



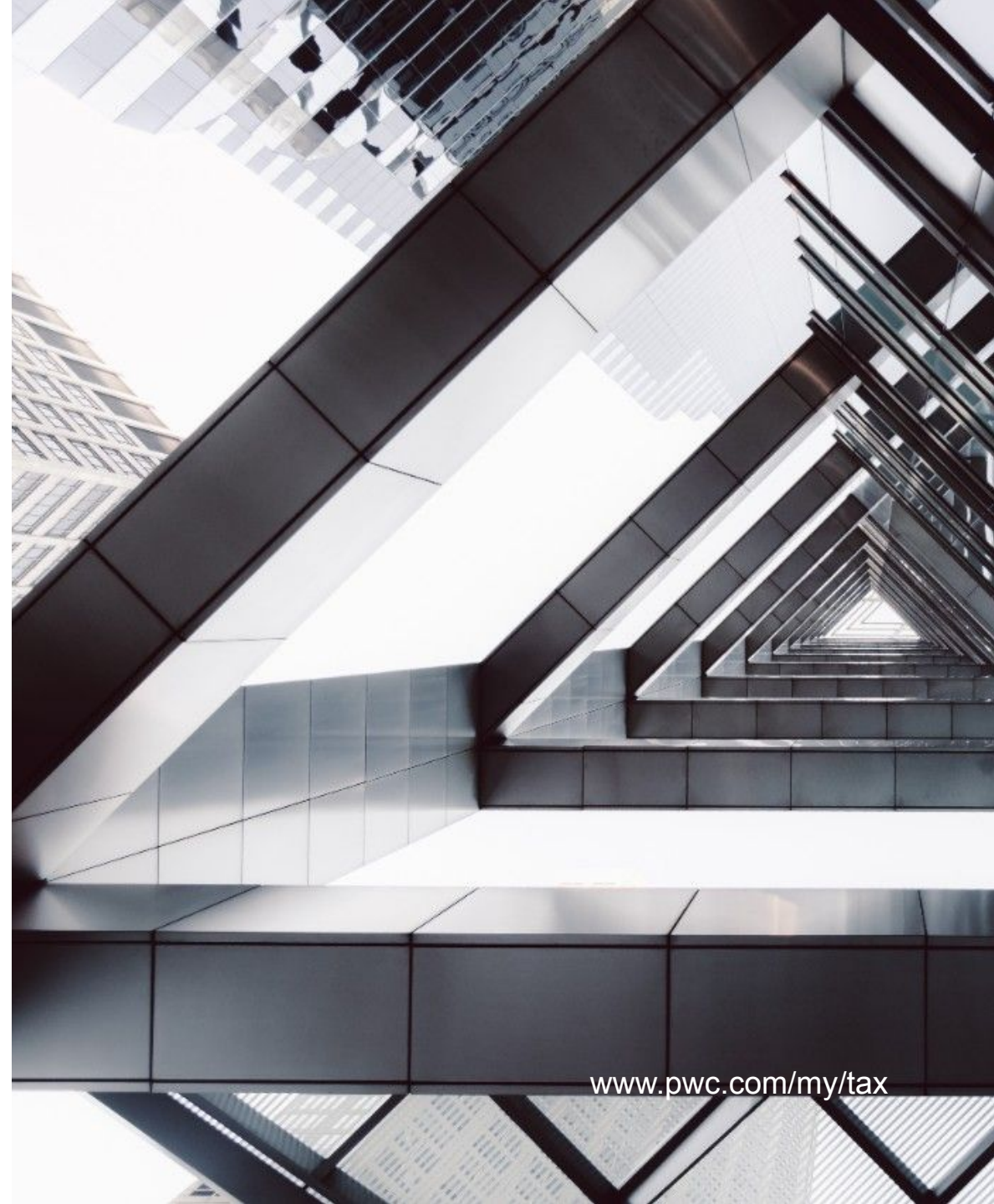
Taxavvy

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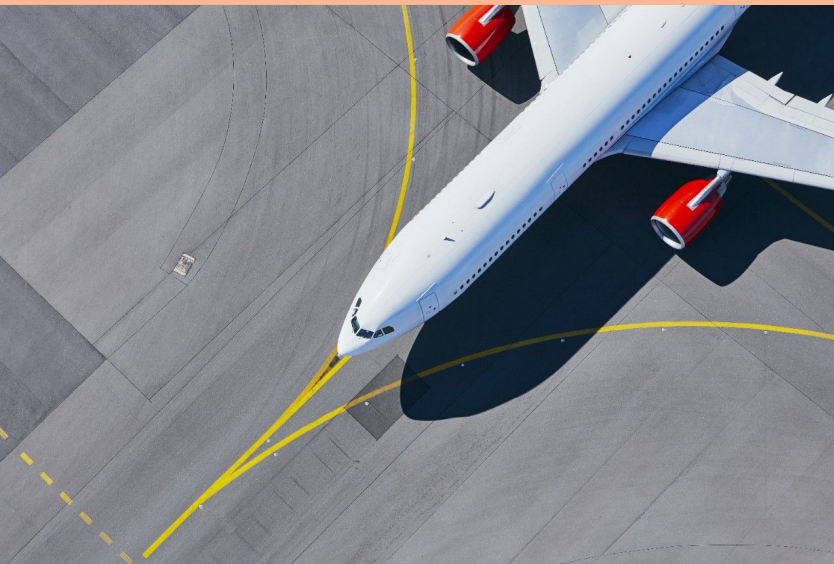
FAQ on International Tax Issues due to COVID-19 Travel Restrictions - Updated

The Inland Revenue Board (IRB) has issued an updated FAQ on International Tax Issues due to COVID-19 Travel Restrictions dated 9 February 2021.

The following are the key updates:

- The movement control order (MCO) period that is covered under the FAQ is now specified as the period from 18 March 2020 as prescribed and **extended** by the Ministerial order made under section 11 of the Prevention and Control of Infectious Diseases Act 1988 **as gazetted from time to time**.
- Tax treatments based on the FAQ are now subject to applications to be made to the IRB. Applications are to be referred to the branch that handles the taxpayer's income tax file. If an income tax file has not been registered, applications should be made to the Non-Resident Branch. Applications will be reviewed according to the merits of each case. Confirmation of taxability from foreign tax authorities may be requested.

The FAQ can be downloaded from IRB's website www.hasil.gov.my (Homepage > Quick Links > FAQs Movement Control Order & Economic Stimulus Package).



FAQ on Special Deduction for Rental Reduction for Business Premises

The IRB has issued an updated FAQ on Special Deduction for Rental Reduction for Business Premises dated 19 February 2021. The FAQ is revised to incorporate the announcement made on 18 January 2021 under the PERMAI assistance package.

The salient updates to the FAQ on the special deduction to be given to landlords of business premises who offer at least 30% reduction in monthly rental are as follows:

Extension of incentive period for rental reduction given to SME tenants

The special deduction covers qualifying rental reductions given from April 2020 to June 2021 (previously up to March 2021).

Expansion of incentive to cover non-SME tenants

The special deduction covers qualifying rental reductions from January 2021 to June 2021.

SME status certification

SME status certificate issued by the SME Corp until 30 June 2021 can be used as confirmation of SME status of the tenant for purposes of the special deduction.

This special deduction is subject to rules to be gazetted.

The FAQ can be downloaded from IRB's website www.hasil.gov.my (Homepage > Quick Links > FAQs Movement Control Order & Economic Stimulus Package).



Operational Guideline 1/2021 - Submission of Estimate of Tax Payable under Section 107C of the Income Tax Act 1967 ("GPHDN 1/2021")

The IRB has issued GPHDN 1/2021 which is an updated version of GPHDN 1/2017 on the same topic. The contents have been rewritten and updated based on current legislation and practices.

GPHDN 1/2021 is available on the IRB's website www.hasil.gov.my (Legislation > Operational Guidelines).



The following are some key points to note:

Monthly instalment of estimate of tax payable as a result of change of accounting period

1. Paragraph 4 of GPHDN 1/2021 sets out the implications to the monthly instalment amounts as a result of change in accounting period. It supersedes paragraph 6 of Public Ruling No. 8/2019 - Notification of Change of Accounting Period of a Company, LLP, Trust Body, Co-operative Society ("PR 8/2019"). The IRB has indicated on its website that PR 8/2019 is currently under review and will be updated to be aligned with GPHDN 1/2021.
2. Changes to estimate of tax payable will no longer be based on the amount indicated by the taxpayer in the notification of change in accounting period (Form CP204B). In this connection, the field to insert the estimated tax payable as a result of change in accounting period has been removed from the current Form CP204B. In lieu of this, the monthly instalment amounts after the change of accounting period are generally determined as follows:
 - The monthly instalment amounts for the new accounting period will follow the monthly instalment amount of the original basis period. Example, where RM1,000 is payable per month, the same amount will apply for each month of the new basis period.
 - Where the accounting period is extended beyond 12 months ending in a third year [refer to paragraphs 4.5(i) and (ii) on page 25 of GPHDN 1/2021 onwards for details]:
 - CP204B is submitted in the first basis period of the failure year: The monthly instalment amounts for the first basis period will be based on the monthly instalment of the original basis period, and the monthly instalment sum for the second basis period will be based on the CP204 for that second basis period.
 - CP204B is submitted in the second basis period of the failure year: The monthly instalment amounts for the first basis period will be based on the monthly instalment of the original basis period, and the monthly instalment sum for the second basis period will be based on a CP205 notice to be issued by the IRB.

Monthly instalment of estimate of tax payable as a result of change of accounting period (con't)*Example: CP204B is submitted in the first basis period of the failure year*

Original accounting period	1.1.2020 - 31.12.2020 (12 months)
New accounting period	1.1.2020 - 31.1.2021 (13 months)
Last date for submission of CP204B	30.11.2020
Date CP204B is submitted	21.6.2020 (in first basis period)
Original tax estimate (CP204) for YA 2020	RM12,000 (5 monthly instalments of RM1,000 paid until June 2020)
Original tax estimate (CP204) for YA 2021	RM60,000

Summary of basis periods and tax estimates to be paid

Accounting period	YA*	Basis period	No. of months	Tax estimate	Original instalment scheme	New instalment scheme
Original ending 31.12.2020	2020	1.1.2020 - 31.12.2020	12	RM12,000 (CP204)	RM1,000 x 12 months (Feb 2020 to Jan 2021)	RM1,000 x 5 months (Feb 2020 to June 2020)
New ending 31.1.2021	2020	1.1.2020 - 31.7.2020	7			RM1,000 x 7 months (Feb 2020 to Aug 2020)
	2021	1.8.2020 - 31.1.2021	6	RM60,000 (CP204)	RM10,000 x 6 months (Sep 2020 to Feb 2021)	

*Year of assessment

Monthly instalment of estimate of tax payable as a result of change of accounting period (con't)*Example: CP204B is submitted in the second basis period of the failure year*

Original accounting period	1.1.2020 - 31.12.2020 (12 months)
New accounting period	1.1.2020 - 31.1.2021 (13 months)
Last date for submission of CP204B	30.11.2020
Date CP204B is submitted	10.11.2020 (in second basis period)
Original tax estimate (CP 204) for YA 2020	RM12,000 (9 monthly instalments of RM1,000 paid until October 2020)

Summary of basis periods and tax estimates to be paid

Accounting period	YA	Basis period	No. of months	Tax estimate	Original instalment scheme	New instalment scheme
Original ending 31.12.2020	2020	1.1.2020 - 31.12.2020	12	RM12,000	RM1,000 x 12 months (Feb 2020 to Jan 2021)	
New ending 31.1.2021	2020	1.1.2020 - 31.7.2020	7			RM1,000 x 9 months (Feb 2020 to Oct 2020)
	2021	1.8.2020 - 31.1.2021	6	Note		IRB to issue CP205 notice

Note: Taxpayer is still required to furnish CP204 for YA 2021 when submitting CP204B.

Monthly instalment of estimate of tax payable as a result of change of accounting period (con't)

- Where there is a change of accounting period and revision of estimate of tax payable is required at the same time, the revision of estimate of tax payable is to be submitted separately via Form CP204A in the 6th or 9th month of the basis period, after having submitted Form CP204B.

Computation of 10% increase in tax for underestimation of tax payable where withholding tax (WHT) is involved

Any WHT suffered in cases such as a non-resident corporate taxpayer which files an income tax return but has also suffered withholding tax on income received, is to be deducted from the tax payable for purposes of computing the underestimation of tax payable. This is illustrated in an example on page 36. An extract of the example is reproduced below:

YA	Estimate of tax payable	WHT paid	Actual tax payable	Difference between estimate of tax payable and actual tax payable	30% x actual tax payable
	(RM)	(RM)	(RM)	(RM)	(RM)
2017	0	500	2,400	2,400	720

The formula for computing the increase in taxes where WHT is involved is:

$$[(\text{Actual tax payable} - \text{estimate of tax payable} - \text{WHT paid}) - (30\% \text{ of actual tax payable})] \times 10\% \text{ increase}$$

Hence, the increase in tax for YA 2017 is as follows:

$$\begin{aligned} &= [(2,400 - 0 - 500) - (30\% \times 2,400)] \times 10\% \\ &= (1,900 - 720) \times 10\% \\ &= 1,180 \times 10\% \\ &= \text{RM}118 \end{aligned}$$

Tax Collection Framework 2021

The IRB has issued an updated Tax Collection Framework dated 3 February 2021 which replaces the earlier framework dated 20 April 2016. The updates align the contents to current legislation and practices.

The framework is available on IRB's website www.hasil.gov.my (Legislation > Tax Collection Framework)



The following are the salient changes to note:

Computation of 10% increase in tax for late payment of tax instalments

The 10% increase in tax will be imposed on instalments of estimate of tax payable that are outstanding after the due date without issuance of any notification.

Cash / cheque payments

IRB will cease accepting cheque payments by post / courier in stages in 2021 and will eventually stop accepting cash and cheque payments from 1 April 2021. However, this will not apply for cash / cheque payments for:

- Withholding taxes
- Real property gains taxes
- Taxes of Public Entertainers
- Compounds

Payments (down payments and instalments) arising from tax audit and investigation cases may still be made at the Kuala Lumpur Payment Centre. However, this practice will cease when the online direct debit method is introduced in the future.

Refund

The methods of refund have been updated to include:

- Taxpayers (with local address) who have not provided their bank account number will receive their refund via a refund voucher. These vouchers can only be encashed at CIMB Bank branches.
- IRB is required to notify non-Malaysian citizen taxpayers with a bank account in Malaysia if the refund is more than RM10,000. The bank of the recipient taxpayer is to be notified in order to authorise the receipt of the tax refund.

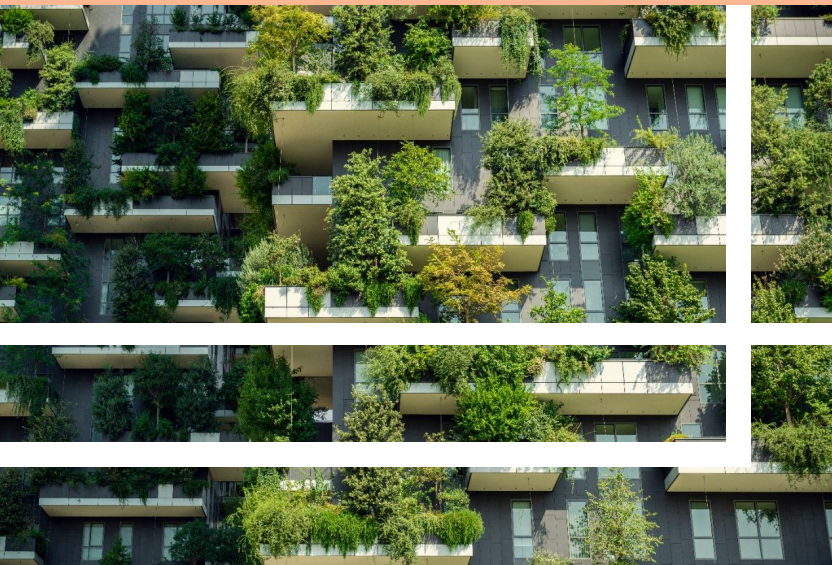
Increase in taxes for Labuan business activity

The section on Labuan has been expanded to include the imposition of 10% increase in tax under the Labuan Business Activity Tax Act 1990 for late payment of taxes arising from additional assessments (not paid within 30 days from the date of delivery of the notice of assessment).

Stamp duty exemption for purchase of first residential home

Following the Budget 2021 proposal in relation to stamp duty exemption for the purchase of a first residential home, the relevant gazette orders have been issued:

- Stamp Duty (Exemption) Order 2021
- Stamp Duty (Exemption) (No. 2) Order 2021



Salient points are as follows:

	Stamp Duty (Exemption) Order 2021	Stamp Duty (Exemption) (No. 2) Order 2021
Instrument exempted from stamp duty	Instrument of transfer	Loan agreement
Rate of exemption	Full exemption	
Type of property	Residential property, i.e. a house, a condominium unit, an apartment or a flat purchased or obtained solely to be used as a dwelling house.	
Purchaser	A Malaysian citizen who has never owned any residential property including one obtained by way of inheritance or gift, which is held either individually or jointly.	
Market value of property	Not more than RM500,000.	
Date of purchase	Sale and purchase agreement executed from 1 January 2021 to 31 December 2025.	
Other requirement	Statutory declaration by the individual confirming having never owned any residential property including one obtained by way of inheritance or gift, which is held either individually or jointly.	

Other tax developments

- Tightened condition for Real Property Gains Tax (RPGT) exemption on disposals (other than Real Property Company (RPC) shares) by citizens
- Extension of further deduction for employment of ex-convicts, senior citizens, etc.
- Substantial activities requirements for Labuan International Trading Companies



Tightened condition for RPGT exemption on disposals (other than RPC shares) by citizens

Pursuant to Budget 2019, Malaysian citizens are exempted from RPGT on disposal from 1 January 2019 in respect of a real property (other than RPC shares) after the 5th year of its acquisition provided that the disposal consideration is not more than RM200,000.

The Real Property Gains Tax (Exemption) Order 2018 (Amendment) Order 2021 (“2021 Amendment Order”) has been gazetted on 9 February 2021 to tighten the condition of the above RPGT exemption. In addition to the existing condition that the disposal consideration is not more than RM200,000, the market value for the disposal must also be not more than RM200,000. The 2021 Amendment Order comes into operation on 10 February 2021.

Extension of further deduction for employment of ex-convicts, senior citizens, etc

Pursuant to the Budget 2021 proposal, the Income Tax (Deduction for Employment of Senior Citizen, Ex-Convict, Parolee, Supervised Person and Ex-Drug Dependant) (Amendment) Rules 2021 has been gazetted to extend the further deduction incentive in relation to the employment of senior citizens, ex-convicts, parolees, supervised persons and ex-drug dependants for another 5 YAs until YA 2025 (previously until YA 2020).

Substantial activities requirements (SAR) for Labuan International Trading Companies (LITC)

Following the deletion of the SAR for LITC via the Labuan Business Activity Tax (Requirements for Labuan Business Activity) 2018 (Amendment) Regulations 2020 (“2020 Amendment Regulations”) (refer [TaXavvy 2/2021](#)), the Labuan FSA has issued LIC Pronouncement 4-2021 dated 9 February 2021. The LIC Pronouncement informs that the SAR for LITCs will be regulated under a separate gazette order which will be gazetted in due course.

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