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PR No. 2/2018 – Tax Incentive for Returning Expert Programme

The Inland Revenue Board has recently issued the Public Ruling [“PR”] No. 2/2018 – Tax Incentive for Returning Expert Programme to provide guidance on the tax treatment in respect of the tax incentives in relation to the Returning Expert Programme [“REP”] for Malaysian citizens who work overseas as professional to return to work in Malaysia.

Salient points of the abovementioned PR include:-

- i. Eligibility Requirements for Incentive Application
 - To obtain approval for the preferred tax rate under the REP, an individual shall comply with the following conditions:-
 - a Malaysia citizen and resident in Malaysia;
 - has made an application under the REP within the period from 12th April 2011 to 31st December 2020 and approved by the Minister;
 - is an expert in the field determined by the Minister;
 - has not derived any employment income in Malaysia for at least 36 consecutive months prior to the date of application mentioned above; and
 - an REP application has never been approved before.

Hyperlinks

- [Moore Stephens Malaysia](#)
- [Moore Stephens International](#)
- [Inland Revenue Board](#)

- [PR No. 2/2018](#)

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- Other terms set by the Minister are as follows:-
 - the REP application should be submitted when the applicant is still living and working aboard;
 - employment income shall be received from any person resident in Malaysia;
 - not having a bond either financially or legally with other government companies or agencies to return to Malaysia; and
 - not having a bond of outstanding scholarship or loan payment with the Malaysian government or its agencies.
 - For applicants who are working overseas and wish to return to work in Malaysia with a company under the same group, the applicant must meet certain conditions.
 - Further information with regard to the application procedure can be obtained from the Talent Corporation Malaysia Berhad ["TalentCorp"]'s website.
- ii. Tax Rate
- An approved individual may choose to be charged a flat tax rate of 15% on the chargeable income from employment as provided under Part XV, Schedule 1 of the Income Tax Act 1967.
 - Upon obtaining an approval, the applicant has a period of 2 years to obtain the *Surat Akuan Terima Kembali* from TalentCorp and subsequently return to Malaysia to commence his work and claim the benefits of the REP.
 - The eligibility period of the 15% flat tax rate is for 5 consecutive years from the first year of assessment in which the approved individual opts to claim the incentive.
- iii. Employment Income from More Than One Source
- In the event an individual received income from more than one employment, the 15% tax rate applies to income from both employment.
- iv. Change of Employer
- If an individual changes jobs during the incentive period, any employment income received during the specified incentive period is still eligible to be taxed at 15%, provided that the new employment is in line with his/her expertise as approved under the REP incentive.
- v. Source of Income Other Than Employment
- In the event that an individual has employment income and non-employment income (i.e. business or passive income), the proportion of chargeable income in relation to the employment income will be subject to tax at 15%. The proportion of chargeable income in relation to non-employment income will be subject to tax at the scale rates.

- vi. Income Tax Return Form for Resident Expert Worker
 - An individual who has obtained the approval of the REP incentive and opted to implement the incentives must file the Form BT to declare his/her income for the specified incentive period.
- vii. Opt Out from REP Incentive
 - An approved person may choose to opt out from enjoying a flat rate of 15% at any time during the specified incentive period if the person does not enjoy tax savings under the REP incentive. The incentive approval is deemed invalid starting from the year of assessment in which the termination is made.
- viii. Termination of Employment in Malaysia
 - In the event that:-
 - an approved individual stops working because he/she moved to another country before the expiry of the incentive period; or
 - an approved individual is transferred to other countries by his/her employer to work outside Malaysia, the REP incentive will expire upon the termination of employment in Malaysia as he/she no longer resides in Malaysia.
 - The tax incentive that had been claimed for the period he/she was working and residing in Malaysia would not be withdrawn.

Guidelines on the Establishment and Operations of Labuan Leasing Business

The Labuan Financial Services Authority has recently issued the revised Guidelines on the Establishment and Operations of Labuan Leasing Business dated 29th December 2017 to replace the previous Guidelines issued on 1st August 2013 and Clarification Note for Guidelines on the Establishment and Operations of Labuan Leasing Business issued on 10th October 2013.

The Guidelines clarify the application procedure, operational and regulatory requirements for Labuan companies carrying out leasing business and Islamic leasing business in Labuan International Business and Financial Centre.

Note: For further information on the previous Guidelines on the Establishment and Operations of Labuan Leasing Business, kindly refer to our Tax Flash – September 2013 issue.

Hyperlinks

➤ [Guidelines on the Establishment and Operations of Labuan Leasing Business](#)

➤ [Tax Flash – September 2013](#)

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GST

Subsequent to our May 2018 (Special Edition) publications, we wish to bring to your attention the following updates based on the latest Frequently Asked Questions (FAQ) Transitional 6% - 0% (revised as at 30th May 2018) issued by Royal Malaysian Customs Department ("RMCD"):-

- Issuance of Tax Invoice

It is now affirmed by RMCD through the latest FAQ that any registered person shall issue a tax invoice (instead of a commercial invoice) when making the standard rated supply with GST at 0%.

- Supply of Goods during Transitional Period

Based on FAQ No. 4.6, it appears that RMCD is of the view that GST at 0% should be accorded for tax invoice issued before 1st June 2018 in respect of goods supplied and payment received on / after 1st June 2018. Scenario 3 of the illustrations on supply of goods on page 3 of our May 2018 (Special Edition) publications has reference.

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