

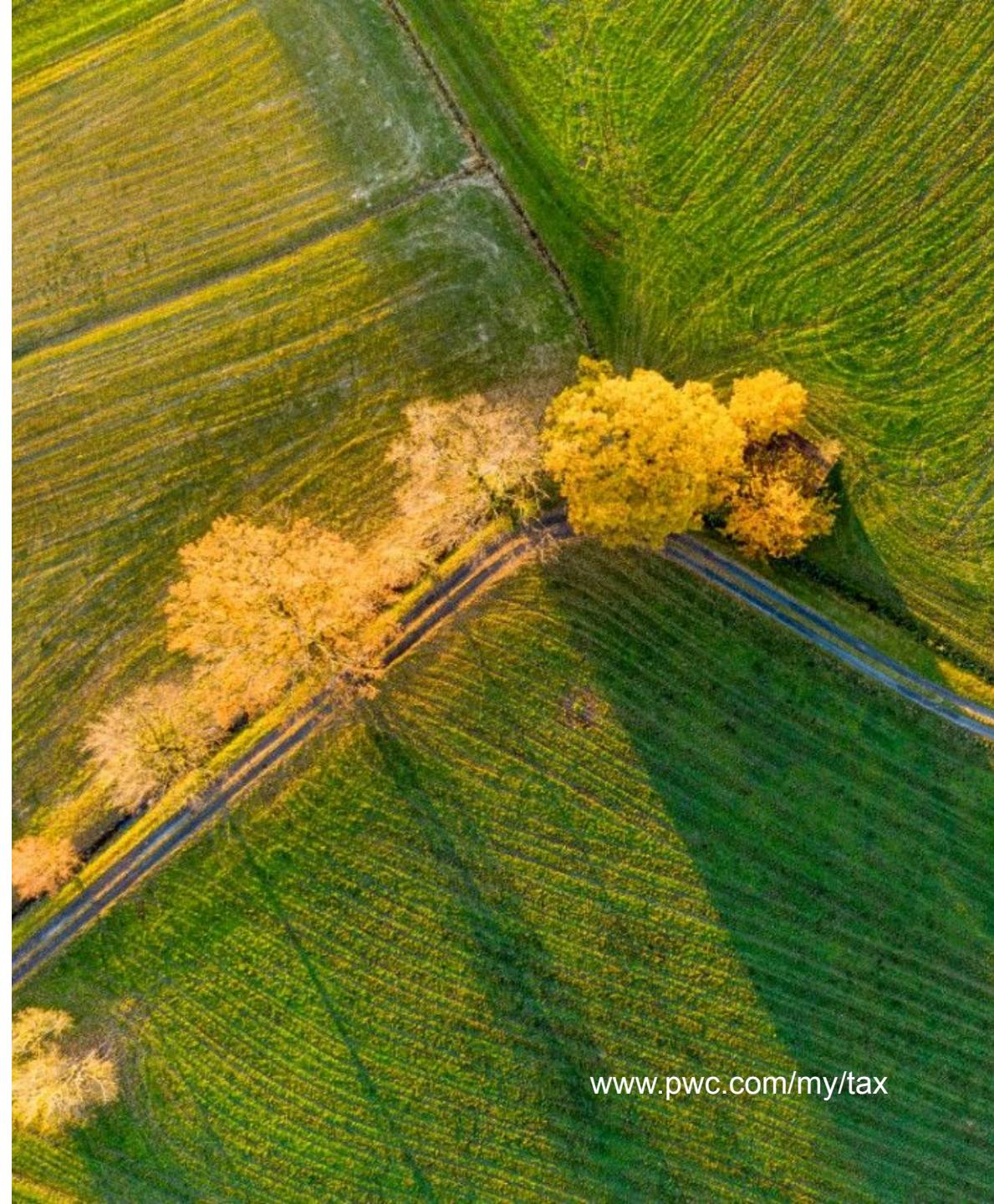


Taxavvy

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Revocation of Remission of Stamp Duty for Transfer of Property

The Stamp Duty (Remission) (Revocation) Order 2023 has been issued and is effective from 1 April 2023.



Background

Stamp Duty (Remission) (No. 2) Order 2019

The Stamp Duty (Remission) (No. 2) Order 2019 (“2019 Order”) provided remission of 50% stamp duty chargeable on an instrument of transfer of immovable property (operating as a voluntary disposition *inter vivos*) between a mother and / or father to a child or vice versa, executed on or after 1 January 2020 ([TaXavvy 2/2020](#)).

Stamp Duty (Exemption) (No. 3) Order 2023

Following the announcement in the retabled Budget 2023, the Stamp Duty (Exemption) (No. 3) Order 2023 (“2023 Order”) was gazetted and provides stamp duty exemption for transfer of immovable property operating as a voluntary disposition *inter vivos* between family members as follows, executed from 1 April 2023 ([TaXavvy 12/2023](#)):

- Mother and / or father to a child or vice versa;
- Grandfather and / or grandmother to grandchild or vice versa.

The stamp duty exempted is:

- Full exemption: Stamp duty on the first RM1 million or less of the market value of the property, and
- 50% exemption: Stamp duty on the portion of market value of the property in excess of RM1 million

Revocation

Stamp Duty (Remission) (Revocation) Order 2023

In view that the 2023 Order is effective for qualifying instruments executed from 1 April 2023, the Stamp Duty (Remission) (Revocation) Order 2023 is issued to revoke the 2019 Order from 1 April 2023. However, instruments of transfer executed before 1 April 2023 but has not been presented for stamping will still be entitled for the remission under the 2019 Order.

Double Deduction for Approved Internship Programme

The Income Tax (Deduction for Expenditure Incurred for Provision of Approved Internship Programme) (Amendment) Rules 2023 (“the Rules”) has been gazetted and is effective from year of assessment (YA) 2022.

The double deduction for expenditure incurred in conducting approved internship programmes for qualified students was first introduced in YA 2012 and was extended until YA 2021 (refer to [TaXavvy 2-2020](#)).

Budget 2022 proposal

Following the expiry of the tax incentive, it was announced under Budget 2022 that the tax incentive will be extended for another 4 YAs until YA 2025. The Rules has been gazetted pursuant to the Budget 2022 proposal.

The extended incentive under the Rules

Subject to qualifying conditions, double deduction shall be allowed for the following expenses incurred by a resident in Malaysia and approved by TalentCorp for conducting an approved internship programme with effect from YA 2022 until YA 2025:

- (a) Payment of internship monthly allowance to -
 - a student of Malaysian Skills Certificate Level 1 until 4 or diploma level or its equivalent, of not less than RM500
 - a student of Malaysian Skills Certificate Level 5 or Bachelor's Degree or Master's Degree or its equivalent, or professional certificate level, of not less than RM600
- (b) Expenditure incurred for the provision of training for students
- (c) Expenditure incurred on meals, travelling and accommodation during the internship programme
- (d) Expenditure incurred for digital and communication costs

The total amount of expenses under items (b), (c) and (d) allowed for each student shall not exceed RM5,000 per YA.



Guidelines for Tax Treatment on Lease Expenses for Special Assets under the Petroleum (Income Tax) Act 1967

The Inland Revenue Board (IRB) has issued the Guidelines for Tax Treatment on Lease Expenses for Special Assets under the Petroleum (Income Tax) Act 1967 (PITA 1967) dated 20 June 2023 (“the Guideline for Lease Expenses”).

The IRB has issued the Guideline for Lease Expenses to provide clarity on the tax treatment of lease expenses for special assets such as Floating Production System (FPS), Floating Production Storage & Offloading (FPSO), and Floating Storage & Offloading (FSO) that is being used in oil and gas production.

Salient points from the Guideline for Lease Expenses are as follows:

Tax treatment	Condition
1. Qualifies for deduction under section 15(1) of PITA 1967 provided that the expenditure is wholly and exclusively incurred in the production of gross income.	The ownership of the special assets at the end of the lease period remains with the lessor (in substance) although there could be indication of a deemed sale arrangement under accounting standards due to the terms of the lease agreement on the following matters: <ul style="list-style-type: none">• Asset ownership• Lease period• Option to purchase• Insurance• Equipment inspection & testing• Maintenance• Operating licenses and permits
2. Capital allowance claim under Second Schedule of PITA 1967.	If the expenditure incurred is a qualifying capital expenditure.

The above tax treatments are illustrated with an example under paragraph 5.3 of the Guideline for Lease Expenses, reproduced in part in the following page for reference:



Example

POSB has entered into an FPSO lease agreement with ABC Limited (the lessor) for a period of 20 years. The agreed monthly lease payment is USD1 million. Ownership of the FPSO is with the lessor.

POSB also bought additional assets including subsea equipment (“additional assets”) from the lessor at the price of USD150 million to complement the functions of the FPSO. Ownership of the additional assets are with POSB.

Tax treatment on the FPSO lease expenses and cost of the additional assets

- POSB qualifies to claim the lease expenses incurred for the FPSO amounting to USD1 million on a monthly basis under section 15(1) of PITA 1967 provided that the expenditure is wholly and exclusively incurred in the production of gross income.
- The cost of the additional assets of USD150 million qualifies for capital allowance claim if it complies with the provisions under the Second Schedule of PITA 1967.

The Guideline for Lease Expenses is available on IRB’s website www.hasil.gov.my (Legislation > Guidelines > Technical Guidelines).



Guidelines on Tax Treatment for Research & Development Expenditure under the Petroleum (Income Tax) Act 1967

The IRB has issued Guidelines on Tax Treatment for Research & Development Expenditure under PITA 1967 (“the Guidelines”) to explain the tax treatment of research and development expenditure in petroleum operations.

Research and development (R&D) expenditure

R&D for the purpose of the Guidelines refers to R&D expenses (including research or study) incurred by the chargeable person to ensure increase in process efficiency or improvements in the production of existing products that are crude oil and natural gas.

Examples of R&D expenditure include:

- A study on evaluation of the corrosion and mechanical composition of pipelines
- A study on enhancement of the existing corrosion model for maintenance purposes
- A study on a non-metallic pipe material for offshore pipeline and riser application
- A study to determine the best pipe coating to produce optimal hydrocarbon flow

Tax treatment

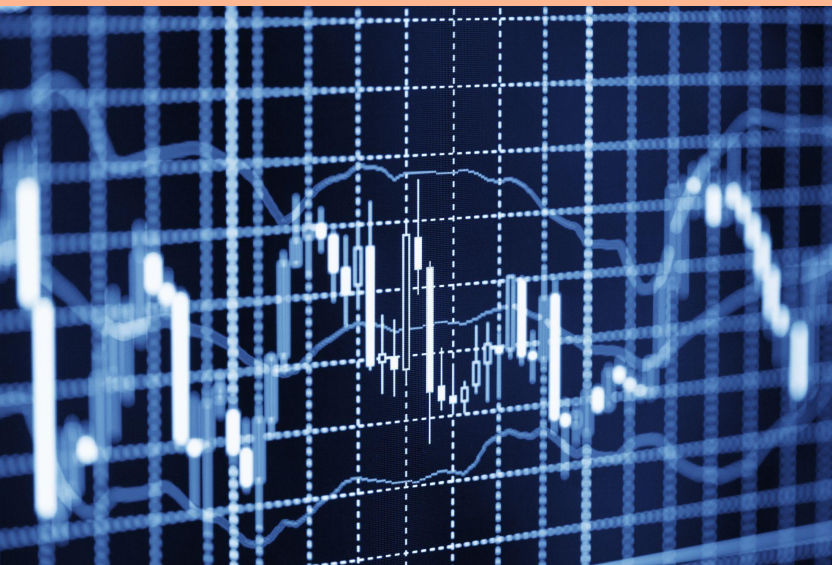
- Subject to meeting the requirements of the respective provisions under PITA 1967, R&D expenditure qualifies for tax deduction:
 - During exploration phase: as qualifying exploration expenditure (QEE) under First Schedule of PITA 1967
 - During production phase: as deductible expense under section 15(1) of PITA 1967
- A claim of QEE for R&D expenditure during the exploration phase is only available for a chargeable person other than PETRONAS and the Malaysia-Thailand Joint Authority.
- R&D expenditure which is funded by grants, subsidy or receivables is not eligible for the above tax deductions.
- R&D expenditure on study of development of a new block of a Production Sharing Contract which is yet to be awarded is not eligible for the above tax deductions.

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



Practice Note 1/2023 - Explanation relating to Tax Treatment on Foreign Exchange Gains and Losses for Chargeable Person under the Petroleum (Income Tax) Act 1967

The IRB has issued Practice Note 1/2023 - Explanation relating to Tax Treatment on Foreign Exchange Gains and Losses for Chargeable Person under PITA 1967 dated 15 June 2023 ("PN 1/2023").



PN 1/2023 essentially explains that the principles used in determining the tax treatment in relation to foreign exchange gains and losses as explained in the following public ruling and guidelines are also applicable to chargeable persons under PITA 1967:

- Public Ruling 12/2019 - Tax Treatment of Foreign Exchange Gains and Losses issued under the Income Tax Act 1967 (ITA 1967); and
- Guidelines on Tax Treatment related to the Implementation of MFRS 121 (or Other Similar Standards) (Revised) dated 16 May 2019 ("MFRS 121 Guidelines").

Salient points of PN 1/2023 are as follows:

Foreign exchange gains or losses in petroleum operations

- Foreign exchange gains or losses from realised transactions which are revenue in nature are taxable or deductible under section 15(1) of the PITA 1967.
- Unrealised foreign exchange gains or losses of a revenue nature are not taxable or deductible.
- Foreign exchange gains or losses of a capital nature, whether realised or unrealised, are not taxable or deductible.
- Foreign exchange differences are considered as "realised" upon settlement. Where an amount is settled in foreign currency via a foreign currency account, no physical conversion of the currency is necessary before the amount is treated as realised.

Translation differences

- Any foreign exchange differences arising from the translation of the functional currency to the presentation currency in the financial statements for accounting purposes are not taxable or deductible under section 15(1) of the PITA 1967.

PN 1/2023 is available on IRB's website www.hasil.gov.my (Legislation > Practice Note) and must be read together with the MFRS 121 Guidelines.

Practice Note 2/2023 - Explanation of Tax Treatment on Political Parties and Politicians

The IRB has issued Practice Note 2/2023 - Explanation of Tax Treatment on Political Parties and Politicians dated 27 June 2023.



The following are the salient points:

- The definition of “political party” is not defined in the ITA 1967. Reference is made to the definition provided in section 2 of the Societies Act 1966 as follows:
 - (a) *any society which by any of its objects or rules, regardless whether such object or rule is its principal object or rule, or constitutes merely an object or rule which is ancillary to its principal object or objects or to its principal rule or rules, makes provision for the society to participate, through its candidates, in elections to the Dewan Rakyat, or to a Dewan Undangan Negeri, or to a local authority, or makes provision for it to seek the appointment or election of a person proposed or supported by it to the Dewan Negara; or*
 - (b) *any society which, notwithstanding anything contained in its objects or rules, carries on any activity or pursues any objective which involves its participation, through its candidates, in elections to the Dewan Rakyat, or to a Dewan Undangan Negeri, or to a local authority, or which involves its seeking the appointment or election of a person proposed or supported by it to the Dewan Negara.*
- A politician is generally defined as an individual who stands for elections or who holds positions through political parties or activities, such as a congressman, chancellor, governor, mayor, member of parliament, minister, president, prime minister or senator, at the local government, state government or federal government.

The tax treatments are as follows:

Political parties

- All income of a political party is exempted from tax under the Income Tax (Exemption) (No. 22) Order 2002 (“2002 Order”) with effect from YA 2001.
- All donations received by a political party, whether from within or outside Malaysia, are exempted from tax under the 2002 Order.

Politician

- A politician is taxed similarly to any other individual.
- Donations received by a politician, whether from within or outside Malaysia, are not within the scope of the 2002 Order and are therefore subject to tax as other gains or profits under section 4(f) of the ITA 1967.
- Gratuities or pensions derived from Malaysia and paid to a resident person in the following positions under any written law are exempted from tax:
 - President or Deputy President of the Senate,
 - Speaker or Deputy Speaker of the House of Representatives,
 - Speaker of the State Legislative Assembly,
 - member of the Senate,
 - member of the House of Representatives, or
 - member of the State Legislative Assembly.

The exemption in respect of pension is subject to conditions under paragraph 30A of Schedule 6 of the ITA 1967 which include the person reaching 55 years of age or ceases to hold the position due to ill-health, and in cases where more than one pension received is eligible for exemption, only the highest pension payable shall be exempted.

The Practice Note is available on IRB’s website www.hasil.gov.my (Legislation > Practice Note).



Guideline on the Application for Income Tax Exemption for Social Enterprises

The Ministry of Finance (MOF) has issued the Guideline on the Application for Income Tax Exemption for Social Enterprises (SEs) (“the Guideline”).

The Guideline is available on MOF’s website www.mof.gov.my/portal/ms (MOF Links > For Business > Download Forms > Tax).



Following the Budget 2022 announcement on the income tax exemption for accredited SEs, the MOF has issued the Guideline to explain the procedure and application requirements for SEs to obtain an approval for tax exemption under section 127(3A) of the ITA 1967.

Salient points from the Guideline are:

Incentive

- Income tax exemption on all income up to 3 YAs, subject to the validity period of accreditation approved by the Ministry of Entrepreneur and Cooperatives Development (MECD)

Key application conditions

- An entity / business registered under any written law in Malaysia and carrying on business in Malaysia.
- Not owned by any other companies.
- Have incorporation objectives to create social impact or positive environmental impact and is financially sustainable.
- Approved as an Accredited SE (SE.AC) by MECD for application received by MECD from 1 January 2022 to 31 December 2023.
- ≥ 50% of the income earned must be derived from business activity during the tax incentive period.
- Not granted with any tax exemption under the ITA 1967 or other tax incentives.

Compliance conditions during the tax incentive period

- Furnish the latest financial statements / audited accounts annually to the Tax Division of MOF within 6 months after the end of the financial period.
- ≥ 50% of the profits made must be channelled to social or environmental causes.
- ≥ 50% of the income earned must be derived from business activity.

Dissolution of SE

- In the event an SE which has been granted tax exemption ceases its operations as an SE, it must notify MECD and MOF immediately.
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The application for the tax exemption must be submitted to the Under-Secretary Tax Division of MOF in writing.

IRB Administrative Updates

1. Introduction of the e-107D services for payments made by companies to an agent, dealer or a distributor
2. Termination of e-filing for YAs 2012 to 2015
3. Discontinuation of fax services

Introduction of the e-107D services for payments made by companies to an agent, dealer or a distributor

The IRB has issued a media statement dated 27 June 2023 on the introduction of the e-107D services in respect of withholding tax (WHT) on payments made by companies to an agent, dealer or a distributor under section 107D of ITA 1967. The following are the salient points:

- The new e-107D service is available on the MyTax portal.
- It will facilitate the online submission of Form CP107(D), including download and upload of the said form, and generation of Bill Number for purposes of payment of the section 107D WHT through ByrHASiL.

Termination of e-filing for YAs 2012 to 2015

The IRB has issued a media statement dated 28 June 2023 to inform that e-filing for YAs 2012 to 2015 for individuals, employers, partnerships, associations and companies will be terminated from 1 July 2023 following the reduction in the number of cases filed electronically for the said YAs.

Any tax returns for these YAs are to be filed manually.

Discontinuation of fax services

The IRB has issued a media statement dated 20 June 2023 that with effect from 1 July 2023, the IRB will switch to full use of email as one of its tools of communication and the use of facsimile machines at all IRB's premises throughout Malaysia will be terminated.

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



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