



Tax Developments - 4th Quarter 2019



10 December 2019

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CORPORATE TAX

The relevant authorities have issued the following:

Principal Hub Incentive Guidelines 2.0

The Malaysian Investment Development Authority (“MIDA”) has issued the above [Revised Guidelines](#) (PH 2.0) for the Principal Hub incentive. It supersedes the previous guidelines (PH 1.0) released on 20 February 2019 and is applicable to applications received by MIDA from 1 January 2019 to 31 December 2020. MIDA has verbally confirmed that the previous guideline is still applicable to companies which have been granted approval prior to the release of the Revised Guidelines.

The notable changes to the Revised Guidelines are outlined below:

Subject	PH 1.0	PH 2.0
Corporate tax rates for new companies	3-Tiered corporate tax rates of 10%, 5% or 0%	2-Tiered corporate tax rates of 5% or 0%
Tax treatment for existing companies	Full tax exemption on value added income	10% concessionary rate on total statutory income derived from qualifying Principal Hub activities
Type of company eligible for the incentive	<ul style="list-style-type: none"> Manufacturing and services company Commodity based company that integrates the supply chain management for upstream and downstream activities under its PH operation 	<ul style="list-style-type: none"> Manufacturing and services company
Requirement to serve and control <u>minimum number</u> of network companies	No specified minimum	Serve and control minimum number of network companies depending on the type of company and incentive tier (i.e. Tier 1 or Tier 2)
Minimum annual sales requirement (for companies applying for tax exemption on trading income)	RM300 million	RM500 million
Compulsory qualifying services	Does not include ‘Strategic Business Planning and Corporate Development’	Includes ‘Strategic Business Planning and Corporate Development’
Principal Hub – Compliance Assessment Form (“PH-CAF”)	PH-CAF must be submitted annually to MIDA for evaluation of performance	PH-CAF must be submitted to MIDA within 6 months from the date of financial year end for evaluation of performance

The Revised Guidelines also incorporate changes to, amongst others, eligibility criteria such as requirements for number of high value jobs/key positions, annual operating expenditure, etc. Companies that wish to apply for the Principal Hub incentive may refer to the Revised Guidelines for further details.

Source for the Revised Guidelines: Official portal of [MIDA](#)

Operational Guidelines on Imposition of Penalty for Late Filing of Tax Return or Failure to Submit a Tax Return

The above [Revised Guidelines](#) (available in Malay language only) is effective from 1 October 2019. It replaces the earlier guidelines issued on 5 March 2015 and expands to include penalties under the Petroleum (Income Tax) Act, 1967 ("PITA") as well as Real Property Gains Tax Act, 1976 ("RPGTA") for late filing of tax return or failure to submit a tax return.

The revised penalty rates are set out below:

Period of Late Submission	Penalty Rate		
	ITA	PITA	RPGTA
Within 12 months	15%	15%	15%
More than 12 months but within 24 months	30%	30%	20%
More than 24 months	45%	45%	25%
Where no return is furnished and an assessment is raised by the Director General	45%	45%	25%

Source for the Revised Guidelines: Official portal of [MIRB](#)

Operational Guidelines for Application of Tax Clearance Letter in Respect of a Company, Limited Liability Partnership and Labuan Entity

The above [Revised Guidelines](#) (available in Malay language only) issued on 12 November 2019 explain the application procedure and documents that are required to be submitted for the application of tax clearance letter as well as closure of tax file. It supersedes the earlier guidelines issued on 31 July 2016.

The notable changes to the Revised Guidelines are set out below:

- Introduction of new application forms which must be used when applying for the tax clearance letter for a company or Labuan entity;
- The Form E up to the latest Year of Remuneration has to be submitted for the application of the tax clearance letter; and
- A dormant-status Labuan entity that is carrying on a Labuan non-trading activity is required to submit, in addition to the usual documentation, its financial statements or management accounts for its latest Year of Assessment.

Source for the Revised Guidelines: Official portal of [MIRB](#)

Public Ruling on Perquisites from Employment

The MIRB has issued [Public Ruling No. 5/2019 – Perquisites from Employment](#). It replaces the Public Ruling No. 2/2013 dated 28 February 2013.

This Public Ruling has provided greater clarity on the tax treatment of payments in lieu of notice or buy-out payments as well as gifts and monthly bills for fixed-line telephones, mobile phones, tablets, pagers, personal digital assistants (PDAs), and broadband subscriptions.

Please click [here](#) for more information.

Source for the Revised Public Ruling: Official portal of [MIRB](#)

Public Ruling on Tax Treatment on Expenditure for Repairs and Renewals of Assets

The MIRB has issued [Public Ruling No. 6/2019 – Tax Treatment on Expenditure for Repairs and Renewals of Assets](#). This Public Ruling explains the tax treatment on expenditure for repair and renewal of an asset from a gross income of a person.

Source for the Public Ruling: Official portal of [MIRB](#)

Public Ruling on Taxation of Foreign Fund Management Company

The MIRB has issued [Public Ruling No. 7/2019 – Taxation of Foreign Fund Management Company](#). This Public Ruling explains the tax treatment of income received by a foreign fund management company that provides fund management services to foreign and local investors. It is not applicable to a foreign fund management company that issues, offers or makes an invitation to subscribe or purchase units of conventional unit trust funds.

It replaces the Public Ruling No. 6/2014 dated 4 September 2014 and incorporates changes made to the legislation since the issuance of Public Ruling No. 6/2014. There are no notable changes from the previous Public Ruling.

Source for the Revised Public Ruling: Official portal of [MIRB](#)

Public Ruling on Notification of Change of Accounting Period of a Company / Limited Liability Partnership / Trust Body / Co-operative Society

The MIRB has issued [Public Ruling No. 8/2019 – Notification of Change of Accounting Period of a Company / Limited Liability Partnership / Trust Body / Co-operative Society](#). This Public Ruling explains the requirement to notify the Director General of Inland Revenue on any change of accounting period by a company, limited liability partnership, trust body or co-operative society, which has to make payment by instalments on an estimate of tax payable for a Year of Assessment.

It replaces the Public Ruling No. 7/2011 dated 23 August 2011 and incorporates changes made to the legislation since the issuance of Public Ruling No. 7/2011. This Public Ruling also provides more examples on the computation of revised tax instalment after the change of accounting period.

Source for the Revised Public Ruling: Official portal of [MIRB](#)

Public Ruling on Residence Status of Companies and Bodies of Persons

The MIRB has issued [Public Ruling No. 9/2019 – Residence Status of Companies and Bodies of Persons](#). This Public Ruling explains the determination of the residence status of companies and bodies of persons.

It replaces the Public Ruling No. 5/2011 dated 16 May 2011 and incorporates changes made to the legislation since the issuance of Public Ruling No. 5/2011. There are no notable changes from the previous Public Ruling.

Source for the Revised Public Ruling: Official portal of [MIRB](#)

INDIRECT TAX

New and Revised Guides

The Royal Malaysian Customs Department (“RMCD”) issued new and revised Guides from time to time to provide further clarifications on various Sales Tax and Service Tax issues. The following Guides were issued during the fourth quarter of 2019:-

- Refund on the Acquisition of Services by Foreign Missions and International Organizations (as at 29 October 2019)
- Sales Tax Deduction Facility (revised as at 30 October 2019)
- Customs Ruling (as at 2 December 2019)

A copy of each Guide is available on the RMCD’s official portal – MySST (click [here](#)).

Insights on Earlier Tax Whiz

Please refer below on our earlier Tax Whiz for more information.

No	Subject Matter
1	Digital Services - Service Tax Regulations and Order
2	Capital Allowances ("CA") on Development Cost for Customised Computer Software
3	2020 Thought Leaders: Stamp Act – Plain and Simple
4	2020 Thought Leaders: Tax Appeal Tribunal: A Double – Edged Sword?
5	2020 Budget Snapshots
6	2020 Budget Proposed Changes – Indirect Tax
7	2020 Thought Leaders – Part II: Tax Incentives: More to be Granted?
8	Finance Bill 2019 Highlights
9	Tax (Amendment) Bills 2019 Highlights
10	Tax Bills 2019 Passed by the Dewan Rakyat

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