



Taxavvy

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Introduction of Global Minimum Tax

The Government plans to introduce the global minimum tax (GMT).

The Ministry of Finance (MOF) has indicated in the Touchpoints to Budget 2023 that as part of measures related to fiscal sustainability and to increase revenue collection, Malaysia will be implementing the GMT based on the OECD-led Pillar 2 project including the qualified domestic minimum top-up tax or “QDMTT”.

Implementation timeline is not currently indicated.

The Touchpoints to Budget 2023 document is available on MOF’s website <https://budget.mof.gov.my/en/> (Home > Budget Speech).



New Malaysia-Poland Double Taxation Agreement Entered into Force

The Inland Revenue Board (IRB) has announced on their website that the new Malaysia-Poland Double Taxation Agreement (DTA) which was signed on 8 July 2013 has entered into force on 12 January 2023.

The new Malaysia-Poland DTA replaces the previous Malaysia-Poland DTA which was signed on 16 September 1977.

In respect of Malaysian tax, the new DTA enters into effect from 1 January 2024. However, the effective date for the following articles is 12 January 2023:

- Mutual Agreement Procedure (Article 25)
- Exchange of Information (Article 26)

The new DTA includes anti-treaty shopping provisions in the dividends, interest, royalties and technical services articles. The salient points of the new DTA are as follows:

DTA Article	Salient points
Permanent establishment (PE)	The provision deeming supervisory activities carried out for more than 6 months in connection with a construction, installation or assembly project to be a PE, previously included in the protocol to the 1978 DTA, is no longer included in the PE article.
Business profits	In the absence of information required to determine profits to be attributed to the PE, the State where the PE is situated may assess estimated tax on the PE according to its laws based on available information and the principles of the business profits article in the DTA.
Dividends	Tax on dividend shall not exceed 5% (previously exempted). Under the protocol to the DTA, Malaysian dividends paid out of income exempted from Malaysian tax by virtue of special incentives, will be exempt from Polish tax in the hands of Polish shareholders resident in Poland holding at least 25% of share capital of the Malaysian company. This exemption shall cease to have effect in respect of income derived after 31 December 2020.



DTA Article	Salient points
Interest	Tax on interest shall not exceed 10% (previously 15%).
Royalties	Tax on royalties shall not exceed 8% (previously 15%).
Technical services	A new article for technical services is introduced, where tax on fees for technical services shall not exceed 8%.
Capital gains	A clause to tax capital gains from alienation of shares deriving more than 50% of their value directly / indirectly from immovable property situated in a State by that State is now included.
Other income	A new article on other income is introduced. Other income arising in a State may also be taxable in that State.
Labuan	Persons taxed under the Labuan Business Activity Tax Act 1990 are excluded from the benefits of the DTA. However, companies which made an irrevocable election to be charged under the Income Tax Act 1967 is still entitled to the treaty benefits.



Mandatory Use of Form CKHT 502 via e-CKHT

The IRB has recently issued a media statement on the mandatory use of Form CKHT 502 through e-CKHT at the MyTax Portal.

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



Payment of retention sum using Form CKHT 502 via e-CKHT

The use of Form CKHT 502 through e-CKHT for payment of retention sum pursuant to Section 21B of the Real Property Gains Tax 1976 is in line with the implementation of Bill Number as a reference for the payment of taxes with effect from 1 January 2023.

The Bill Number for payment of retention sum can be obtained through the following steps:

- Login to the MyTax Portal <https://mytax.hasil.gov.my/> using identification card number and password.
- Navigate to ezHasil Services and select e-CKHT.
- Enter Tax Identification Number of the acquirer and select Form CKHT 502.
- Fill in the required information and print the payment slip. The Bill Number will be displayed on the relevant payment slip.

Transitional period

Manual Form CKHT 502 will still be accepted until 28 February 2023 for individual acquirers. Payment can be made online or at the payment counter (payment slip is to be printed or Bill Number is to be downloaded).

The Procedures for Completing Form CKHT 502 and Payment through e-CKHT by the Acquirer / Lawyer / Representative (available in Malay only) is available on IRB's website www.hasil.gov.my (Forms > Download Forms > RPGT > Disposal and Acquisition of Real Property / Shares in a Real Property Company Commencing for 2023).

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