



TAX FLASH

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PR No. 2/2021 – Tax Deduction for Sponsoring Arts, Cultural and Heritage Activities

The Inland Revenue Board [“IRB”] has recently published the *Public Ruling [“PR”] No. 2/2021 – Tax Deduction for Sponsoring Arts, Cultural and Heritage Activities* to provide guidance on tax deduction available to a company for sponsoring any approved local or foreign arts, cultural and heritage activities in Malaysia under Section 34(6)(k) of the Income Tax Act 1967 [“ITA 1967”].

- [Moore Malaysia](#)
- [Moore Global](#)
- [Inland Revenue Board](#)

The salient points of the abovementioned PR include:-

- i. Sponsors have to fulfil the following criteria in order to be eligible for a tax deduction:-
 - the types of activities or programme related to arts, culture and heritage must be identified by the Ministry of Tourism, Arts and Culture Malaysia ["MOTAC"]
 - the form of sponsorship must be as determined by MOTAC
- ii. Activities or programmes of sponsorship which are eligible for tax deduction are as below:-
 - Stage performances
 - Festivals or fairs
 - Exhibitions or expo
 - Conferences, seminars, workshops, symposium and discourse
 - Preservation or conservation
 - Research, documentation or publication
 - Recording or production
 - Competition
 - Recognition or appreciation
 - Education or learning
 - Promotion or development
 - Marketing, product promotion or activities
 - Innovation
 - Content development
 - Archiving or creation of records or data
 - Other activities or programmes related to the arts, culture and heritage recognised by MOTAC
- iii. The form of sponsorship determined by MOTAC are as follows:-
 - Cash
 - Artist and professional fee
 - Purchase of goods and equipments
 - Event organising costs such as food and beverages, logistics, accommodations, venue rental, technical or sound system and lighting, decoration, security, equipment and utilities
 - Costs (cash or in kind) of production (product) approved by MOTAC
 - Prize sponsorship
 - Donation in kind such as goods or equipments or venue
 - Costs of preservation and conservation of heritage sites
 - Materials donation such as historic buildings, monuments and artifacts
 - Costs of research and development activities and programmes
 - Costs of marketing and promotion activities and programmes
 - Other forms of sponsorship recognised by MOTAC
- iv. Application for a Letter of Sponsorship
 - An organiser, representative or programme owner that wants to carry out an activity or programme would have to submit an application to MOTAC 30 days before it is carried out.
 - After reviewing the application, MOTAC may issue a supporting letter for sponsorship. Sponsorship may then be sourced from private or corporate sponsors.
- v. Application for a Letter of Approval for Tax Deduction
 - The organiser, representative or programme owner would have to submit an application to MOTAC not later than 90 days after the activity or programme has been carried out to obtain a letter of approval for tax deduction.

vi. Tax Deduction

- With effective from year of assessment ["YA"] 2020, tax deduction for sponsoring arts, cultural and heritage activities under Section 34(6)(k) of the ITA 1967 is given up to RM1,000,000 of which the amount allowed in respect of sponsoring foreign arts, cultural and heritage activities is RM300,000 per year.
- Approval letter for tax deduction (claimant) and the related documents to the activities/programme (the organiser/representative/programme owner) must be kept together with original documents and furnish to the IRB during a tax audit.

PR No. 3/2021 – Special Allowances for Small Value Assets

The IRB has recently issued the *PR No. 3/2021 – Special Allowances for Small Value Assets ["SVA"]* to provide guidance on the special allowances accorded to SVA. This new PR replaces the previous PR No. 10/2014 issued on 31st December 2014 with updates and explanation on the SVA.

Among others, it is noteworthy of the following updates/additional explanation included in the abovementioned PR:-

i. Tax Treatment Effective YA 2020 [Paragraph 8 of the new PR]

- Effective YA 2020, taxpayers are eligible for a special allowance claim of 100% on assets valued at RM2,000 (previously RM1,300) or less for each SVA. The total maximum qualifying plant expenditure ["QPE"] of special allowance can be claimed by non-small and medium company ["non-SMC"] is restricted to RM20,000 (previously RM13,000) for each year of assessment. However, this restriction is not applicable to small and medium company ["SMC"].
- SMC is eligible to claim special allowance on SVA without any limit if the company is a resident and incorporated in Malaysia that:-
 - has paid-up capital in respect of ordinary shares not exceeding RM2.5 million at the beginning of the basis period for a year of assessment; and
 - has gross income from a source or sources consisting of business not exceeding RM50 million for the basis period for that year of assessment.

ii. Steps to Claim Special Allowances [Paragraph 9 of the new PR]

- The following are 5 steps that can be followed to facilitate the claiming of special allowance for a year of assessment:-
 - Identify the value of each SVA not exceeding RM2,000 and not acquired on hire purchase.
 - Identify these SVAs which do not include assets that have an expected life span of not more than 2 years.
 - Determine the total QPE of SVA that can be claimed as follows:-
 - for non-SMC, limited to a maximum amount of RM20,000 per year of assessment;
 - for SMC, there is no limit for each year of assessment.
 - Claim normal capital allowances under Paragraphs 10 and 15 of Schedule 3 of the ITA 1967 on:-
 - assets that exceed RM2,000; and
 - assets that are removed to ensure that the total QPE does not exceed RM20,000 if the company is other than SMC.
 - Claim a special allowance for SVA under Paragraph 19A of Schedule 3 of the ITA 1967.

iii. Persons not Eligible to Claim Special Allowances [Paragraph 13 of the new PR]

- The persons who are not eligible to claim special allowances are:-
 - a business trust or a special purpose vehicle which is established for the purpose of asset-backed securitisation in a securitisation transaction approved by the Securities Commission; or

- a person who has elected to claim capital allowances under Paragraphs 10 and 15 of Schedule 3 of the ITA 1967.

iv. Hire Purchase of SVA [Paragraph 14 of the new PR]

- SVA acquired under hire purchase are not eligible for the claim of special allowances. The normal capital allowances claim under Paragraphs 10 and 15 of Schedule 3 of the ITA 1967 can be made on such SVA.

v. Disposal of SVA [Paragraph 15 of the new PR]

- A balancing charge shall be made in relation to a SVA on which special allowances had been claimed and disposed of subsequently in the basis period for a year of assessment, restricted to the amount of capital allowances claimed on that asset if its disposal value exceeds the residual expenditure.
- In a situation where a SVA is written off due to it being obsolete or damaged and the asset cannot be repaired or sold, its market value is considered to be zero.

Note: For more information on the previous PR No. 10/2014 – Special Allowance for SVA issued on 31st December 2014, kindly refer to our *Tax Flash – January 2015* and *Tax Flash – July 2016* issues.

Updated Operational Guidelines on Tax Clearance Letter Application for Companies, LLP and Labuan Entities

The IRB has recently issued the updated *Operational Guidelines No. 3/2021 - Tax Clearance Letter Application for Companies, Limited Liability Partnerships [“LLP”] and Labuan Entities dated 30th June 2021* (in *Bahasa Malaysia*) to replace the previous Operational Guidelines No. 2/2019 dated 12th November 2019.

The salient amendments included in the above updated Guidelines are as follows:-

- i. The tax clearance letter will be issued by the IRB within 14 working days from the date of application which must be submitted together with the relevant application form and complete supporting documents as specified in *Lampiran A, B and C* of the updated Guidelines for companies, LLP and Labuan entities respectively [Paragraph 1.2].
- ii. As an additional condition, tax audit up to the latest year of assessment will need to be completed prior to issuance of the tax clearance letter [Paragraph 4 (c)].

Note: For further information on the previous *Operational Guidelines on Tax Clearance Letter Application for Companies, LLP and Labuan Entities*, kindly refer to our *Tax Flash – December 2019* issue.

Extension of Tax Exemption on Income from Fund Management Services

Presently, tax exemption is granted to company resident in Malaysia in respect of statutory income derived from the businesses of providing fund management services to business trust or real estate investment trust, local investors and foreign investors in Malaysia in accordance with *Syariah* principles, up to the YA 2020.

Following the Budget 2020 announcement, the following Orders have been gazetted to extend the above tax exemption given to the company for another 3 years, until YA 2023:-

- *Income Tax (Exemption) (No. 6) Order 2021*;
- *Income Tax (Exemption) (No. 7) Order 2021*; and
- *Income Tax (Exemption) (No. 8) Order 2021*.

To be eligible for the exemption, the company is required to obtain annual certification from the Securities Commission Malaysia that the following conditions are satisfied:-

- i. the company provides fund management services to business trust or real estate investment trust / local investors / foreign investors in Malaysia in accordance with *Syariah* principles;
- ii. the company has at least two full-time employees in Malaysia with at least one of the employees holds a Capital Markets Services Representative's Licence under the Capital Markets and Services Act 2007; and
- iii. the company incurs annual operating expenditure of not less than RM250,000 in Malaysia.

The company shall need to maintain a separate account for the income derived from the above businesses which is treated as a separate and distinct source of business for the company.

The above Orders shall have effect from the YA 2021 until the YA 2023.

Note: For further information on the previous Orders, kindly refer to our [Tax Flash – May 2016](#) issue.

Stamp Duty Exemption for Purchase of Property under Home Ownership Campaign 2021

Following the *PEMERKASA* Plus Stimulus Package [*PEMERKASA* Plus] announced by the Government on 31st May 2021, the [Stamp Duty \(Exemption\) \(No. 4\) Order 2021](#) and [Stamp Duty \(Exemption\) \(No. 5\) Order 2021](#) have been gazetted to provide exemption from stamp duty for the purchase of residential property under the Home Ownership Campaign 2021 priced between RM300,001 to RM2.5 million as follows:-

- Exemption from payment of stamp duty exemption is given on loan agreement for the purchase of the abovementioned residential property executed between a Malaysian citizen (individual) named in a sale and purchase agreement and the designated loan provider; and
- Exemption from payment of stamp duty (restricted in respect of up to RM1 million of the market value of the residential property) is given on all instrument of transfer for the purchase of the abovementioned residential property.

The above stamp duty exemptions shall only apply if:-

- i. the sale and purchase agreement for the purchase of the residential property is between an individual and a property developer;
- ii. the purchase price in the sale and purchase agreement shall be a price after a discount of at least 10% from the original price offered by the property developer except for a residential property which is subject to controlled pricing; and
- iii. the sale and purchase agreement for the purchase of the residential property is executed between 1st June 2021 to 31st December 2021 and is stamped at any branch of the IRB.

A HOC 2021 Certification issued by the Real Estate and Housing Developers' Association (REHDA) Malaysia, Sabah Housing and Real Estate Developers' Association (SHAREDADA) or Sarawak Housing and Real Estate Developers' Association (SHEDA) must be submitted by the individual concerned to any branch of the IRB for the purpose of obtaining the exemption.

The above Orders are deemed to have come into operation on 1st June 2021.

Sales Tax and Service Tax Guides

Royal Malaysian Customs Department [“RMCD”] has published the following guides:-

- *Guide on Sales Tax Exemption under Item 5A of Schedule A of the Sales Tax (Persons Exempted from Payment of Tax) Order 2018* dated 13th July 2021 (currently only made available in *Bahasa Malaysia*);
- *General Guide on Service Tax* dated 4th August 2021 (currently only made available in *Bahasa Malaysia*); and
- *Guide on Electricity Delivery and Distribution Services* dated 4th August 2021 (currently only made available in *Bahasa Malaysia*); and
- *Guide on Clubs (i.e. Groups C, D and E)* dated 4th August 2021 (currently only made available in *Bahasa Malaysia*).

Guide on Management Services

RMCD has published the *Guide on Management Services* [“the Guide”] dated 4th August 2021 (currently only made available in *Bahasa Malaysia*). The salient points extracted from the Guide are as follows:-

- The RMCD has revised the Example 5A to as follows:-
 - Where an owner of a shopping complex charges a separate maintenance management fee in relation to maintenance of common area to its tenants, such charges are not subject to service tax.
 - However, if the owner charges a separate maintenance management fee in relation to the maintenance within the area leased by the tenants, such maintenance management services are taxable services and the fee charged is subject to service tax.

Service Tax Policy No. 10/2020 (Amendment No. 1)

RMCD has published the *Service Tax Policy No. 10/2020 (Amendment No. 1)* dated 9th August 2021 which provides for the service tax exemption on provision of digital services related to banking / financial services.

As you are aware, the *Service Tax Policy No. 10/2020* issued by RMCD on 17th April 2020 provides that digital services related to banking / financial services provided by local service providers are not subject to service tax effective 1st January 2020.

Apart from the licensed financial institutions and banks, the above exemption is also applicable to any digital service provider who fulfills the following criteria:-

- a. He is a registered person under the Service Tax Act 2018;
- b. He is a digital service provider in Malaysia; and
- c. Provides digital service in relation to service of withdrawals or transfer of funds from one bank.

The Service Tax Policy No. 10/2020 (Amendment No. 1) is issued to provide further clarification in respect of item (c) above whereby item (c) above shall be supplemented as follows:-

- i. Digital service provider is a provider who imposes fees / charges to a service recipient (i.e. the bank account holder) to initiate transfer or withdrawal of fund;
- ii. The fee / charge refers to the fee / charge imposed on transactions involving withdrawal or transfer of fund only; and
- iii. The fee / charge is charged directly to the service recipient (i.e. the bank account holder).

Note: For further details, kindly refer to our *Tax Flash – May 2020* issue.

Sales Tax Order

The *Sales Tax (Persons Exempted from Payment of Tax) (Amendment) (No. 3) Order 2021* was gazetted and took effect from 6th August 2021.

Submission of Sales Tax and Service Tax Returns for the Taxable Period of May 2021 and June 2021

RMCD has issued a *notice dated 11th August 2021* in relation to the submission of returns and payment of sales tax and service tax for the taxable period of May 2021 and June 2021 which is due on 31st July 2021. The salient points pertaining to this notice are summarised below:-

- Any registered manufacturer / registered person who is unable to submit the sales tax / service tax return for the taxable period of May 2021 and June 2021 on or before 31st July 2021 due to the implementation of the Movement Control Order will be given an extension of time until 31st August 2021 to do so.
- Any penalty imposed for the late submission of the sales tax / service tax return or for the late payment of sales tax / service tax for the taxable period of May 2021 and June 2021 will be remitted upon receipt of the application made by the abovementioned registered manufacturer / registered person provided that the sales tax / service tax return and the payment are submitted / made no later than 31st August 2021.

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