself a partnership) between parties who have agreed to combine any of their rights, powers, property, labour or skill for the purpose of carrying on a business and sharing the profits therefrom, but excludes a Hindu joint family although such a family may be a partner in a partnership, a limited liability partnership and any association which is established pursuant to a scheme of financing in accordance with the principles of Syariah.

Existence of a Partnership

The determination of the existence of a partnership is a question of law based on the facts of each case. PR 7/2021 explains the guiding rules and questions that help in determining the existence of a partnership. The considerations include, but are not limited to the following:

- whether there is a formal partnership agreement, i.e. a deed of partnership;
- whether the partnership is registered with any appropriate body such as the Companies Commission of Malaysia, Malaysian Institute of Accountants, Malaysian Institute of Certified Public Accountants, etc.;
- whether the terms of the deed of partnership are indeed followed;
- how are profits shared;
- what arrangements are in force in respect of the partners' remuneration (if any), share of profits and drawings;
- what capital (if any) has each individual partner contributed and what is the interest rate allowable to that partner; and
- how is each individual partner's interest dealt with in the books and accounts of the partnership.

PR 7/2021 further describes that a co-owner of property may not necessarily be a partner. The following table sets out some of the key distinctions between a co-ownership and a partnership from Paragraph 6.3 of PR 7/2021.

Aspects	Co-ownership	Partnership
Agreement	An agreement may not necessarily result in co-ownership of a property.	A partnership is bound by the terms of written or oral agreement between partners.
Sharing profit and loss	Terms of co-ownership may not involve profit and loss.	Sharing of profit / loss is a characteristic of a partnership and it involves carrying on of a business.
Transfer of interest	A co-owner can transfer his interest with or without the consent of the other co-owners.	Transfer of interest of a partner depends on the deed of the partnership. A partner cannot transfer his/her interest without the knowledge or consent of all other partners.
Purpose of existence	The purpose of co-ownership is not necessarily to generate a profit or gain.	The purpose of forming a partnership is to generate profits or gains to be shared among its partners.

For more details, please refer to Paragraph 6 of PR 7/2021.

Selected illustrations of analysis on determination of the existence of a partnership

Illustration 1 (Example 4 of PR 7/2021)

Axcell Sdn Bhd, a steel company and Berimbun Sdn Bhd, a timber company entered into an agreement with Comforture Sdn Bhd, a furniture manufacturer to produce and sell furniture. Axcell Sdn Bhd and Berimbun Sdn Bhd would supply steel and sawn timber respectively to Comforture Sdn Bhd for the furniture manufacturing business. It was formally agreed that the profits and losses from the sale of the furnitures would be shared equally among the 3 companies.

Based on the facts of the case, a partnership **exists** as –

- (a) there is an association of the three companies;
- (b) all the 3 companies combined their rights, power, property, labour and skill for the purpose of carrying on a business; and
- (c) there is an equal sharing of profits and losses among the three companies.

Illustration 2 (Example 6 of PR 7/2021)

A property developer entered into an agreement with Khairil, a land owner to develop 60 units of low rise luxury apartments on the land. Based on the agreement –

- (a) Khairil is the registered owner of the land and would grant a power of attorney to the developer to develop the land;
- (b) In return, Khairil would receive 25 units of the completed apartments; and
- (c) All development expenditures are to be borne by the developer who will receive the balance 35 units of the completed apartments.

Based on the facts of the case, a partnership **does not exist** as –

- (a) there is no sharing of business profits and losses between the developer and Khairil;
- (b) allocation of income is at the gross income and not at profits as Khairil receives 25 units of the apartments by merely exchanging of his land and the developer receives 35 units for developing a total of 60 unit apartments; and
- (c) there are no partnership accounts but the accounts are maintained by the developer who bears all development expenditures.

PR 7/2021 is to be read together with the PR 8/2021 which explains the computation of provisional adjusted income or loss of a partnership and the ascertainment of the respective partners' share of the income or loss. Salient points of PR 8/2021 are as follows:

- The computation of provisional adjusted income or loss of a partnership is the same as the computation of adjusted business income or loss except that no deductions are allowed for partners' remuneration, interest payable to a partner on the partner's capital or money advanced, and a partner's private and domestic expenses.
- Partners' remuneration, interest on a partner's capital or money advanced, and a partner's private and domestic expenses are disallowed in computing the provisional adjusted income or loss of a partnership. However, such expenses will be taken into account in arriving at the particular partner's share of divisible income.
- The adjusted income from a non-business source is to be apportioned among the partners in the same proportion in accordance with the agreed profit sharing ratio that is applied in apportioning the divisible income of the partnership.

- Where a sole proprietor admits a partner into the business and forms a partnership, in which the sole proprietor is one of the partners, the sole proprietorship business and the partnership business are treated as one continuing business.

Illustrations of computation of provisional adjusted income, divisible income and partners' adjusted income (Examples 1, 3 and 5 of PR 8/2021)

Ali, Rama and Lee are active partners of a firm, ARL Associates. Ali loans the partnership RM200,000 in his private capacity. The loan sum is not added to his partnership capital account but is shown as a separate loan creditor in the balance sheet. He is paid a loan interest at the rate of 6% per annum.

The Profit and Loss account of the partnership for the year ended 31 December 2020 shows net profit of RM315,000 (after depreciation of RM10,000) with the following expenses:

	Ali	Rama	Lee
Partner's remuneration	RM60,000	RM60,000	RM60,000
Partner's private expenses	RM10,000	RM5,000	RM6,000
Interest on capital	RM2,000	RM1,000	RM1,000

The profit sharing ratio among the partners are Ali:Rama:Lee (2:1:1).

The computation of the partners' provisional adjusted income and divisible income are as follows:

Computation of provisional adjusted income for YA 2020

	RM	RM
Net profit		315,000
Add: Depreciation		<u>10,000</u>
		325,000
Add:		
Partners' remuneration	180,000	
Partners' private expenses	21,000	
Interest on partners' capital	4,000	
Loan interest paid to Ali (RM200,000 @ 6%)	<u>12,000</u>	
		<u>217,000</u>
Provisional adjusted income		<u>542,000</u>

Computation of divisible income for YA 2020

	RM	RM
Provisional adjusted income		542,000
Less:		
Partners' remuneration	180,000	
Partners' private expenses	21,000	
Interest on partners' capital	4,000	
Loan interest paid to Ali	<u>12,000</u>	
		<u>217,000</u>
Divisible income		<u>325,000</u>

Computation of divisible income for YA 2020

	Ali	Rama	Lee	Total
Profit sharing ratio	2	1	1	
	RM	RM	RM	RM
Divisible income	162,500	81,250	81,250	325,000
Partner's remuneration	60,000	60,000	60,000	180,000
Partner's private expenses	10,000	5,000	6,000	21,000
Interest on partners' capital	2,000	1,000	1,000	4,000
Interest income from advances to partnership	12,000			12,000
Partners' adjusted income	246,500	147,250	148,250	542,000
Provisional adjusted income				542,000

Private Retirement Scheme

Public Ruling 9/2021 - Private Retirement Scheme ("PR 9/2021") has been issued to replace PR 9/2014 on the same subject. The contents and examples of PR 9/2021 have been updated to incorporate the key legislative changes including the following:

- Extension of tax relief for contribution by an individual to a private retirement scheme and deferred annuity to YA 2025 (previously up to YA 2021) pursuant to Budget 2021 proposal;
- Withholding tax exemption for withdrawals for PRS members below the age of 55 years old pursuant to the Income Tax (Exemption) (No. 3) Order 2020 (PRIHATIN Rakyat measure). Key conditions are:
 - The exemption from tax would be on the withdrawal amount of up to a maximum of RM1,500 from each PRS provider.
 - Withdrawals in excess of RM1,500 per PRS provider would be subject to tax.
 - The exemption period is from 30 April 2020 until 31 December 2020.

Notification of Change of Accounting Period

Public Ruling 6/2021 - Notification of Change of Accounting Period of a Company / LLP / Trust Body / Co- Operative Society ("PR 6/2021") has been issued to replace PR 8/2019 on the same subject. A key change is in relation to computation of revised tax instalment after change of accounting period where the computation is now to be referred to the IRB's Operational Guidelines on Submission of Tax Estimates Under Section 107C of the ITA 1967 (GPHDN 1/2021) (refer to [TaXavvy 6/2021](#)).

Bilateral Credit and Unilateral Credit

The IRB has recently issued Public Ruling 11/2021 - Bilateral Credit and Unilateral Credit (“PR 11/2021”) which supersedes PR 11/2011 of the same title.

There is no significant change as compared to PR 11/2011. The changes are housekeeping in nature to bring the contents up to date with the prevailing law since PR 11/2011 was issued. The housekeeping changes include:

- Updated headline corporate income tax rate to 24% (from 25%)
- Updated time-bar period to raise additional assessment to 5 years after the end of the YA (from 6 years)
- Updated tax treatment on dividend income as single-tier dividend (from franked dividend)

The PRs and Guidelines issued by the IRB are available on IRB’s website www.hasil.gov.my (Legislation > Public Rulings) and (Legislation > Technical Guidelines) respectively.

Green Technology Incentives

MIDA has issued, on 7 December 2021, the updated Guideline on Application for Incentives and/or Expatriate Posts for Green Technology dated 23 August 2021. The guideline is available on MIDA’s website www.mida.gov.my (Forms and Guidelines > Services Sector > Green Technology).

The key updates and additional information from the previous version of the guideline (refer to [TaXavvy 48/2020](#)) are summarised in the following page.



Green Investment Tax Allowance (GITA) - Project

Non-qualifying person	A company which has generated energy or started an energy saving project before the application is made to MIDA is not eligible for this incentive.
Key eligibility criteria	<ol style="list-style-type: none"> 1. Equipment / assets used in the GITA projects must be owned by the company, recognised and registered under MyHIJAU or have product certification that is recognised and accepted by Malaysia Green Building Council. 2. A company which has been approved with green technology incentive under the following sections and plans to undertake the same or other qualifying activities is not eligible for the incentive: <ol style="list-style-type: none"> a. Ministerial exemption under section 127(3A) of the Income Tax Act 1967 b. Promoted products or activities for selected industries under section 4D of Promotion of Investments Act 1986 (“PIA 1986”) 3. A company granted GITA incentive is allowed to claim GITA along with the following incentives in the same basis period for a YA: <ol style="list-style-type: none"> a. Pioneer status (PS) - provided GITA is to be absorbed after the expiry of the PS period. b. Investment Tax Allowance under the PIA 1986 or for an approved business under the Income Tax (Exemption)(No.12) Order 2006 - provided the assets are different assets under each incentive. c. Reinvestment Allowance or Investment Allowance for services sector - provided the assets are different assets under each incentive. 4. Green assets fully or partially funded by government grants are not eligible for green incentives.

Green Technology Services - Solar Leasing

- The Green Income Tax Exemption - Solar Leasing incentive is subject to the Ministry of Finance’s decision.
- Qualifying activities in relation to Solar Photovoltaic renewable energy are leasing services related to implementation of Net Energy Metering project and other services to support the lease contract.

The updated guidelines also provides details on the requirement of competent personnel for the qualifying services, including the required CPD hours.

Incentives gazetted

Gazette orders have been issued for the following incentives:

1. Conditions for Tax Rebate for Companies and Limited Liability Partnerships (LLPs)
2. Tun Razak Exchange Incentives
3. Exemption for Export of Healthcare Services
4. Exemption for Commercialisation of Research & Development Project
5. Exemption for Arts, Cultural, Sports and Recreational Activities
6. Vendor Development Programme



Conditions for Tax Rebate for Companies and LLPs

The Income Tax (Conditions for the Grant of Rebate under subsection 6D(4)) Order 2021 has been gazetted and is effective from YA 2021.

Tax rebate of up to RM20,000 (PENJANA measure)

A tax rebate may be granted for a period of 3 consecutive YAs in which an SME (company or LLP as defined) first commences operation, in an amount equivalent to its operating or capital expenditure which it has incurred limited to a maximum amount of RM20,000 for each year of assessment. This incentive is effective from YA 2021 and is subject to conditions to be gazetted under Subsection 6D(4) of the ITA 1967.

Gazette of the conditions

The Income Tax (Conditions for the Grant of Rebate under subsection 6D(4)) Order 2021 has been gazetted. It is effective from YA 2021. The following are the key conditions which a company or an LLP has to meet to enjoy the tax rebate:

- Is not owned directly or indirectly by a related company or related LLP which has a paid-up capital in respect of ordinary shares or contribution of capital of more than RM2.5 million at the beginning of the basis period.
- Separation of business operations / assets / employees (except for CEO and Director) from its related company or related LLP.
- Carry out a different business activity from its related company or related LLP or a sole proprietorship where the sole proprietorship is converted to a company or an LLP.
- Not formed as a result of a merger or acquisition of 2 or more companies or LLPs.
- Not an LLP which was converted from a partnership or company.

Where the qualifying entity commences operation on or after 1 July 2020 and its basis period ends on or before 31 December 2020, the rebate is granted for YA 2021 and 2022 only.

Tun Razak Exchange Incentives

Tax incentives are provided to a Tun Razak Exchange (TRX) Marquee status company, some of which have since expired on 31 December 2020. Several gazette orders have been issued to extend these incentives as follows:

Gazette	Incentive (key features)	Extended period
Income Tax (Industrial Building Allowance) (Tun Razak Exchange Marquee Status Company) (Amendment) Rules 2021	10% industrial building allowance for qualifying building expenditure (QBE) for 10 years.	Extended for QBE incurred up to 31 December 2025 (previously 31 December 2020).
Income Tax (Accelerated Capital Allowance) (Tun Razak Exchange Marquee Status Company) (Amendment) Rules 2021	Accelerated capital allowance on qualifying renovation costs: <ul style="list-style-type: none"> Initial allowance: 20% Annual allowance: 40% 	Extended for qualifying renovation cost incurred up to 31 December 2025 (previously 31 December 2020).
Income Tax (Deduction for Relocation Costs for Tun Razak Exchange Marquee Status Company) (Amendment) Rules 2021	Single deduction for prescribed relocation costs for relocation of part or whole business to TRX.	Extended for relocation that takes place by 31 December 2025 (previously 31 December 2020).
Income Tax (Deduction for Rental Payments) (Tun Razak Exchange Marquee Status Company) (Amendment) Rules 2021	Further deduction on 50% of rental expenses incurred for 10 years for rental of commercial premises in TRX.	The eligibility for the incentive is extended to a TRX Marquee status company which commences business in TRX by 31 December 2025 (previously 31 December 2020).
Income Tax (Exemption) (No. 4) 2013 (Amendment) Order 2021	Income tax exemption, for an approved developer that undertakes development in TRX, of 70% of statutory income from disposal of building within TRX for a maximum of 5 consecutive years.	The tax exemption for a maximum of 5 consecutive years is extended up to YA 2025 (previously up to YA 2022).

Exemption for Export of Healthcare Services

The Income Tax (Exemption) (No. 13) Order 2021 has been gazetted to provide private healthcare service providers a tax exemption equivalent to 100% of the value of increased export to be set off against 70% of statutory income for YA 2021 and YA 2022. Key conditions include:

- At least 10% of the total patients for each YA consist of foreign clients
- At least 10% of the gross income is derived from foreign clients for each YA

“foreign client” means a company, a partnership, an organization or a cooperative society which is incorporated or registered outside Malaysia or a non-Malaysian citizen individual or a non-resident Malaysian citizen living abroad and his dependents.

Following this, the Income Tax (Exemption) (No. 9) 2002 (Amendment) Order 2021 was issued to revoke, from YA 2021, the similar (but at a lower rate of 50% of value of increased export) tax exemption previously provided under the Income Tax (Exemption) (No. 9) 2002.

Exemption for Commercialisation of Research & Development Project

The Income Tax (Exemption) (No.13) 2013 (Amendment) Order 2021 (“Amendment Order”) has been gazetted and is effective from year of assessment 2021.

The Amendment Order amends the Income Tax (Exemption) (No. 13) Order 2013. It gives effect to the Budget 2021 proposal of extending the income tax exemption incentive for undertaking commercialisation of research and development (R&D) findings for non-resource based activity or product to include the commercialisation of R&D findings by private higher learning institutions.

The non-resource based product or activity are those in relation to:

1. Electrical and electronics
2. Medical devices
3. Technical or functional textiles
4. Machinery and equipment
5. Metals
6. Transport equipment

Exemption for Arts, Cultural, Sports and Recreational Activities

A 50% tax exemption on statutory income was proposed to be given to a promoter from organising arts, cultural, sports or recreational competition of international standard held in Malaysia during the following periods:

- YA 2020 to YA 2022 (Budget 2020 proposal)
- YA 2023 to YA 2025 (Budget 2022 proposal)

The Income Tax (Exemption) (No. 12) Order 2021 has been gazetted following the above proposal. Key points of the gazette order are:

- The promoter is a company incorporated under the Companies Act 2016 or a society or organization registered under the Societies Act 1966.
- Arts and cultural activities refer to stage performance that must be:
 - Approved by the Ministry of Tourism, Arts and Culture.
 - Organised with participation of foreign nationals who have performed at least 3 performances in any countries other than their own.
 - Held at the Istana Budaya, National Visual Arts Gallery or Petronas Philharmonic Hall.
- Sports and recreational competitions of international standards refer to sporting event or recreational activity approved by the Ministry of Youth and Sports and organised in any form with the participation of foreign nationals from a number of countries.
- The promoter is required to maintain separate account for the income derived from the organization of any arts or cultural activities or sports or recreational competition of international standard in Malaysia.

Vendor Development Programme

The Income Tax (Deduction for Expenditure in relation to Vendor Development Programme) Rules 2022 has been gazetted, following the Budget 2022 proposal in relation to double deduction incentive for Vendor Development Programme (VDP). It is effective from YA 2021.

The following are the salient points:

1. Double deduction is given to a qualifying anchor company for the expenditure incurred to carry out prescribed activities for 3 consecutive YAs.
2. The expenditure is to be verified by Ministry of Entrepreneur Development and Cooperatives (MEDAC) and the total expenditure shall not exceed RM500,000 for each YA.
3. The incentive is only applicable where the qualifying anchor company signs the memorandum of understanding (MoU) with MEDAC from 1 January 2021 until 31 December 2025.
4. A qualifying anchor company is a company incorporated / registered under the Companies Act 2016 which is resident in Malaysia and participates in the VDP.
5. The prescribed activities are in relation to product development, capability improvement or human capital.



Deduction for Business Costs

Gazetted orders have been issued for tax deductions in relation to:

1. Secretarial and Tax Filing Fees
2. Rental Reduction - extension
3. Rental of Premises for Employees
4. Renovation and Refurbishment - extension

Secretarial and Tax Filing Fees

The Income Tax (Deduction for Expenses in relation to Secretarial Fee and Tax Filing Fee) (Amendment) Rules 2021 (“2021 Rules”) has been gazetted.

The Income Tax (Deduction for Expenses in relation to Secretarial Fee and Tax Filing Fee) Rules 2020 (“2020 Rules”) provides that, subject to conditions, secretarial fees and tax filing fees which are incurred “*and paid*” in a YA are deductible in that YA (refer to [TaXavvy 37/2020](#)).

The 2021 Rules is issued to amend the 2020 Rules in relation to the timing of claiming a deduction for the secretarial fees and tax filing fees. Salient points of the 2021 Rules are:

- The secretarial fees and tax filing fees are deductible in the YA when the fees are incurred (the words “*and paid*” are deleted by the 2021 Rules). It is effective from YA 2022.
- However, secretarial fees and tax filing fees which were incurred for the YAs 2020 and 2021 are only deductible when the fees are paid.

Rental Reduction - extension

Subject to meeting the qualifying requirements, a tax deduction is given to taxpayers which provide a reduction of rental on business premises of at least 30% of the monthly rental under an existing tenancy agreement for the specified qualifying months. The tax deduction is equivalent to the rental reduction given (refer to [TaXavvy 26/2021](#)).

Following the announcement under Budget 2022, the Income Tax (Special Deduction for Reduction of Rental to a Small and Medium Enterprise) (Amendment) Rules 2021 and Income Tax (Special Deduction for Reduction of Rental to a Tenant other than a Small and Medium Enterprise) (Amendment) Rules 2021 have been issued to amend the qualifying months to be from April 2020 **until June 2022** (previously until December 2021).



Rental of Premises for Employees

The Income Tax (Deduction for Expenditure on Provision of Employees' Accommodation) Rules 2021 (the "Rules") has been gazetted and is effective from YA 2021.

The Government has announced under PEMERKASA that further deduction is to be given to companies which incur rental expense on premises for the purpose of employees' accommodation. Following the announcement, the enabling law for the deduction has been gazetted.

The salient points of the Rules are:

- A deduction shall be allowed for the expenses (up to RM50,000) incurred by the company on rental of a premise for the purpose of employees' accommodation within the period from 1 January 2021 until 31 December 2022 in ascertaining the adjusted business income of the company.
- The amount of deduction allowed is in addition to any amount claimed under Section 33 of the ITA 1967.
- The employees' accommodation shall be accommodation certified with a Certificate for Accommodation as provided under section 24D of the Employees' Minimum Standards of Housing, Accommodations and Amenities Act 1990, but excludes accommodation for directors.

Renovation and Refurbishment - extension

A tax deduction is provided for the cost of renovation and refurbishment of business premises subject to a maximum of RM300,000 incurred for the specified qualifying period.

Following the announcement under Budget 2022, the Income Tax (Costs of Renovation and Refurbishment of Business Premise) (Amendment) Rules 2021 has been issued to amend the qualifying period to be from 1 March 2020 to 31 December 2022 (previously up to 31 December 2021). All other conditions (refer to [TaXavvy 2/2021](#)) remain unchanged.

Deduction for Scholarships

The gazette orders for the deduction on expenses incurred by companies for scholarships awarded to the following students have been gazetted:

1. Sponsorship for Students in the Field of Engineering and Technology
2. Sponsorship for Students at the Technical and Vocational Level

Sponsorship for Students in the Field of Engineering and Technology

It was proposed under the Budget 2019 that double deduction shall be allowed for expenses incurred and paid by companies for sponsoring scholarship to students pursuing full-time course of study in the field of engineering and technology at:

- Technical and vocational certificate levels in an institution; or
- Diploma or bachelor's degree level in a higher educational institution.

The Income Tax (Deduction for the Sponsorship of Scholarship to Malaysian Student Pursuing Studies In The Field of Engineering and Technology at the Technical and Vocational Certificate, Diploma or Bachelor's Degree Levels) Rules 2021 has been gazetted and is effective from YA 2019. Key requirements to qualify for the deduction are as follows:

- The company would need to execute a scholarship agreement with the student on or after 1 January 2019 but not later than 31 December 2021;
- The student must be a Malaysian citizen and resident in Malaysia, and:
 - receives full-time course of study in the field of engineering and technology at:
 - (i) technical and vocational certificate levels in an institution recognised by the Malaysian Qualifications Agency (MQA) or the Skills Development Department (SDD); or
 - (ii) diploma or bachelor's degree level in an institution established under the Universities and University Colleges Act 1971, Universiti Teknologi MARA Act 1976 or the Private Higher Educational Institutions Act 1996;
 - has no means of his own; and
 - whose parents or guardians, have total monthly income not exceeding RM10,000.



Sponsorship for Students at the Technical and Vocational Level

The Income Tax (Deduction for the Sponsorship of Scholarship to Malaysian Student Pursuing Studies at the Technical and Vocational Certificate Levels) Rules 2021 [P.U.(A) 503/2021] has been gazetted following the Budget 2015 proposal for double deduction on expenses incurred by companies for scholarships awarded to students pursuing studies at technical and vocational certificate levels. It is effective from YA 2015. Salient points of P.U.(A) 503/2021 are:

- The company shall execute the scholarship agreements with the particular student during the period from 11 October 2014 to 31 December 2016 in order to qualify for the deduction.
- The student must be a Malaysian citizen and resident in Malaysia, and:
 - receives full-time course of study at technical or vocational certificate levels in an institution recognised by the MQA or the SDD;
 - has no means of his own; and
 - whose parents or guardians, have total monthly income not exceeding RM5,000.



Labuan

This section covers recent developments in relation to the following Labuan entities:

1. Labuan Entities Carrying on Other Trading Activities
2. Labuan International Commodity Trading Company

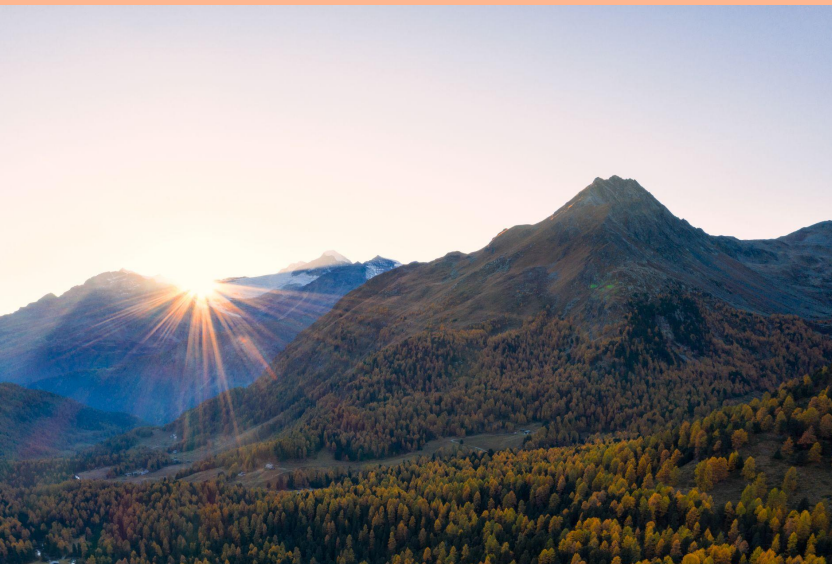
Labuan Entities Carrying on Other Trading Activities

The Labuan Financial Services Authority (Labuan FSA) has issued an FAQ on Labuan Business Activity (Requirements for Labuan Business Activity) Regulations 2021 (FAQ), dated 14 December 2021, to provide details on activities covered under Item 20 of the First Schedule of the Labuan Business Activity Tax (Requirements for Labuan Business Activity) Regulations 2021. Labuan FSA has also via its letter dated 14 December 2021 stated that the FAQ is issued to provide guidance on activities intended under Item 20 pending issuance of Guidelines under Section 4A of the Labuan Financial Services Authority Act 1996.

The details of the prescribed activities are outlined below.

1. **Administrative services** - management of employee, payroll, property, human resource, financial planning, contract or subcontract management, facilities management or proposal management.
2. **Accounting services** - recording, analysing, summarizing or classifying financial, commercial and business transactions and information of a person or business.
3. **Legal services** - conveyancing, legal advisory, litigation or legal representation services in any proceedings before any court, tribunal or other authority, legal dispute resolution including alternative dispute resolution.
4. **Backroom processing services** - settlements of receivables and payables, clearance, record maintenance, regulatory compliance or information technology related services.
5. **Payroll services** - processing, calculation, payment and deduction of remuneration, benefits, tax and statutory payment or issuance of payslip and tax statement.
6. **Talent management services** - human resource services to attract, onboard, develop, motivate, and retain employees.
7. **Agency services** - provision of specific services on behalf of another group, business, or person pursuant to an agency agreement.
8. **Insolvency related services** - administering company liquidations or winding up or personal bankruptcy
9. **Management services** - organization and coordination of activities of a business in order to provide services to the clients and usually consist of organizing, supervising, monitoring, planning, controlling and directing business resources such as human, financial and technology.

The FAQ is available on Labuan FSA website www.labuanfsa.gov.my (Legislation & Guidelines > Guidelines > Tax Related Matters).



Labuan International Commodity Trading (LICT) Company

The following gazette orders were gazetted:

Labuan Business Activity Tax (Requirements for Labuan International Commodity Trading Company) Regulations 2021

This gazette specifies the substance requirements for a LICT company under Global Incentives for Trading programme. The requirements are as follows:

	Min. full time employees	Min. annual opex (RM)	Effective date
LICT company ^a	3	3 million	1 Jan 2019 to 31 Dec 2020
LICT company with not more than 5 related companies to carry on qualifying activity (“related companies”)	3, including 2 in Labuan per group ^b	3 million per entity in Malaysia including minimum RM100,000 incurred in Labuan	From 1 Jan 2021 ^c
For every increment of up to 5 related companies	Increase of 1 employee		

- The requirements specific to the LICT company (i.e. by entity basis) were not stated previously by Labuan FSA. This requirement was previously deleted from the Labuan Business Activity Tax (Requirements for Labuan Business Activity) Regulations 2018. It is now reinstated and but is effective until 31 December 2020.
- Initially stated as 2 per group by Labuan FSA in its Circular dated 29 April 2020 (Refer to [TaXavvy 37/2020](#)).
- The effective date initially stated in the Circular was 1 January 2019.

Labuan Business Activity Tax (Exemption) 2013 (Amendment) Order 2021

The Labuan Business Activity Tax (Exemption) Order 2013 (“2013 Order”) exempts an LICT from payment of tax in respect of income from trading *with non-resident companies in currency other than Malaysian currency* of physical products and related derivative instruments in relation to liquefied natural gas.

In line with the OECD’s Base Erosion and Profit Shifting Action 5 / Forum on Harmful Tax Practices to remove ring-fencing features, the 2013 Order is amended to remove the condition for transactions to be in foreign currency and with non-residents. The amendment is effective from 1 January 2019.

Labuan Business Activity Tax (Exemption) (No. 2) 2013 (Revocation) Order 2021 (“Revocation Order”)

Background

The Labuan Business Activity Tax (Exemption) (No. 2) Order 2013 (“2013 Order No.2”) provided exemption in relation to the option to be taxed at RM20,000 under Section 7(1) of the LBATA 1990. The option under Section 7(1) has since been removed from LBATA 1990 from YA 2020. As a result, the 2013 Order is no longer relevant from YA 2020.

Consequential amendment

The Revocation Order revokes the 2013 Order No.2, effective from YA 2020 to be in line with the removal of Section 7(1) of LBATA 1990.

International Tax

The following are developments in the international tax scene:

1. Discontinuation of Tax Concessions Due to COVID-19 Travel Restrictions
2. Malaysia - Ukraine Double Tax Agreement

Discontinuation of Tax Concessions Due to COVID-19 Travel Restrictions

The IRB has on 28 December 2021 announced the discontinuation of the concessions under the FAQ on International Tax Issues Due to COVID-19 Travel Restrictions (FAQ). The concessions ended on 31 December 2021 (refer to point 6 of the FAQ updated as at 24 December 2021). The following is IRB's announcement:

"In conjunction with the Malaysian government's announcement and in line with the practices of several countries which have lifted travel restrictions due to Covid-19, IRBM has decided not to extend the concessions on tax treatments for international tax issues due to Covid-19 travel restrictions through 'Frequently Asked Questions (FAQ) on International Tax Issues Covid-19' which will end on 31 December 2021. Following the discontinuation of the concession treatment, the provisions of the Income Tax Act 1967 as well as the provisions in the Double Taxation Avoidance Agreement with the relevant countries will apply as usual."

The FAQ is available on IRB website www.hasil.gov.my (Homepage > Quick Links > FAQ MCO 3.0).

Malaysia - Ukraine Double Tax Agreement (DTA)

The DTA between Malaysia and Ukraine has entered into force on 29 December 2021. Please refer to [TaXavvy 13/2021](#) for details on the DTA.



Budget 2022 Stamp Duty Measures

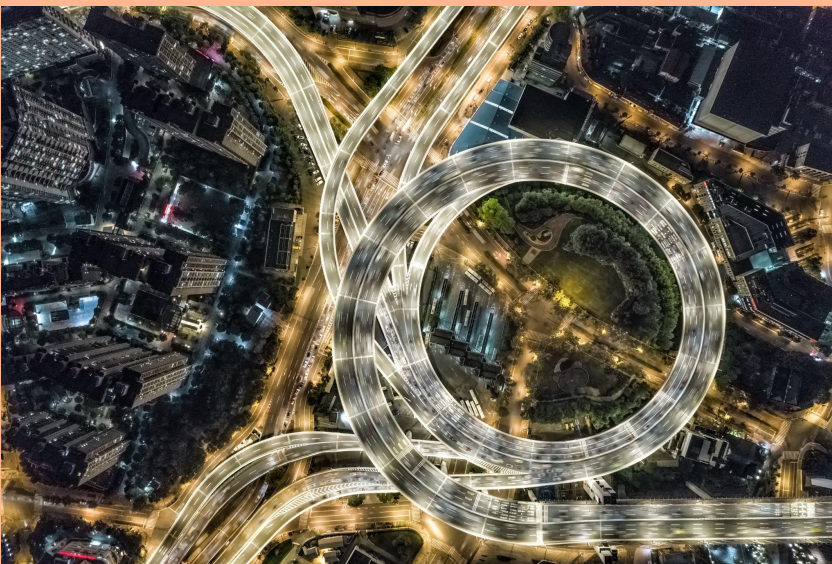
Following Budget 2022 proposals, the following stamp duty exemption orders have been issued:

- Restructuring or Rescheduling of Loan/Financing
- Merger and Acquisition (M&A)
- “*Perlindungan Tenang*” Products
- Specific Insurance or Takaful Products
- Loan/Financing Agreement for Peer-to-Peer (P2P) Financing

In addition, the IRB has issued an FAQ on the implementation of the stamping processing fee.

Stamp duty exemption orders

	Existing	Extension / Revision
Restructuring or Rescheduling of Loan/Financing Stamp Duty (Exemption) (No.11) 2021 (Amendment) Order 2021	Stamp duty exemption is provided for instrument of loan or a financing agreement which relates to the restructuring or rescheduling of a loan or financing between a borrower or customer and a financial institution executed on or after 1 July 2021 but not later than 31 December 2021.	Exemption is extended for instruments executed not later than 31 December 2022.
M&A Stamp Duty (Exemption) (No. 18) Order 2021	Stamp duty exemption is given to the qualifying instruments executed for the M&A of small and medium enterprises (SME) (as defined in Section 2 of the Small and Medium Industries Development Corporation Act 1995) approved by the Ministry of Entrepreneur Development and Cooperatives (MEDAC) from 1 July 2020 to 30 June 2021.	Exemption is extended for instruments executed by an SME in relation to approved M&A from 1 July 2021 to 31 December 2022 where the application for M&A is received by MEDAC from 1 July 2021 to 30 June 2022.
“<i>Perlindungan Tenang</i>” Products Stamp Duty (Exemption) (No. 5) 2018 (Amendment) Order 2021	Stamp duty exemption is given for the purchase of insurance policies or takaful certificates for “ <i>Perlindungan Tenang</i> ” products with an annual premium or takaful contribution not exceeding RM100, issued from 1 January 2019 to 31 December 2025.	Exemption is extended to cover insurance policies or takaful certificates for “ <i>Perlindungan Tenang</i> ” products with annual premium or takaful contribution not exceeding RM150, effective from 1 January 2022.



Specific Insurance or Takaful Products

It was announced under the Budget 2022 that stamp duty exemption is given to individuals and micro enterprise or small and medium enterprises (MSME) for the purchase of specific insurance or takaful product issued by a licensed insurer or a licensed takaful operator. Following the announcement, the Stamp Duty (Exemption) (No. 15) Order 2021 [P.U. (A) 464/2021] and Stamp Duty (Exemption) (No. 16) Order 2021 [P.U. (A) 465/2021] have been gazetted.

Key details of the stamp duty exemption from the gazette orders are as follows:

Gazette Order	Qualifying person	Types of insurance or takaful products	Value of annual premium or takaful contribution
P.U. (A) 464/2021	MSME as may be determined by the National Entrepreneur and Small and Medium Enterprises Development Council established under section 2A of the Small and Medium Industries Development Corporation Act 1995 (SMIDCA 1995)	<ul style="list-style-type: none"> • Fire insurance or takaful • Fire business interruption insurance or takaful • Personal accident insurance or takaful • Travel insurance or takaful • Liability insurance or takaful • Engineering insurance or takaful 	Not exceeding RM250
P.U. (A) 465/2021	Individual	<ul style="list-style-type: none"> • Engineering insurance or takaful 	Not exceeding RM150

The above exemption applies to insurance policies or takaful certificates issued on or after 1 January 2022 but not later than 31 December 2025.

Loan/Financing Agreement for P2P Financing

The Stamp Duty (Exemption) (No. 17) Order 2021 has been issued to provide stamp duty exemption for instruments of investment note or Islamic investment note for P2P financing executed from 1 January 2022 to 31 December 2026 by MSME (as may be determined by the National Entrepreneur and Small and Medium Enterprises Development Council established under section 2A of the SMIDCA 1995).

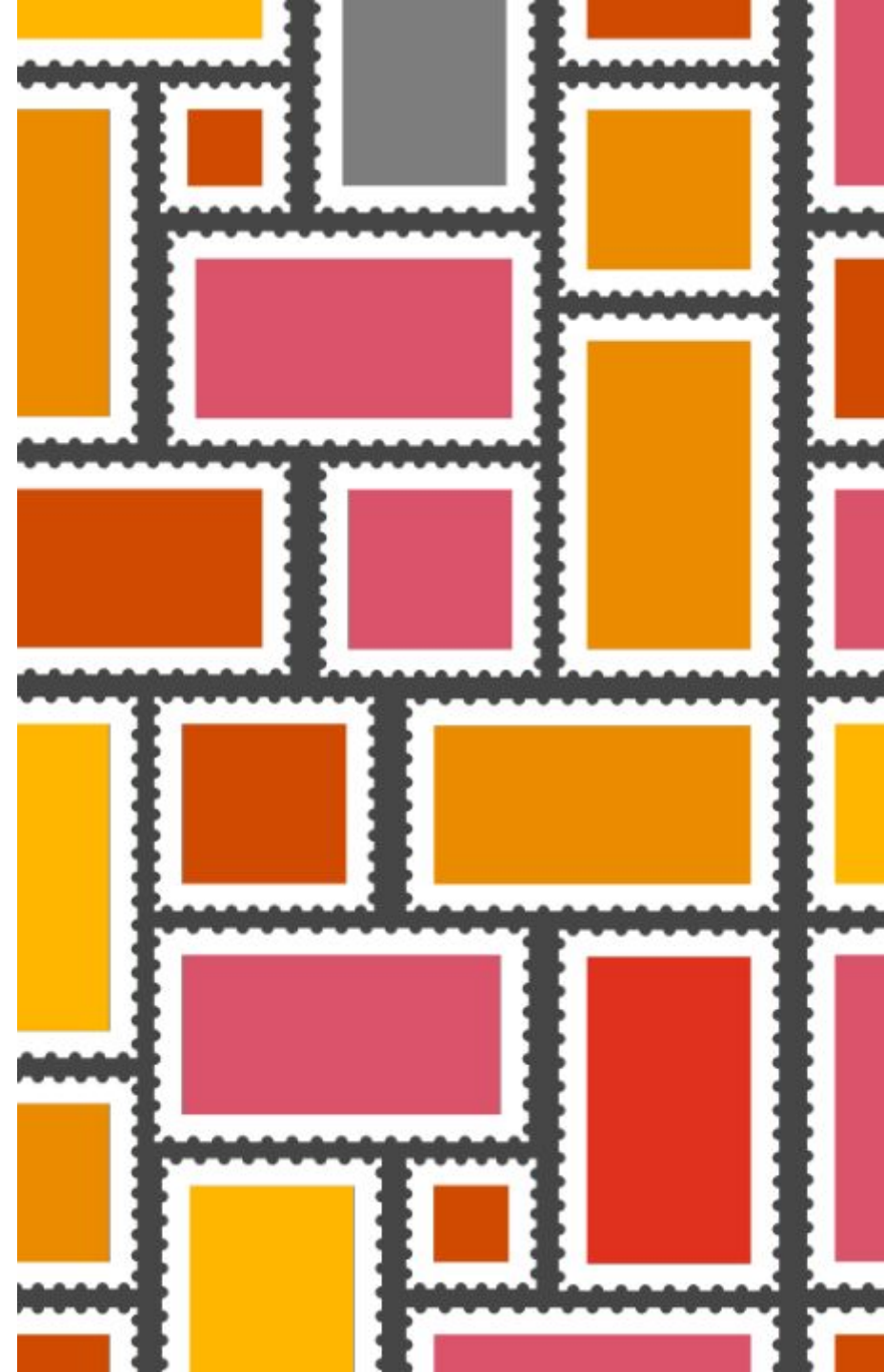
Stamping Processing Fee

The IRB has issued an FAQ on the implementation of the processing fee for the indorsement of exempt instruments dated 2 January 2022.

The implementation of the processing fee for the indorsement of exempt instruments follows the insertion by Finance Act 2021 of new section 37(2A) to the SA 1949 (Budget 2022 measure). The salient points of the FAQ are as follows:

FAQ	Reference
<p>What is the processing fee and when is it effective? A procession fee of RM10 is imposed under section 37(2A) of the SA 1949 on instruments which are exempted from stamp duty. Its implementation is effective for application of stamping submitted from 3 January 2022.</p>	Q1, 6
<p>What instruments are subject to processing fee?</p> <ul style="list-style-type: none"> All instruments exempted from stamp duty are subject to the processing fee, regardless of the type of instrument or stamping application. The processing fee will only be imposed on instruments of which the original stamp duty exceeds RM10 which is exempted / remitted in full. It will not be imposed on subsidiary instruments. 	Q2, 3
<p>Payment of the processing fee The processing fee can be paid via cash, bank draft, client's check or online payment. Revenue stamps (setem hasil) cannot be used to pay the processing fee.</p>	Q3, 5

The FAQ is available on IRB's website www.hasil.gov.my (Stamp duty > Frequently Asked Questions).



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