



TaXavvy

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Gazette Orders for Tax Incentives for Late-Life-Assets Projects

The following gazette orders have been gazetted and are effective from 1 January 2020:

1. Petroleum (Income Tax) (Accelerated Capital Allowances) (Late-Life Assets Production Sharing Contract) Rules 2022 [P.U.(A) 301/2022]
2. Petroleum (Income Tax) (Exemption) Order 2022 [P.U.(A) 302/2022]
3. Petroleum (Income Tax) (Adjusted Loss from Oil or Gas Field Decommissioning Activity) (Late-Life Assets Production Sharing Contract) Regulations 2022 [P.U.(A) 303/2022]



Under Budget 2022, it was announced that the following tax incentives will be given to oil and gas companies to invest and carry out Late-Life Assets (LLA) projects:

- Accelerated capital allowance (ACA) within 2 years
- Petroleum income tax at a rate of 25%
- Losses from decommissioning activities are allowed to be carried back and set-off against the income for 2 consecutive immediate preceding years of assessment (YAs).

Following the announcement, the enabling law (i.e. the gazette orders) for tax incentives for LLA projects have now been gazetted. Salient points of the respective gazette order are as follows:

	P.U.(A) 301/2022	P.U.(A) 302/2022	P.U.(A) 303/2022
<i>Incentive</i>	<ul style="list-style-type: none"> • ACA on qualifying plant expenditure <ul style="list-style-type: none"> - Initial allowance: 20% - Annual allowance: 40% 	<ul style="list-style-type: none"> • Petroleum income tax exemption in respect of statutory income derived from petroleum operations in relation to LLA production sharing contract, as determined by a prescribed formula. The amount exempt from the prescribed formula effectively reduces the applicable petroleum income tax rate from 38% to 25%. 	<ul style="list-style-type: none"> • Losses from oil and gas field decommissioning activities (defined) are allowed to be carried back to be utilised against income of 2 consecutive immediate preceding YAs.
<i>Qualifying conditions</i>	<ul style="list-style-type: none"> • Signed an LLA production sharing contract within the period from 1 January 2020 to 31 December 2029. • Incurred qualifying plant expenditure solely for the purpose of carrying out a petroleum operation in relation to that LLA production sharing contract. 	<ul style="list-style-type: none"> • Signed an LLA production sharing contract with PETRONAS within the period from 1 January 2020 to 31 December 2029. 	<ul style="list-style-type: none"> • Signed an LLA production sharing contract within the period from 1 January 2020 to 31 December 2029.

	P.U.(A) 301/2022	P.U.(A) 302/2022	P.U.(A) 303/2022
<i>Others</i>	<ul style="list-style-type: none"> Clawback of allowance if the qualifying asset is disposed of within 1 year from the date of its acquisition - 		<ul style="list-style-type: none"> Any unutilised carry-back losses shall be disregarded.
<i>Non-application</i>	<ul style="list-style-type: none"> The Rules shall not apply to a chargeable person where the chargeable person - <ol style="list-style-type: none"> has been granted accelerated capital allowance under the Petroleum (Income Tax) (Accelerated Capital Allowances) (Marginal Field) Rules 2013; has been granted an investment allowance under the Petroleum (Income Tax) (Investment Allowance) Regulations 2013; has been granted tax exemption on income from petroleum operations in a marginal field under the Petroleum (Income Tax) (Exemption) Order 2013; has been granted accelerated capital allowance under the Petroleum (Income Tax) (Accelerated Capital Allowances) (PETRONAS Marginal Field) Rules 2014 ; has been granted tax exemption on income from petroleum operations in a PETRONAS marginal field under the Petroleum (Income Tax) (Exemption) Order 2014 ; has been granted an investment allowance under the Petroleum (Income Tax) (Investment Allowance for PETRONAS) Regulations 2021; carries on petroleum operations in the Joint Development Area; or carries on petroleum operations in an area under any agreement or arrangement made by the Government with any government of any territory outside Malaysia for the joint exploration and exploitation of petroleum in overlapping areas. 		

For the purpose of the above gazette orders:

- a brownfield oil or gas field means an oil or gas field that has been developed and has reached a peak level of oil or gas production rate; and
- an LLA project is a brownfield oil or gas field and has an economic lifespan not exceeding 10 years commencing from the year the LLA production sharing contract is signed.

Further Deduction on Costs of COVID-19 Detection Test - Amendment Rules

The Income Tax (Deduction for Expenses in relation to the Cost of Detection Test of Coronavirus Disease 2019 (COVID-19) for Employees) (Amendment) Rules 2022 (“Amendment Rules”) has been gazetted and is effective from YA 2021.

Background of the incentive

The Income Tax (Deduction for Expenses in relation to the Cost of Detection Test of Coronavirus Disease 2019 (COVID-19) for Employees) Rules 2021 provides that the costs of COVID-19 detection tests for employees incurred within the period from 1 January 2021 and 31 December 2021, qualify for a further deduction in computing the adjusted income from the business. The claim of the deduction shall be supported by the receipt and certification **issued by a registered medical practitioner** (local or foreign) that the detection test of COVID-19 has been provided to the employees.

Amendment

The Amendment Rules now includes in the scope of the further deduction for costs incurred from 1 January 2021 and 31 December 2021 in relation to cost of **RT-PCR** detection test incurred for employees. The claim for tax deduction should be evidenced by **receipt and result** of the COVID-19 detection test **issued by a health facility** (covering both private and public facilities) listed in the List of Laboratories Conducting RT-PCR Test for Covid-19 to the COVID-19 Management Guidelines in Malaysia No. 5/2020 issued by the Ministry of Health (MOH). The list can be found on the MOH’s website <https://covid-19.moh.gov.my/> (Garis Panduan > Garis Panduan KKM > Annex 4a).



IRB's Media Release on Deferment of Payment of Small-Value Withholding Tax

The Inland Revenue Board (IRB) has issued a media release on 27 September 2022 on the deferment of payment of small-value withholding tax (WHT).

Following the notification to the Chartered Tax Institute of Malaysia (CTIM) on the allowance for deferment of payment of small-value WHT (in respect of royalty, interest and special classes of income paid to non-residents which does not exceed RM500 per transaction), the IRB has issued a media release on the matter (please refer to TaXavvy [16-2022](#)).

The details of categories of WHT involved, deferment period and eligibility criteria provided in the media release are generally consistent with those which have been communicated to CTIM. Below are additional information to take note:

- Form CP37 or Form CP37D shall be submitted together with the remittance of the deferred WHT. Previously, the IRB has communicated to the CTIM that a 'special' WHT Form will be issued.
- The date of payment to the non-resident person in the Form CP37 or Form CP37D shall be completed by stating the date of payment/credit as '30 June' or '31 December' according to the period when the payments are made to the non-resident persons as follows:

Period when payments are made to a non-resident during a year	Due date for remittance of deferred WHT	Date of payment to the non-resident person to be stated in the Form CP37 or Form CP37D
1 June to 30 November (with effect from August 2022)	On or before 31 December of that year	31 December of that year
1 December to 31 May	On or before 30 June of that year	30 June of that year

The media release is available on the IRB's website www.hasil.gov.my (Home > Media Release 27 September 2022).





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17 October 2022

Time:

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Contact:

Fazlina Jaafar / Chow Xin Yi
(03) 2173 3830 / 0267

Email:

my_events@pwc.com

Online registration:

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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(8) 252 7202

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

International Tax Services / Mergers and Acquisition

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

Individual Tax

Michelle Chuo
michelle.sy.chuo@pwc.com
+60(3) 2173 1289

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

Geeta Balakrishnan

geeta.b.balakrishnan@pwc.com
+60 (3) 2173 1652

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

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

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

Transfer Pricing

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

Technology, Media, and Telecommunications

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

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

Korea Desk

Keegan Ong
keegan.sk.ong@pwc.com
+60(3) 2173 1684



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