TaXavvy

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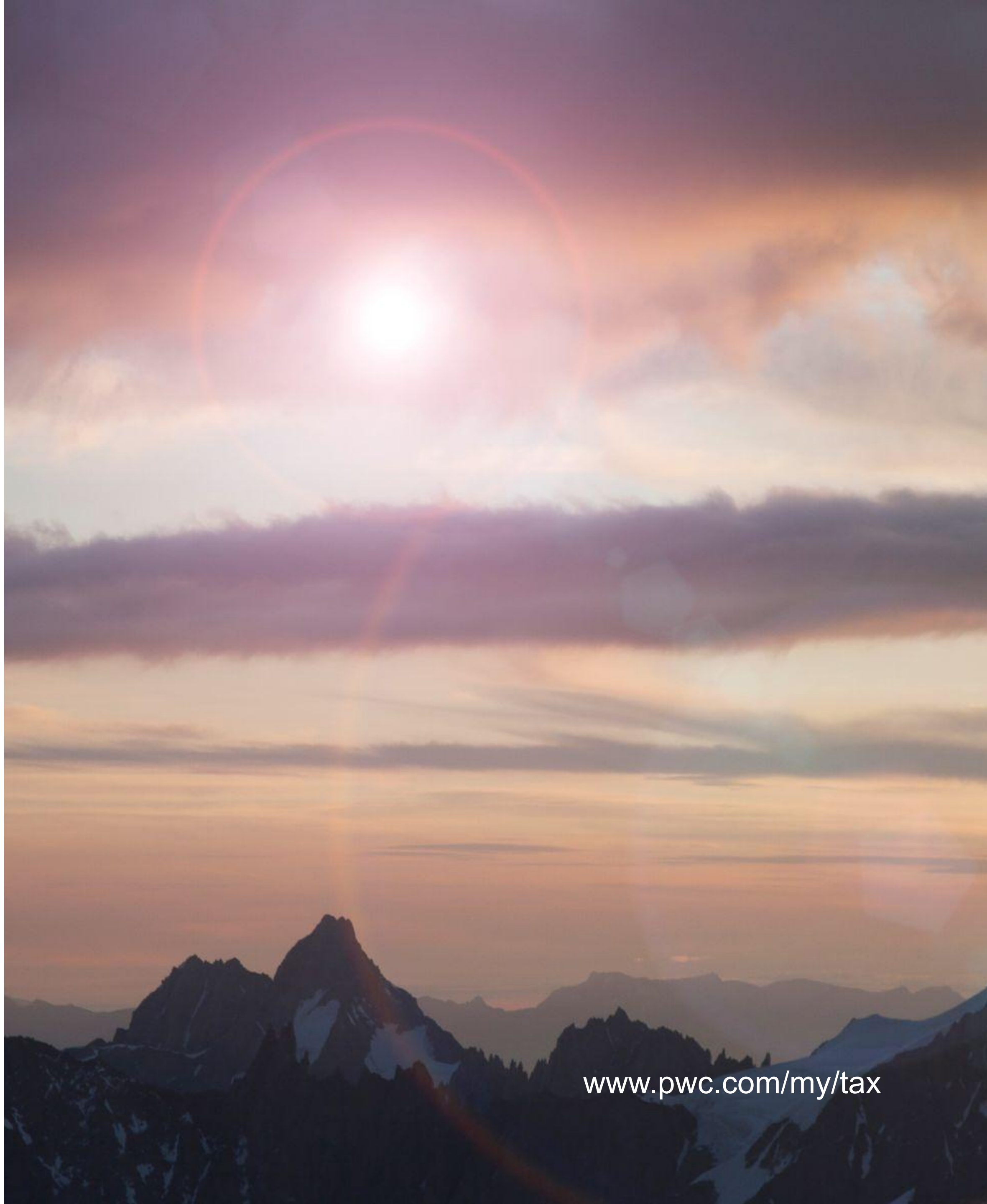
In this issue

- Updated e-Invoice guidelines
- Updated Guidelines for Approval of the Director General of Inland Revenue for Institution / Organisation / Fund
- Guidelines on Pengerang Integrated Petroleum Complex tax incentive
- Tax clearance letter and notification of new employee
- BioNexus incentives - extension
- TIN registration for foreign entities for capital gains tax reporting



Updated e-Invoice guidelines

The Inland Revenue Board (IRB) has issued updated e-Invoice Guidelines (version 3.2) and e-Invoice Specific Guidelines (version 3.0), both dated 30 July 2024.

The guidelines are available on IRB's website www.hasil.gov.my (Top Pages > e-Invoice > Guidelines).

Key updates to the respective guidelines are:

e-Invoice Guidelines (version 3.2)

- Taxpayers with an annual turnover or revenue of less than MYR150,000 are now exempted from issuing e-Invoice subject to qualifying conditions and criteria which will be included in the General Frequently Asked Questions for Implementation of e-Invoice in Malaysia (General FAQ). This is in line with the recent update to the General FAQ (as reported in TaXavvy 25-2024) that Micro, Small and Medium Enterprises with gross takings below MYR150,000 are not required to issue consolidated e-Invoice to the IRB.

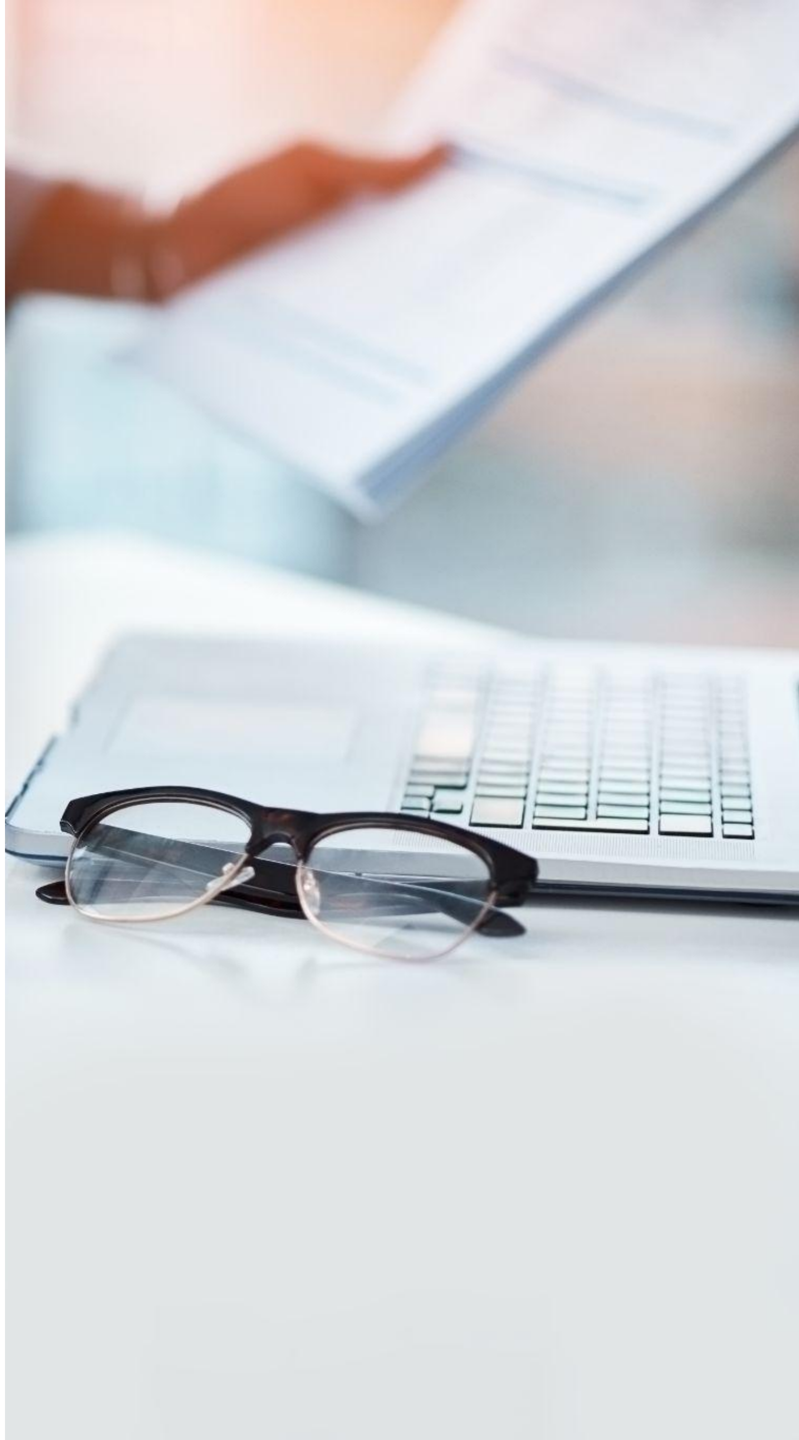
e-Invoice Specific Guidelines (version 3.0)

1. e-Invoice treatment during interim relaxation period (announced via IRB's media release dated 26 July 2024):
    - A six-month interim relaxation period is given to each implementation phase from the date of mandatory implementation as follows:

Targeted taxpayers	Interim relaxation period
1. Taxpayers with an annual turnover or revenue of more than MYR100 million	1 August 2024 to 31 January 2025
2. Taxpayers with an annual turnover or revenue of more than MYR25 million and up to MYR100 million	1 January 2025 to 30 June 2025
3. All other taxpayers	1 July 2025 to 31 December 2025

    - All industries / activities are allowed to issue consolidated e-Invoices, including self-billed e-Invoices.
    - Any description of transaction may be entered into the "Description of product or service" field.
    - Where there is a request for e-Invoice from the buyer, the seller is allowed to issue consolidated e-Invoice without the need to issue an e-Invoice for each transaction.
    - No prosecution under section 120 of the Income Tax Act 1967 (ITA 1967) for non-compliance of e-Invoice requirements on condition that the taxpayers adhere with the above mentioned flexibilities.

2. Clarification on consolidated self-billed e-Invoice:
    - The timing of issuance in relation to consolidated self-billed e-Invoice is similar to the timing of issuance of consolidated e-invoice, the buyer is required to submit a consolidated self-billed e-Invoice to the IRB on a monthly basis, within seven calendar days after the month end.
    - The buyer (assuming the role of the supplier) is required to complete the supplier's details such as TIN, registration number, address, Malaysia Standard Industrial Classification (MSIC code), etc. and the details of products or services being billed for a transaction with the supplier.



Updated Guidelines for Approval of the Director General of Inland Revenue for Institution / Organisation / Fund

The IRB has issued an updated Guidelines for Approval of the Director General of Inland Revenue (DGIR) under subsection 44(6) of the ITA 1967 for Institution / Organisation / Fund ("2024 Guidelines") which replaces the previous version issued on 30 January 2020 ("2020 Guidelines"), as well as the Guideline for Approval of the DGIR under subsection 44(6) of the ITA 1967 for Welfare and Education Funds, issued on 15 July 2020.

The 2024 Guidelines comes into effect from year of assessment (YA) 2024 and is also applicable to existing approved institutions, organisations or funds. The 2024 Guidelines have been updated with the following:

Budget 2024 proposals

The proposals made in Budget 2024 have been reflected in the 2024 Guidelines:

Limit of utilisation of accumulated funds
Institutions or organisations are allowed to engage in business subject to the following utilisation of accumulated funds condition:

	Utilisation of accumulated funds	*Threshold of charitable activity expenditure*
Option 1	Up to 25%	At least 50% of income earned in previous year
Option 2	From 25% to 35%	At least 60% of income earned in previous year

Funds are not permitted to conduct any business activities. Nevertheless, a fund is required to maintain spending of at least 50% of income earned from the previous year to achieve the fund's objective.

Tax treatment for breaches of approval conditions
Approved institutions, organisations or funds that breach conditions within the approval period will be subject to tax on income received in the YA the breach of conditions occurred. However, donors remain eligible for tax deduction on contributions made.

Operating and administrative expenses requirement

Operating and administrative expenses should be separated from charitable expenditure and are restricted to 20% of the current year total income. Operating expenses such as rental, unreasonable employee remuneration, depreciation, capital expenditure, etc. cannot be considered as charitable expenditure.

Additional conditions for deductible cash donations

A cash donation will not qualify for deduction if it is:

- repayable,
- given through a financial loan scheme or is subject to interest,
- subject to any conditions specified by the donor,
- subject to consideration or exchange of benefits between the institution / organisation / fund and the donor, and
- governed by an agreement between the institution / organisation / fund and the donor relating the use of donated funds.

Activities outside Malaysia

Institutions, organisations or funds must obtain written approval from the Ministry of Finance (MOF) before carrying out any activities outside Malaysia.

Other salient points to note from the 2024 Guidelines are:

- Institution or organisation with general, broad and diverse objectives that does not qualify for approval under subsection 44(6) of ITA 1967 may establish a fund to meet the specific objective and its establishment must be stated in the constitution, deed or written laws of the institution or organisation.

- For the establishment of the fund, the founder of the fund must be a registered company limited by guarantee, registered society, registered body corporate, or institution or organisation registered with any other recognised registrar bodies.

- The draft format of the donation receipt needs to be submitted for approval before it can be used. Approval and authorisation from IRB is also required for issuance of electronic donation receipts.

- Where institutions, organisations or funds are funded by contributions from its founders / members / group of companies, the said institutions, organisations or funds are required to make their subsection 44(6) approval status known to the public and specify the purpose and use of accumulated funds in the annual audited financial statements.

- Approved institutions, organisations or funds are required to submit the list of donors who donated MYR20,000 and above to the IRB.

- Key prohibition to approved institutions, organisations or funds include, but are not limited to:
    - Investing in subsidiary company with shareholding exceed 49%.
    - Receiving donation from subsidiary company of which the institutions or organisations held more than 49% of the shares.
    - Misuse of public funds for other purposes that are not consistent with the outlined objectives and result in revenue leakage.

The 2024 Guidelines is available on IRB's website www.hasil.gov.my (Legislation > Guidelines > Technical Guidelines).

Guidelines on Pengerang Integrated Petroleum Complex tax incentive

Further to the Budget 2024 announcement, the Malaysian Investment Development Authority (MIDA) has issued the following guidelines:

- Guidelines and procedures for the application of Pengerang Integrated Petroleum Complex (PIPC) tax incentive package for Industrial Park Developer (“PIPC Industrial Park Developer Guidelines”).
- Guidelines and procedures for the application of the PIPC special incentive package for the manufacturing sector (“PIPC Manufacturing Guidelines”).

The PIPC is planned as a downstream oil and gas hub accommodating oil refineries, oil storage facilities and petrochemical product manufacturing plants.

The salient points of the tax incentives for the PIPC are as follows:

	PIPC Industrial Park Developer Guidelines	*PIPC Manufacturing Guidelines*
Corporate tax incentive	• Tax rate of 10% on the disposal, or rental / lease of land or buildings for qualifying projects for a period of ten years. • The effective date is based on the YA of commencement of the activities (i.e. date of first agreement for the above disposal / rental / lease). • The Income Tax (Property Development) Regulations 2007 are to be complied with.	Outcome-based* tax incentives for capital investment (excluding land) of MYR500 million and above. <u>Option 1</u> • Tier 1 - tax rate of 5% for 5 + 5 years • Tier 2 - tax rate of 10% for 5 + 5 years Effective date is based on the YA of commencement of operations of the approved product / activity. <u>Option 2</u> • Tier 1 - Investment Tax Allowance (ITA) of 100% on qualifying capital investment (QCI) for 5 + 5 years to be set-off against 100% statutory income • Tier 2 - ITA of 60% on QCI for 5 + 5 years to be set-off against 100% statutory income Effective date is based on the first qualifying capital expenditure (QCE) / QCI incurred after application is made to MIDA. **refer to pages 8 and 9*

	PIPC Industrial Park Developer Guidelines	*PIPC Manufacturing Guidelines*
Qualifying project	Develop a 'plug and play' concept industrial park for chemical and petrochemical projects or any related support services.	Manufacturing of specified chemical and petrochemical products
Stamp duty incentive	Stamp duty exemption on instrument of transfer of: ● land or building, or ● rental / lease of land or buildings, in relation to the development of qualifying project.	Stamp duty exemption on instrument of transfer of: ● land or building, or ● rental agreement of land or building, for the qualifying project / activity.
Import duty incentive	N/A	Import duty exemption for raw material, machinery, components, spare parts, and consumables that are used directly for qualifying project / activity, where the total duty and / or tax exemption value per submission is MYR5,000 and above.
Key eligibility conditions	● Resident company incorporated under the Companies Act 2016. ● Registered as an industrial park developer with Johor Petroleum Development Corporation. ● Undertakes the development of land, building or plant for sale or rental / lease in PIPC Industrial Park, but has not started the development prior to application submission. ● Must not have been granted / enjoyed any tax incentives under the Promotion of Investment Act 1986 or ITA 1967 for the same activity.	● Resident company incorporated under the Companies Act 2016. ● Undertakes diversification activities in relation to the eligible activities / products under the following chemical and petrochemical products clusters: a. Base chemical – Methanol, Ethylene, Propylene, Benzene, Aromatics. b. Organic intermediates – C1 to C6. c. Specialty chemical. d. Fertilisers. e. Polymers / plastics. f. Oleochemical / biochemical. ● Has a minimum paid-up capital of MYR2.5 million at the point of submission of application to MIDA. ● Must not have commenced operations for the proposed product / activity.

	PIPC Industrial Park Developer Guidelines	*PIPC Manufacturing Guidelines*
Additional conditions for related company undertaking the same activity	• The project is to be implemented in a separate location from activities carried out by the holding / related companies. • The project will not result in a reduction in the investment of the holding / related companies. • The project shall not be transferred from any of its related companies. • All employees are to be different persons from those in any of its related companies.	N/A
Submission of application	To be made to MOF (Tax Division) by 31 December 2028.	To be made to MIDA by 31 December 2028.

*Criteria for special tax rate (Outcome-based tax incentives)

<table>
<tr><th>Tiering</th><th>First 5 years</th><th>Second 5 years</th></tr>
<tr><td rowspan="2">Tier 1 - tax rate of 5%

Tier 2 - tax rate of 10% (To comply with condition on capital expenditure and additional three conditions out of total list of conditions)</td><td>Subject to the following outcomes (but not limited to):
• QCE (excluding land) to be realised within three years.
• Adequate number of full-time Malaysian employees with high-value jobs (MYR10,000 salary per month).
• Appointment of adequate number of local suppliers / service providers incorporated and operating in Malaysia.</td><td>Subject to the following outcomes (but not limited to):
• Cumulative capital expenditure incurred (excluding land) of at least MYR500 million incurred within the first five years.
• Adequate increase in number of full-time Malaysian employees with high-value jobs (MYR10,000 salary per month).
• Adequate increase in number of local suppliers / service providers incorporated and operating in Malaysia.</td></tr>
<tr><td colspan="2">• Number of managerial, technical and supervisory level staff shall be at least 25% of overall manpower.
• Adoption of at least one of the foundational IR4.0 technologies, namely, artificial intelligence, internet of things, block chain, cloud computing and big data analytics, or advance materials and technologies.
• Adoption of Environmental, Social and Governance (ESG) programmes and other conditions related to sustainable economy development as stated in the approval letter.</td></tr>
</table>

*Criteria for Investment Tax Allowance (Outcome-based tax incentives)

- Tier 1 - ITA of 100% on QCI to be set-off against 100% statutory income
- Tier 2 - ITA of 60% on QCI to be set-off against 100% statutory income

<table>
<tr><th>Tiering</th><th>First 5 years</th><th>Second 5 years</th></tr>
<tr><td>Minimum conditions applicable to Tier 1 and 2</td><td>● QCE (excluding land) to be realised within three years.
● Adoption of at least one of the foundational IR4.0 technologies, namely, artificial intelligence, internet of things, block chain, cloud computing and big data analytics, or advance materials and technologies.</td><td>● Cumulative capital expenditure incurred (excluding land) of at least MYR500 million incurred within the first five years.
● Adoption of at least one of the foundational IR4.0 technologies, namely, artificial intelligence, internet of things, block chain, cloud computing and big data analytics, or advance materials and technologies.</td></tr>
<tr><td rowspan="2">Additional conditions for Tier 1</td><td>Subject to the following outcomes (but not limited to):
● Adequate number of full-time Malaysian employees with high-value jobs (MYR10,000 salary per month).
● Appointment of adequate number of local suppliers / service providers incorporated and operating in Malaysia.</td><td>Subject to the following outcomes (but not limited to):
● Adequate increase in number of full-time Malaysian employees with high-value jobs (MYR10,000 salary per month).
● Adequate increase in number of local suppliers / service providers incorporated and operating in Malaysia.</td></tr>
<tr><td colspan="2">● Number of managerial, technical and supervisory level staff shall be at least 25% of overall manpower.
● Adoption of ESG programmes and other conditions related to sustainable economy development as stated in the approval letter.</td></tr>
</table>

The guidelines are available on MIDA's website www.mida.gov.my (Forms and Guidelines > PIPC Special Incentive Package).

Tax clearance letter and notification of new employee

The IRB had updated its e-Services page in respect of application for tax clearance letter and notification of new employee.

The following are the changes that have been reflected:

Form	Submission method
Forms CP 21 (leaving Malaysia), CP 22A and CP 22B (cessation of employment)	• Effective 1 August 2024, notification for amendment / addition can be submitted through the e-SPC application on the MyTax Portal and will be made mandatory from 1 September 2024. • Cancellations can be submitted manually to the IRB office that handles the employee's file or any nearby IRB office.
Form CP 22	• Effective 1 September 2024, it is mandatory to submit the notification for new employees through MyTax portal using e-CP22 application. • Manual submission of the Form CP22 to the IRB office that handles the employee's income tax file or to the nearest IRB office is still accepted until 31 August 2024.

BioNexus incentives - extension

Following the proposal in the retabled Budget 2023 to extend the incentive for BioNexus status companies, the following amendment orders have been gazetted:

- Income Tax (Exemption) (No. 4) Order 2023 (Amendment) Order 2024.
- Income Tax (Exemption) (No. 5) Order 2023 (Amendment) Order 2024.

The amendment orders have been gazetted to extend the incentive period to 31 December 2024 (previously 31 December 2022). The following is a summary of the current incentive:

Gazette order	Type of incentive
Income Tax (Exemption) (No. 4) Order 2023 (Amendment) Order 2024	100% income tax exemption on statutory income* (exclude intellectual property income). • New business: 10 consecutive YAs • Expansion project: 5 consecutive YAs *The original restriction of exemption against 70% statutory income has now been removed in line with the proposal to increase the exemption from 70% to 100%.
Income Tax (Exemption) (No. 5) Order 2023 (Amendment) Order 2024	Investment tax allowance of 100% on QCE incurred to be set-off against 70% of statutory income for a period of five consecutive years

TIN registration for foreign entities for capital gains tax (CGT) reporting

The IRB has updated the CGT filing programme to explain Tax Identification Number (TIN) registration for foreign entities for CGT reporting purposes.

The CGT Filing Programme is available on the IRB's website www.hasil.gov.my (Forms > CGT Return Form (RF) Filing Programme).

Foreign companies, limited liability partnerships, trust bodies and co-operative societies incorporated outside Malaysia shall apply for TIN registration through e-Daftar application at MyTax portal. The documents required for the application are:

- Copy of the certificate of incorporation / registration from the registrar in the country of origin.
- TIN registration application letter for CGT purposes (using the entity's letterhead).
- Information of directors / main shareholders / cooperative board members / trustees / key officers including name, identification number, email and residential address.
- Copy of disposal / ownership document on:
    - share of an unlisted company incorporated in Malaysia, or
    - share of a foreign controlled company which owns real property situated in Malaysia or shares of another controlled company or both i.e. section 15C shares.

In addition to the above, the director or authorised officer of the foreign entity will also need to apply for an individual TIN through e-Daftar in MyTax Portal www.mytax.hasil.gov.my in order to electronically file the capital tax return (e-CKM) or appoint a tax agent to submit the e-CKM on behalf of the entity.

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