



TAX FLASH

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PR No. 2/2022 – Tax Incentive for Organising Conferences in Malaysia

The Inland Revenue Board [“IRB”] has recently issued the *Public Ruling [“PR”] No. 2/2022 – Tax Incentive for Organising Conferences in Malaysia* to provide clarification on tax incentive available to:-

- conference promoter who is principally engaged in promoting and organising conferences in Malaysia; and
- qualifying person who is carrying on a business or activity other than promoting and organising conferences in Malaysia.

The salient points of the abovementioned PR are as below:-

- i. Tax Incentive under Income Tax (Exemption) (No. 53) Order 2000
 - Eligibility Criteria of a Conference Promoter

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

- A conference promoter must be:-
 - a company incorporated under the Companies Act 2016; or
 - an association or organisation registered under the Societies Act 1966; and
 - a resident in Malaysia who is principally engaged in promoting and organising conferences in Malaysia.
 - To be eligible for the tax incentive under the Order, the conference promoter must bring in at least 500 foreign participants to attend conferences held in Malaysia in the basis year for a year of assessment.
 - Scope and Period of Exemption
 - The exemption given is on 100% of the statutory income derived from organising conferences held in Malaysia in the relevant year of assessment.
 - The abovementioned Order is effective from the year of assessment ["YA"] 1997.
- ii. Tax Incentive under Income Tax (Exemption) (No. 4) Order 2021
- Eligibility Criteria of a Qualifying Person
 - A qualifying person must be:-
 - a company incorporated under the Companies Act 2016; or
 - an association or organisation registered under the Societies Act 1966; and
 - a resident in Malaysia carrying on a business or activity other than promoting and organising conferences in Malaysia.
 - To be eligible for the tax incentive under the Order, the qualifying person must bring in at least 500 foreign participants to attend conferences held in Malaysia in the basis year for a year of assessment.
 - Scope and Period of Exemption
 - The exemption given is on 100% of the statutory income derived from organising conferences held in Malaysia in the relevant year of assessment.
 - The abovementioned Order is effective from YA 2020 until YA 2025.

Eligible organisers of the conference who are seeking an exemption under either of the abovementioned Orders are required to maintain a separate account for the income derived from organising conferences held in Malaysia.

Note: For further details, kindly refer to our [Tax Flash – June 2021](#) issue.

PR No. 3/2022 – Taxation of Foreign Fund Management Company

The IRB has recently issued the [PR No. 3/2022 – Taxation of Foreign Fund Management Company](#) to provide guidance on the tax treatment of income received by a foreign fund management company that provides fund management services to foreign and local investors. This new PR replaces the PR No. 7/2019 issued on 3rd December 2019 with rephrasing of paragraphs / examples and latest amendments.

The pertinent amendments included in the new PR are as follows:-

- i. Foreign Fund Management Companies in Malaysia
 - The previous condition stipulated by the Securities Commission Malaysia ["SC"] for the licensing of foreign fund management companies was that at least 50% of the paid-up capital to be owned by foreign equity holders. This condition has been revoked since 10th March 2021.

- ii. Funds of Foreign and Local Investors Managed According to *Shariah* Principles
- Statutory income derived from the provision of fund management services of Islamic funds, which shall be certified by the SC to both foreign and local investors are exempted from payment of tax.
 - This tax exemption is extended further i.e. for the YA 2021 to YA 2023 pursuant to the Income Tax (Exemption) (No. 8) Order 2021 and Income Tax (Exemption) (No. 7) Order 2021 for funds of foreign investors and funds of local investors respectively managed according to *Shariah* principles.
 - The above exemption is subject to the company obtaining annual certification from the SC that the following conditions have been fulfilled:-
 - provides fund management services to foreign / local investors in Malaysia in accordance with *Shariah* principles;
 - has at least 2 full-time employees in Malaysia, of which one of the employees holds a Capital Markets Services Representative's License under the Capital Markets and Services Act 2007; and
 - incurs annual operating expenditure of at least RM250,000.

Note: For further information relating to the previous PR No. 7/2019, kindly refer to our [Tax Flash – January 2020](#) issue.

Revised Guidelines on Deduction of Expenses in Relation to Secretarial Fee and Tax Filing Fee Commencing from YA 2022

Following the gazette of the Income Tax (Deduction for Expenses in Relation to Secretarial Fee and Tax Filing Fee) (Amendment) Rules 2021, the IRB has recently issued the revised [Guidelines on Deduction of Expenses in Relation to Secretarial Fee and Tax Filing Fee Commencing from YA 2022](#) dated 17th August 2022 (available in *Bahasa Malaysia*) to clarify the tax treatment on deduction of expenses in relation to secretarial fee and tax filing fee from the YA 2022 onwards.

Salient points of the abovementioned revised Guidelines include:-

- Commencing from YA 2022, a total of RM15,000 (maximum) of secretarial fee and tax filing fee incurred in a basis period for the year of assessment shall be allowed for tax deduction (previously “incurred and paid” basis).
- Any secretarial fee and tax filing fee incurred in the basis periods for the YA 2020 and 2021 that have not been claimed yet will be allowed for tax deduction upon payment made, in YA 2022 or thereafter. However, the amount of deduction allowed (inclusive of the amount incurred in YA 2022 or thereafter) remains limited to RM15,000 per year of assessment.
- As for the secretarial fee and tax filing fee incurred prior to the basis period for the YA 2020 which have yet to be paid, (i.e. not claimed for tax deduction), no deduction shall be allowed from YA 2022 onwards.

Note: For further information on the Income Tax (Deduction for Expenses in Relation to Secretarial Fee and Tax Filing Fee) (Amendment) Rules 2021, kindly refer to our [Tax Flash – January 2022](#) issue.

Guidelines on Malaysia Digital Status

Following the launching of Malaysia Digital [“MD”] initiative by the Government on 4th July 2022, which will succeed Multimedia Super Corridor Malaysia, the Government through the Malaysia Digital Economy Corporation [“MDEC”] has recently issued the [Guidelines on MD Status](#) setting forth the benefits and incentives, eligibility criteria, applicable conditions and post approval matters.

This initiative will drive digital transformation of focus areas that present high growth potential, opportunities and importance. The Government through the MDEC will award MD Status to eligible companies that participate in and undertake any of the MD activities.

Salient points of the abovementioned Guidelines include:-

i. MD Activity

- The Guidelines apply to a company carrying on research, development and commercialisation of solution and/or provision of services in relation to any of the following technologies or areas:-
 - big data analytics;
 - artificial intelligence;
 - financial technology;
 - internet of things;
 - cybersecurity (technology / software / design and support);
 - data centre and cloud;
 - blockchain;
 - creative media technology;
 - sharing economy platform;
 - user interface and user experience;
 - integrated circuit design and embedded software;
 - 3D printing (technology / software / design and support);
 - robotics (technology / software / design);
 - autonomous technologies;
 - systems / network architecture design and support;
 - global business services or knowledge process outsourcing;
 - virtual, augmented and/or extended reality;
 - drone technology;
 - advance telecommunication technology; or
 - other emerging technologies deemed significant for the digital ecosystem subject to approval by the Approval Committee.

ii. Eligibility Criteria

- The company must be:-
 - incorporated under the Companies Act 2016 and resident in Malaysia; and
 - proposing to carry out or is currently carrying out one or more of the MD activities.

iii. Conditions of MD Status

- Conditions to be complied within 12 months from date of award of MD Status:-
 - commencement of operation and undertaking of the MD Approved Activities in Malaysia;
 - employ at least 2 full-time employees (comprising knowledge workers) with minimum average monthly base salary of RM5,000 for the MD Approved Activities;
 - incurred annual operating expenditure of at least RM50,000 for the MD Approved Activities; and
 - has at least RM1,000 of paid-up capital.

iv. Other General Conditions

- The implementation of the MD Approved Activities is subject to compliance and adherence to the applicable laws and regulations as enacted by the Government of Malaysia.
- MD Status companies must also comply with all applicable permit / licensing requirements and ensure that the required permit / license has been obtained from the relevant authority for the implementation of the MD Approved Activities.

- v. Benefits to MD Status Companies - MD Bill of Guarantees
- MD bill of guarantees is a set of incentives, rights and privileges made available for MD Status companies which reflects the Government's intention to provide an environment in Malaysia that is conducive to the development of MD Status companies.
 - MD Status companies are eligible to access or apply for (subject to separate approvals being obtained (if required), applicable eligibility criteria and conditions, laws and regulations):-
 - foreign knowledge worker quota and passes;
 - tax incentives i.e. income tax exemption or investment tax allowance (subject to the applicable eligibility criteria and conditions);
 - multimedia / ICT equipment import duty and sales tax exemption;
 - competitive and ready infrastructure for business available at MD Cybercities / Cybercentres;
 - freedom of ownership by exempting from local ownership requirements;
 - flexibility to source capital and funds globally; and/or
 - MDEC as the one-stop agency for MD Status companies.

The above Guidelines shall have effect from 30th June 2022.

Sales Tax and Service Tax Guides

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

- [Guide on Sales Tax Exemption under Schedule C, Sales Tax \(Persons Exempted from Payment of Tax\) Order 2018](#) dated 22nd July 2022; and
- [Guide on Customs Agent Services](#) dated 9th August 2022.

Sales Tax (Amendment) Regulations 2022

The [Sales Tax \(Amendment\) Regulations 2022](#) was gazetted and took effect from 15th August 2022. The salient points extracted from the Regulations are as follows:-

- SST-02 return shall be furnished to the Director General ["DG"] and deemed to be received by the DG through electronic service or in any manner as the DG may determine. Following this amendment, it is unclear as to whether the DG will still allow a registered manufacturer to submit the SST-02 return by post or courier services to the Customs Processing Centre located at Kelana Jaya or not.
- Payments of sales tax (including surcharge, penalty, fee and etc) shall be made by electronic banking or in any manner as the DG may determine. Similar to the above, further clarification will need to be sought from RMCD as to whether a registered manufacturer will still be allowed to make such payments via non-electronic means, such as sending cheques or bank drafts for payments of sales tax to the Customs Processing Centre by post or courier services.
- The amount of such payment shall be deemed not to have been received by the DG until it is lodged to the credit of the DG.

Service Tax (Digital Services) (Amendment) Regulations 2022

The [Service Tax \(Digital Services\) \(Amendment\) Regulations 2022](#) was gazetted and took effect from 15th August 2022. The salient points extracted from the Regulations are as follows:-

- The DG may, upon receipt of the request made in writing by any foreign registered person ["FRP"] and subject to the conditions as the DG deems fit, allow any prescribed particulars not to be stated in a credit note or debit note issued by the FRP. This essentially means that omission of certain prescribed particulars from the credit note or debit note is permissible with the written approval of the DG.
- For the purposes of receiving returns and payments of service tax or penalty payable, if the last day to receive such returns and payments falls on the Federal weekly holiday or Federal public holiday in Malaysia or in the country where the FRP is established, that day remains the last day for submission of the returns and making of payments by the FRP. In other words, the relaxation granted to other sales tax registrants or service tax registrants to regard the next business day following the holiday as the last day for submission or payment does not apply.

Sales Tax (Exemption from Registration) (Amendment) Order 2022

The *Sales Tax (Exemption from Registration) (Amendment) Order 2022* was gazetted on 1st September 2022 but the effective date of this Order is not stated. The salient points extracted from the Order are as follows:-

- Any person who operates only one manufacturing operation out of several operations in a manufacturing chain to produce "a" goods and that operation is specified in Schedule A to the Order, such person is exempted from registration under Section 13(1) of the Sales Tax Act 2018 irrespective of the total sales value of the taxable goods in the period of 12 months.
- Notwithstanding the above, if the person operates more than one manufacturing operation as specified in Schedule A to the Order and such manufacturing operations do not relate to the production of any goods, the person is also exempted from registration.
- The list of operations as mentioned in Schedule A to the Order has been updated or revised.

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