



MOORE Advent

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Updated Operational Guidelines on Application Procedure for SPC for Individual

The Inland Revenue Board ["IRB"] has recently uploaded the updated *Operational Guidelines No. 2/2024 – Application Procedure for Tax Clearance Letter ["SPC"] for Individual* (in Bahasa Malaysia) dated 1st January 2024 to replace the previous Operational Guidelines No. 2/2016 dated 12th February 2016.

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

i. Employer's Responsibilities

- The employer is not required to submit the Form CP22A / Form CP22B to the IRB in respect of an individual in the circumstances where:-
 - the remuneration has been subjected to Monthly Tax Deduction ["MTD"]; or
 - the monthly remuneration is below the MTD threshold.

ii. Employee's Responsibilities

- The employee must remit the balance of tax payable for a year of assessment by the due date specified by the IRB even if an appeal has been made against an assessment.

iii. IRB's Responsibilities

- The status of the employee's SPC application submitted via e-SPC at MyTax Portal will be updated by the IRB.

iv. Method of Application

- The employee's SPC application must be submitted online through e-SPC at MyTax Portal via the input web form. In the case of group application, the SPC applications can be submitted by uploading the data in txt file format.
- Correction or cancellation of SPC application must be submitted to the IRB office that handles the employee's income tax file or to the nearest IRB office until such time when this facility is implemented in e-SPC at MyTax Portal.
- Submission of amended or additional SPC application may be made to the IRB via email or online customer feedback form.

Note: For further information relating to the previous Operational Guidelines No. 2/2016, kindly refer to our *Tax Flash – April 2016* issue.

PN No. 1/2024 – Tax Treatment on the Recognition of Actual Gross Profit or Loss from a Construction Contract

The IRB has recently issued the *Practice Note No. 1/2024 – Tax Treatment on the Recognition of Actual Gross Profit or Loss from a Construction Contract* (in Bahasa Malaysia) dated 29th March 2024 ["the PN"]. This is to provide clarification on the tax treatment on the recognition of actual gross profit or loss from a construction contract.

Pursuant to Regulation 10 of the Income Tax (Construction Contracts) Regulations 2007 ["the Regulations"], a construction contract shall be deemed to have been completed on a date on which the certificate of practical completion ["CPC"] (or any other certification which has a similar effect) is issued by an authorised person or body, or where no such certificate is issued, on the date upon which the contract is substantially completed, i.e. 95% of the total estimated construction costs have been incurred.

Pursuant to Regulation 12 of the Regulations, where in a basis period for a year of assessment a construction contract is deemed to have been completed, the construction contractor shall ascertain the actual gross profit or loss from the contract based on the actual contract revenue and actual contract costs incurred for the basis period. In the event that the actual gross profit of the contract based on the final account of the contract received after the basis period in which the contract is deemed to have been completed is more than the total estimated gross profit which has been taken as gross income of contractor, the excess shall be treated as gross income in the basis period in which the contract is deemed to have been completed, where a revision of the prior year's tax computation will be required.

With effect from the year of assessment ["YA"] 2023, the PN provides that in the case where the final account of the contract is received after the basis period in which the contract is deemed to have been completed, the construction contractor shall ascertain and recognise the actual gross profit or loss in the earlier of following basis periods:-

- 12 months after the contract is deemed to have been completed; or
- the date when the final account for the contract is agreed between the construction contractor and the customer.

The PN provides examples on the tax treatment on the recognition of actual gross profit or loss from a construction contract (company's accounts are made up to 31st December) under various scenarios as follows:-

Scenario	Facts	Tax Treatment
i. Example 3 of the PN (Final Account is Received within 12 months from the Date of Completion of Contract)	• Date of completion of contract (i.e. date when CPC is issued): 1st August 2022 (YA 2022) • Final account received on 20th July 2023 (YA 2023)	The excess actual gain profit ascertained based on the final account is taken into account in YA 2023 as gross income.
ii. Example 4 of the PN (Final Account is received after 12 months from the Date of Completion of Contract and within the First Basis Period after the Date of Completion of Contract)	• Date of completion of contract (i.e. date when CPC is issued): 1st August 2022 (YA 2022) • 12 months after the completion date, i.e. 31st July 2023 (YA 2023) • Final account received on 1st October 2023 (YA 2023)	The excess actual gain profit ascertained based on the final account is taken into account in YA 2023 as gross income.
iii. Example 5 of the PN (Final Account is received after 12 months from the Date of Completion of Contract and beyond the First Basis Period after the Date of Completion of Contract)	• Date of completion of contract (i.e. date when CPC is issued): 1st August 2022 (YA 2022) • 12 months after the completion date, i.e. 31st July 2023 (YA 2023) • Final account received on 1st April 2024 (YA 2024)	The excess actual gain profit ascertained based on the final account is taken into account in YA 2023 as gross income, where a revision of tax computation for YA 2023 will be required.

Extension of Tax Exemption for Provision of Fund Management Services for SRI Fund

The Income Tax (Exemption) (No. 5) Order 2021 provides that a qualifying company is exempted from payment of income tax in respect of statutory income derived from the business of providing fund management services for Sustainable and Responsible Investment [“SRI”] Fund in Malaysia from the YA 2021 to YA 2023.

Following the 2024 Budget announcement, the [Income Tax \(Exemption\) \(No. 5\) Order 2021 \(Amendment\) Order 2024](#) has been gazetted to extend the period of tax exemption for another 4 years.

The above amendment Order shall have effect from the YA 2024 until YA 2027.

Note: For further information on the previous Income Tax (Exemption) (No. 5) Order 2021, kindly refer to our [Tax Flash – June 2021](#) issue.

Extension of Tax Exemption for Provision of Fund Management Services for Shariah-Compliant Funds

Currently, 100% income tax exemption is granted to qualifying companies in respect of statutory income derived from providing management services of Shariah-compliant fund to the following:-

- Business Trust and Real Estate Investment Trust [Income Tax (Exemption) (No.6) Order 2021];
- Local investors [Income Tax (Exemption) (No.7) Order 2021]; and
- Foreign investors [Income Tax (Exemption) (No.8) Order 2021].

The exemption period granted for the above is from YA 2021 to YA 2023.

Following the 2024 Budget announcement, the following amendment Orders have been gazetted to extend the tax exemption period for another 4 years with reduction in tax exemption to 60% of the statutory income:-

- [Income Tax \(Exemption\) \(No.6\) Order 2021 \(Amendment\) Order 2024](#);
- [Income Tax \(Exemption\) \(No.7\) Order 2021 \(Amendment\) Order 2024](#); and
- [Income Tax \(Exemption\) \(No.8\) Order 2021 \(Amendment\) Order 2024](#).

The above amendment Orders shall have effect from the YA 2024 to YA 2027.

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

Updated E-Invoice Guideline [Version 2.3], Updated E-Invoice Specific Guideline [Version 2.1] and E-Invoice Software Development Kit 1.0

The IRB has recently issued the following documents with further clarifications and amendments pertaining to the implementation of e-Invoice as well as the integration of the taxpayers systems for e-Invoice:-

- Updated [e-Invoice Guideline dated 6th April 2024 \[Version 2.3\]](#) to replace the previous guidelines uploaded on 9th February 2024;
- Updated [e-Invoice Specific Guideline dated 6th April 2024 \[Version 2.1\]](#) to replace the previous guidelines uploaded on 9th February 2024; and

- [e-Invoice Software Development Kit 1.0 \(updated on 10th May 2024\)](#), which is a collection of tools, libraries and resources providing a set of functionalities, Application Programming Interfaces and development guidelines aimed at aiding taxpayers to integrate their existing systems to the MyInvois System.

Note: For further information on the previous e-Invoice Guideline and e-Invoice Specific Guideline, kindly refer to our [Tax Flash – August 2023](#), [Tax Flash – November 2023](#) and [Tax Flash – March 2024](#) issues.

Sales and Service Tax Guides

The Royal Malaysian Customs Department [“RMCD”] has published the following sales and service tax guides recently:-

- [Guide on Sales Tax Exemption under Schedule C, Sales Tax \(Persons Exempted from Payment of Tax\) Order 2018](#) dated 18th April 2024;
- [Guide on Food and Beverages](#) dated 19th April 2024 (in Bahasa Malaysia);
- [Guide on Sales Tax Exemption under Items 33A, 33B, 55, 63, 64 & 65, Schedule A, Sales Tax \(Persons Exempted from Payment of Tax\) Order 2018](#) dated 25th April 2024; and
- [Guide on Disposal](#) dated 30th April 2024 (in Bahasa Malaysia).

Public Ruling No. 2/2024 (Amendment) 2024 – Manufacturing Aids and Cleanroom Equipment

RMCD has published the [Public Ruling No. 2/2024 \(Amendment\) 2024 – Manufacturing Aids and Cleanroom Equipment](#) dated 24th April 2024 (in Bahasa Malaysia) to expand the list of manufacturing aids in Appendix 1 whereby the following items have been included for sales tax exemption purpose:-

No.	List of Manufacturing Aids
238.	Perforated Kraft Paper
239.	Food Grade Kf-100 White Mineral Oil
240.	Plate Mounting Tape
241.	Poly Tetrafluoroetilena [“PTFE”]
242.	Paperband

Note: For further details, kindly refer to our [Tax Flash – January 2024](#) issue.

Service Tax Policy No. 6/2024 – Exemption from Payment and Imposition of Service Tax on Maintenance or Repair Services for MRO Activities

The [Service Tax Policy No. 6/2024 – Exemption from Payment and Imposition of Service Tax on Maintenance or Repair Services for Maintenance, Repair and Overhaul \[“MRO”\] Activities](#) [“STP 6/2024”] dated 30th April 2024 (in Bahasa Malaysia) has been published. The salient points extracted from the STP 6/2024 are as follows:-

- MRO activities are those maintenance, repair and overhaul activities defined by the Malaysian Investment Development Authority [“MIDA”] under the Malaysian Aerospace Industry Blueprint 2030 for the aerospace sector and the Shipbuilding and Ship Repairing [“SBSR”] incentive for the maritime sector.
- The following recipients of the MRO services are exempted from the payment of service tax on the MRO services acquired from the specified service providers as detailed in the next bullet point:-
 - Airlines holding an Air Operator Certificate issued by the Civil Aviation Authority of Malaysia [“CAAM”];

- Shipping companies registered with the Malaysian Maritime Department;
- Federal and State Government Departments such as the Malaysian Armed Forces, the Royal Malaysian Police and the Fire and Rescue Department; or
- Recipients of MRO services located abroad.
- The following service providers are exempted from charging service tax on the MRO services rendered to the service recipients specified in the above bullet point:-
 - Approved Maintenance Organisation registered with CAAM; or
 - SBSR approved by MIDA.
- For recipients of the MRO activities located abroad, the goods or equipment involved in the MRO activities carried out in Malaysia must be transported out of Malaysia, in accordance with the conditions set by RMCD.
- This exemption is valid from 1st March 2024 to 31st December 2027.
- Any service tax collected must be remitted to RMCD and no refund will be provided to any party that has paid service tax on the MRO services rendered from 1st March 2024.

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