TaXavvy

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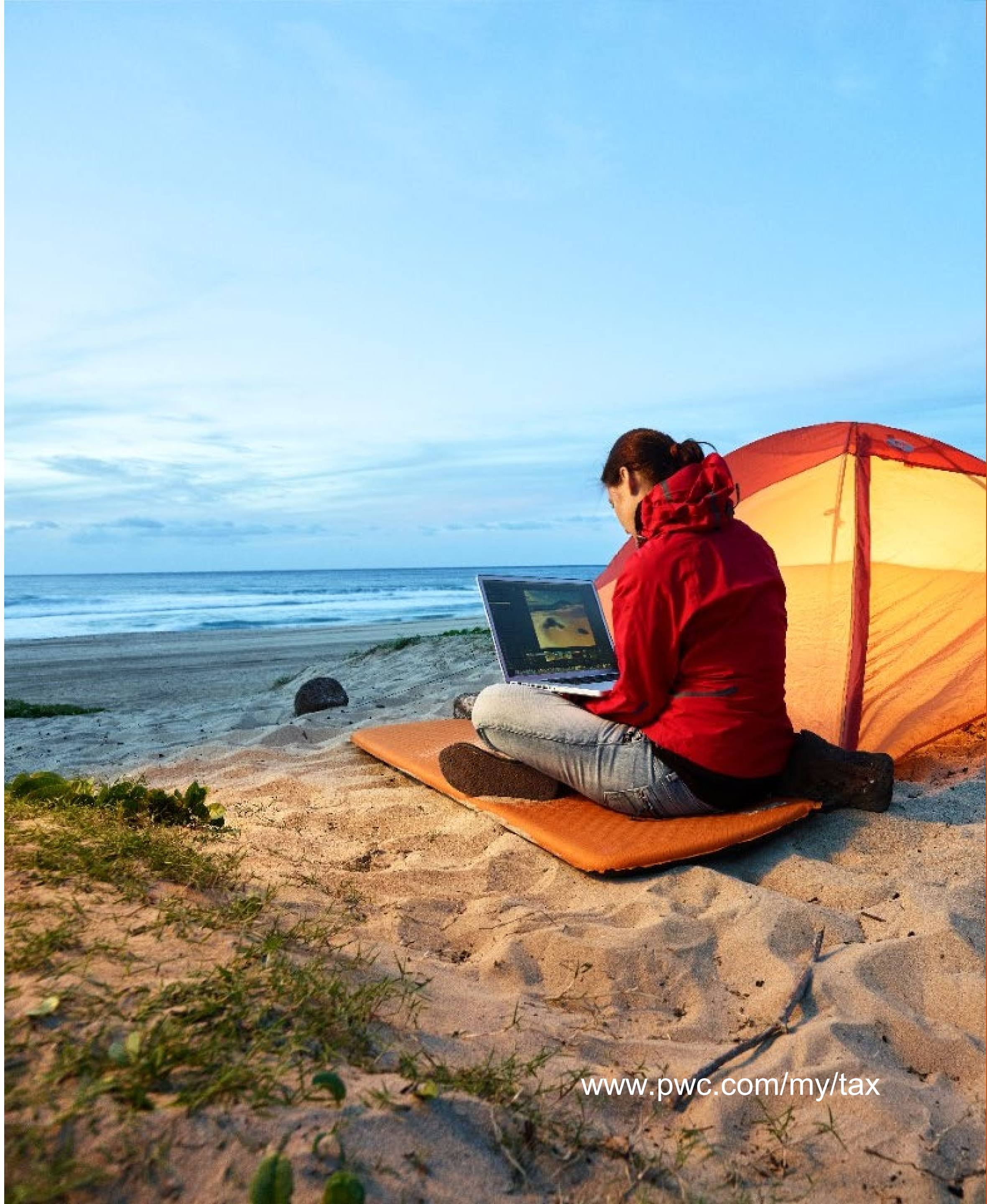
In this issue

- Tax Audit Framework for Income Tax and Employer
- MIDA guidelines – revised PIPC Manufacturing Guidelines
- Updated guidelines for reinvestment incentives
- Practice Note 1/2025 – Tax treatment on the acceptance of donations or contributions
- e-Invoice Guideline (version 4.3)
- e-Ansuran - instalment application for tax payment
- Labuan filing – extension of time



Tax Audit Framework for Income Tax and Employer

The Inland Revenue Board (IRB) has introduced the Tax Audit Framework for Income Tax and Employer ("2025 Framework") which is effective from 15 March 2025. The 2025 Framework replaces and consolidates the following tax audit framework into a single document:

1. Tax Audit Framework dated 1 May 2022
2. Tax Audit Framework on Finance and Insurance dated 1 May 2022
3. Tax Audit Framework for Petroleum Tax dated 1 May 2022
4. Tax Audit Framework for Employer dated 1 October 2021
5. Tax Audit Framework on Withholding Tax dated 1 August 2015

The 2025 Framework is available on IRB's website www.hasil.gov.my (Legislation > Framework > Tax Audit Framework)

Under the consolidated 2025 Framework, tax audit processes and procedures will be standardised across income tax, petroleum income tax (PITA), employer, withholding tax (WHT), and financial & insurance industry audits, except where specified otherwise. The following are pertinent new information / changes noted in the 2025 Framework:

Item	*Summary of new changes*
Scope of audit	The scope of tax audits will now include: • Capital gains tax (CGT) review on disposals of unlisted shares and expenses claimed in computation of capital gains. • A review from a substance-over-form perspective. • An examination of compliance with conditions and eligibility for approved tax incentive claims. Labuan business activities will be assessed to ensure compliance with the minimum economic substance requirements, verifying their eligibility to remain taxable under the Labuan Business Activity Tax Act 1990.
Period covered	The year of assessment (YA) / years covered in an audit for: • Labuan entity is up 3 YAs. • Employer is up to 2 remuneration years.
Audit processes	Additional information on audit processes: • If business transaction documents related to Malaysia are stored abroad, it is the responsibility of the taxpayer / employer to retrieve and submit them to the IRB in full. • Failure to submit these documents within the specified timeframe may lead to the disallowance of claims and additional assessments. • If the IRB has sufficient documents and information to issue an assessment, no further information requests will be made; however, the assessment will be issued along with the computational adjustments and tax imposed.

Item	*Summary of new changes*
Timeframe for completing audits	The timeframe for completing the various tax audits are as follows:

<table>
<tr><th>Type of audit</th><th>Business activity</th><th>Completion timeframe (calendar days)</th></tr>
<tr><td>Employer audit</td><td></td><td>90</td></tr>
<tr><td rowspan="2">WHT audit</td><td>Payor</td><td>90</td></tr>
<tr><td>Payee</td><td>180</td></tr>
<tr><td rowspan="4">Finance and insurance industry audit</td><td>Financial leasing, factoring, credit card services, stockbrokers, share and bond brokers, financial market operations and services / other financial intermediaries</td><td rowspan="2">90</td></tr>
<tr><td>Brokers, agents and adjusters (insurance and takaful including re-insurance and re-takaful)</td></tr>
<tr><td>Commercial banks, investment banks, Islamic banks and other financial institutions</td><td rowspan="2">240</td></tr>
<tr><td>Insurance and takaful including re-insurance and re-takaful</td></tr>
<tr><td rowspan="2">PITA audit</td><td>Exploration</td><td>240</td></tr>
<tr><td>Production</td><td>450</td></tr>
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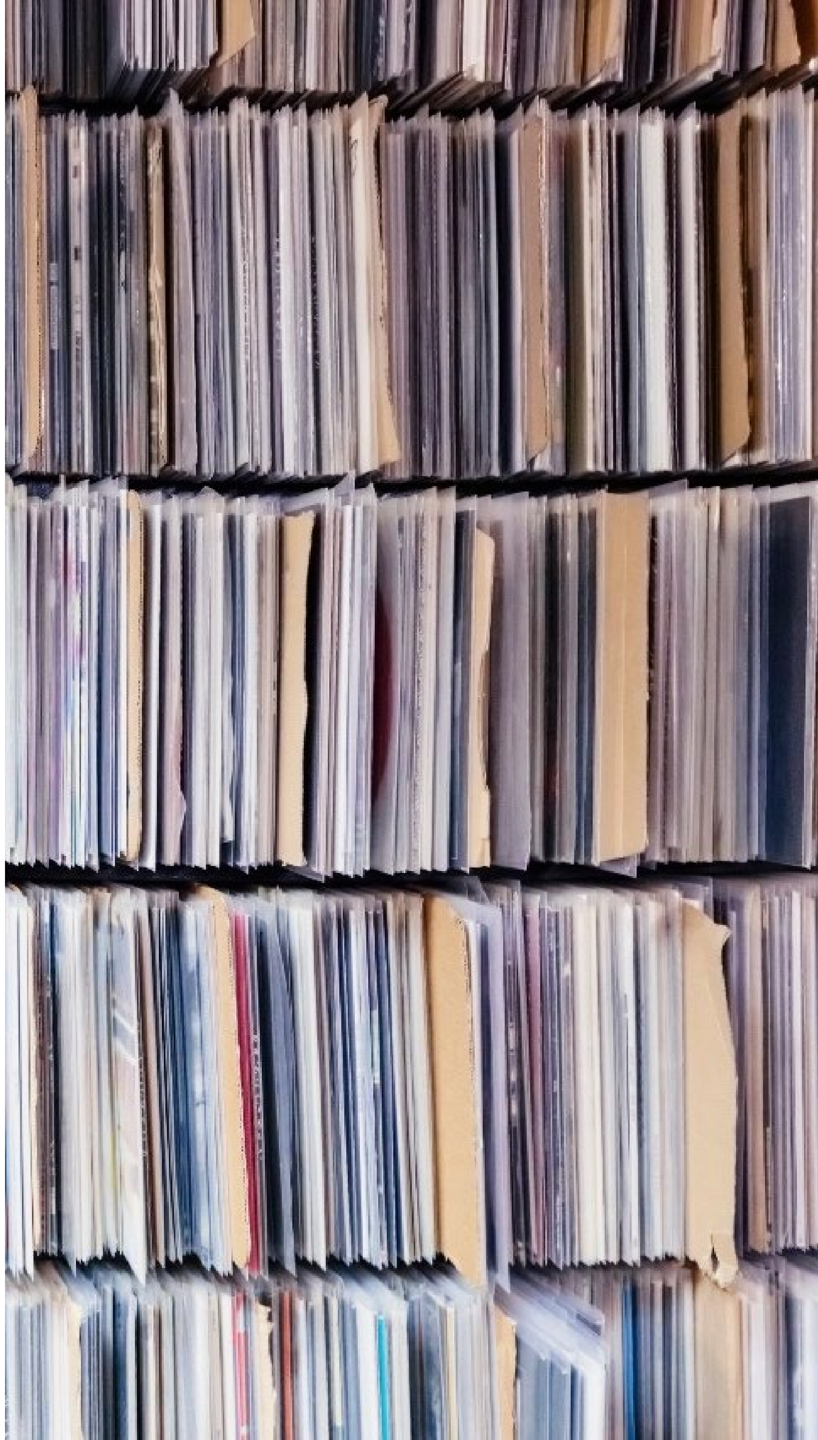


Item	*Summary of new changes*
Voluntary disclosures	Key new information on voluntary disclosures includes: • Applications must be submitted to the State Operations Director or Division Director. • The 2025 Framework lists the documents and information required with the application which are: a) Copy of the income tax return form b) Audited financial statements c) Information on tax incentives and their conditions d) Original tax computation and fully amended tax computation e) Comprehensive details related to the voluntary disclosure, including ledgers and documents addressing issues of additional income f) Other relevant information • Voluntary disclosures will be rejected if there are no valid reasons for the failure to provide the required information. • If the submitted information is incomplete, further requests for information will be made, or an audit will be conducted on the taxpayer.
Penalties for Labuan	Penalties for audits on Labuan entities are now included, which is a fine between RM20,000 to not more than RM1 million, or imprisonment of not more than two or three years, or both a fine and imprisonment. However, the offence may be compounded to an amount up to 50% of the maximum fine.

Item	*Summary of new changes*
Penalties for income tax and PITA	The applicable penalties and rates remains unchanged. The penalties under the 2025 Framework for incorrect return are as follows:

	Offence	Penalty rate
Income tax PITA CGT	First offence	15%
	Second offence	30%
	Third and subsequent offences	45%
	Technical adjustment	0%

Penalty for voluntary disclosure:

	Category	Penalty rate
Income tax PITA CGT	**Voluntary disclosure** After the due date for filing the return	15%
	Additional voluntary disclosure • Made subsequent to submission of an initial amendment of return under section 77B (i.e. “initial” voluntary disclosure). • The submission of the additional voluntary disclosure is to be made within six months from the due date of filing the tax return *Note: Under section 77B, additional tax payable arising from the “initial” voluntary disclosure is subject to a 10% increase in tax.*	10%

MIDA guidelines – revised PIPC Manufacturing Guidelines

The Malaysian Investment Development Authority (MIDA) has issued the revised Guidelines and Procedures for the Application of the Pengerang Integrated Petroleum Complex (PIPC) Special Incentive Package for the Manufacturing Sector ("PIPC Manufacturing Guidelines").

The following are the salient changes:

Corporate tax incentive	Option 1 – Special tax rate for up to 10 years		Option 2 – ITA for up to 10 years	
	Tier 1 (Tax rate of 5%)	Tier 2 (Tax rate of 10%)	Tier 1 (100% QCI, against 100% SI)	Tier 2 (60% QCI, against 100% SI)

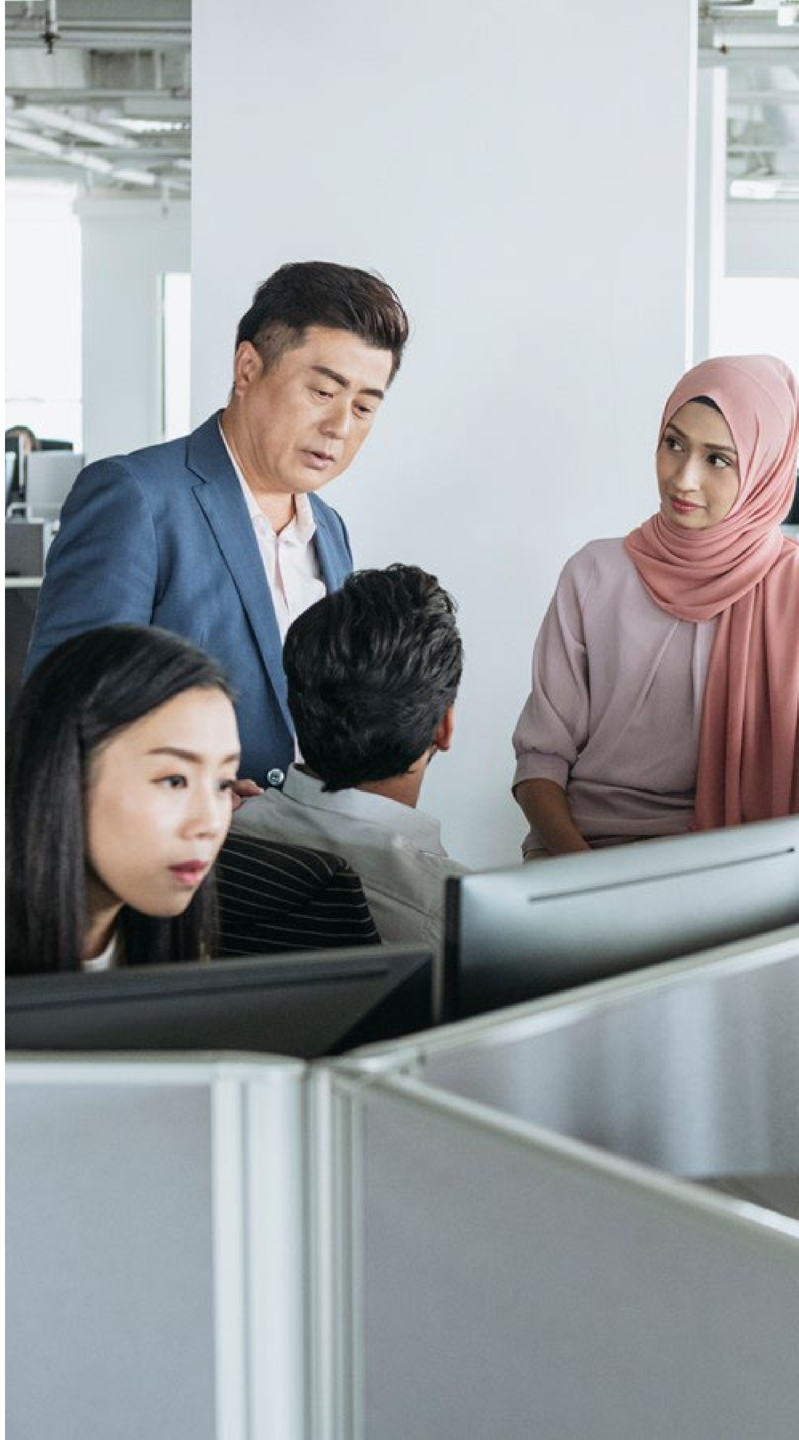
Mechanism	• The application for determination of effective date must be submitted no later than 24 months from the date of the principal approval letter.
	• The company must submit an Annual Compliance Report to MIDA within seven months after the end of each YA throughout the incentive period.
	• A company can enjoy the tax incentive based on compliance with certain conditions, which will be determined for each YA:
	  ○ Tier 1: Compliance with all conditions
	  ○ Tier 2: Compliance with minimum conditions
	  ○ Not entitled (prevailing tax rates apply): Non-compliance with minimum conditions
			• The following must be submitted no later than 36 months from the date of the principal approval letter, failing which the ITA incentive is automatically cancelled:
			  ○ application for determination of effective date; and
			  ○ declaration on the compliance of minimum conditions as verified by external auditors.
			• The company must submit the declaration of compliance with incentive conditions within seven months after the expiry of the five-year and / or ten-year incentive period.
			• A company can enjoy the tax incentive based on compliance with certain conditions:
			  ○ Tier 1: Compliance with all conditions
			  ○ Tier 2: Compliance with minimum conditions
			• Any capital expenditure incurred for the approved product(s) / activity(ies) prior to date of submission of application to MIDA is permitted but is deemed as non-qualifying for the ITA incentive.	

ITA – Investment tax allowance
QCI – Qualifying capital investment
SI – Statutory income

Corporate tax incentive	Option 1 – Special tax rate for up to 10 years		Option 2 – ITA for up to 10 years	
	Tier 1 (Tax rate of 5%)	Tier 2 (Tax rate of 10%)	Tier 1 (100% QCI, against 100% SI)	Tier 2 (60% QCI, against 100% SI)
Eligibility criteria	• Proposed capital expenditure (excluding land) is now specified to be realised at the point of submission of the determination of effective date, i.e. within two years from the date of principal approval letter. • In addition to the capital expenditure condition, the minimum conditions comprise three other specified conditions (previously, the specified capital expenditure condition and an option of three other conditions to enjoy this incentive). • The specified minimum conditions are: o Adequate number of full-time local employees with high-value jobs. o Number of Managerial, Technical and Supervisory level staff should be at least 25% of overall manpower. o Adoption of IR4.0 technology.		• The company must comply with two extra specified minimum conditions, including 'full-time local employees' and 'Managerial, Technical and Supervisory' conditions (previously, only two: capital expenditure condition and adoption of IR4.0 technology).	

Please refer to TaXavvy 27-2024 for an overview of the PIPC incentive package.

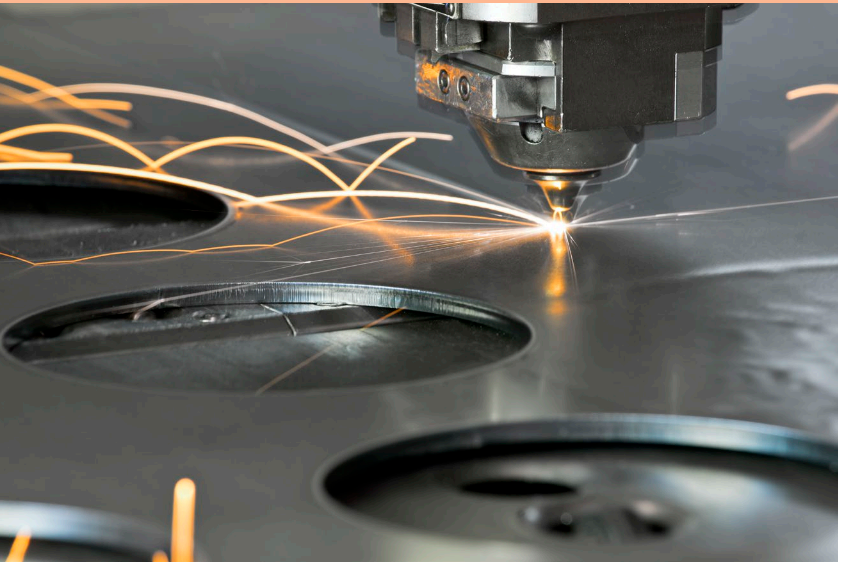
The PIPC Manufacturing Guidelines is available on MIDA's website www.mida.gov.my (Forms and Guidelines > PIPC Special Incentive Package).



Updated guidelines for reinvestment incentives

MIDA has updated the Guideline and Procedures for the Application of Incentive for Reinvestment under the New Industrial Master Plan 2030 ("the Guideline") to include details on the incentive mechanism.

The Guideline is available on MIDA's website www.mida.gov.my (Forms and Guidelines > Manufacturing Sector > Applications for Incentive / Expatriate Posts).



The Guideline was first issued by MIDA on 30 July 2024 to provide an overview of the tiered incentive and the eligibility criteria (refer to TaXavvy 26-2024 for details). The Guideline was recently updated to include details on the incentive mechanism. Salient points are as follows:

- **Validity of incentive approval**
  The company must submit the following within 36 months from the date of the letter of approval in-principle:
  (i) Application for determination of incentive commencement date
  (ii) Declaration of compliance with minimum conditions, verified by external auditors

  Failure to submit the above within the stipulated timeframe will result in the approval letter being cancelled automatically.

- **Commencement date of incentive**
  Scenario 1: First capital expenditure incurred *after* submission of application
  The incentive commences on the incurrence of the first qualifying capital expenditure.

  Scenario 2: First capital expenditure incurred *before* submission of application
  Applicants may incur capital expenditure before or on the submission of the application to MIDA. However, such capital expenditure will not be considered as qualifying capital expenditure for the purposes of the incentive, and the date of commencement will be taken as one day after the submission of the application for incentive.

  Comment: Prospective applicants should plan their capital expenditure to benefit from the incentive.

- **Compliance declaration post incentive period**
  The declaration of compliance with all minimum and additional conditions as stated in the letter of approval in-principle, verified by the external auditors, must be submitted to MIDA not later than seven months after the expiry of the incentive period.

Practice Note 1/2025 – Tax treatment on the acceptance of donations or contributions

The IRB has issued Practice Note 1/2025 - Tax treatment on the acceptance of donations or contributions.

The salient points of the practice note are:

Scope of taxability

Donations or contributions received by any person (including companies, organizations, etc.) are subject to income tax in Malaysia if:

- The recipient is engaged in business.
- The donations are used to generate revenue and sustain business activities.

Institutions, organizations, or funds (IOFs)

IOFs not established for profit but for public interest are also subject to income tax. However:

- Expenses incurred specifically for fulfilling the IOF's objectives (including charitable donations) are deductible.
- Only the unutilized balance of donations will be taxable under section 4(a) of the Income Tax Act 1967 (ITA 1967).

Tax Exemption for approved IOFs

IOFs can apply for tax exemption under section 44(6) of the ITA 1967 if they meet specific criteria.

Key criteria include:

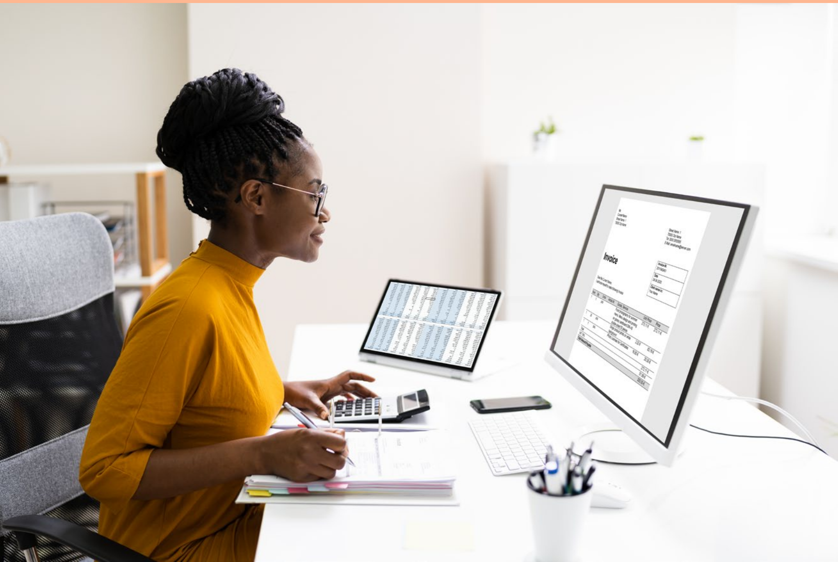
- Must not be established primarily for profit seeking purposes.
- The services or benefits are not limited to a specific group based on race, religion, etc.
- Specific conditions of appointment and composition of trustees, directors and committee members.

For details on the updated section 44(6) guidelines, refer to TaXavvy 27/2024.

The practice note is available on IRB’s website www.hasil.gov.my (Legislation > Practice Note)

e-Invoice Guideline (version 4.3)

The IRB has released the latest version of the e-Invoice Guideline (version 4.3) dated 18 March 2025, which supersedes the e-Invoice Guideline (version 4.2) issued on 21 February 2025.



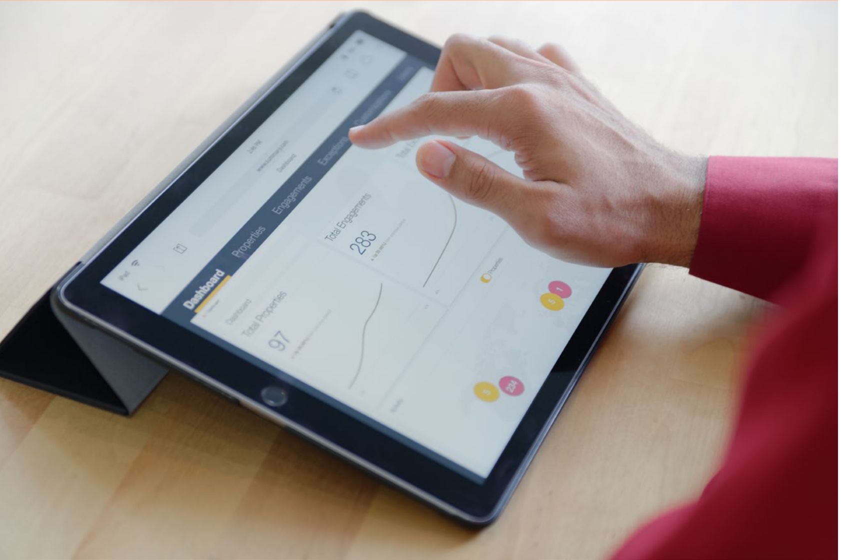
The updated guideline clarifies the implications of potential disruptions to the MyInvois System on e-Invoice transmission and validation.

The IRB acknowledges that the timely submission of e-Invoices may be impacted if MyInvois System experiences disruptions, system failures, unforeseen malfunctions, or service outages. In instances where system downtime occurs due to maintenance or technical difficulties, taxpayers are advised to document and retain evidence of their compliance efforts concerning e-Invoice submissions. These efforts will be evaluated by the Director General of Inland Revenue on a case-by-case basis. If the justifications provided are deemed valid, no action will be taken against taxpayers for non-compliance arising from these circumstances.

The e-Invoice Guideline (version 4.3) is available on IRB's website www.hasil.gov.my (Legislation > Guidelines > Operational Guidelines).

e-Ansuran - instalment application for tax payment

The IRB has issued a media release on 18 March 2025 on the availability of an online application for instalment payment of tax balance or tax in arrears through the e-Ansuran system.



Effective from 5 March 2025, taxpayers may access the e-Ansuran system on the MyTax portal https://mytax.hasil.gov.my/ to apply for payment of tax balance or tax in arrears via instalment. Approval will be granted automatically to applicants who meet the following criteria:

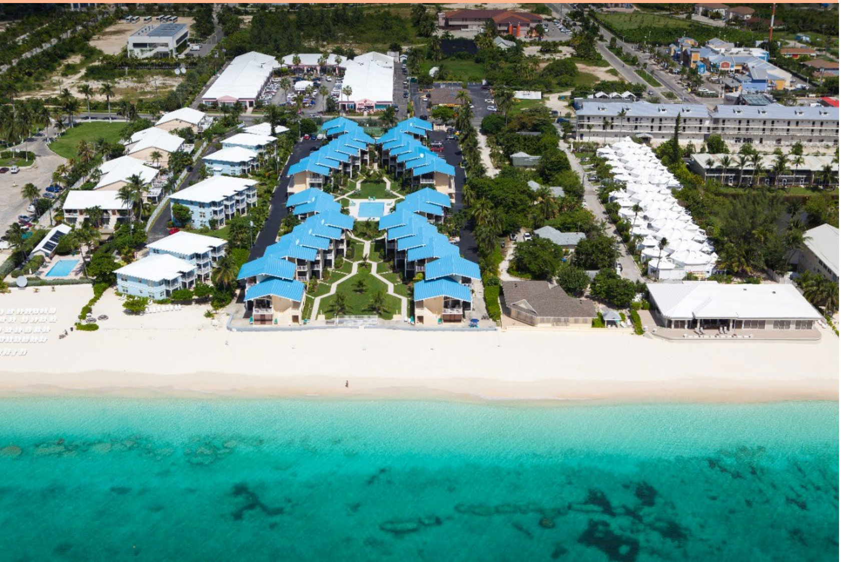
- The application amount must exceed RM300.
- The number of instalments is limited to six.
- Only income tax payment is allowed (including penalties, if applicable).
- Does not involve instalments that are currently in effect.

Where the applicants wish to withdraw e-Ansuran application, the cancellation can only be done at the IRB’s offices.

The media release is available on IRB’s website www.hasil.gov.my (Homepage > Media Release).

Labuan filing – extension of time

The IRB has informed the Association of Labuan Trust Companies on the filing of Labuan income tax returns on the filing deadline for YA 2025 (preceding year basis).



The IRB has granted an extension of time to 31 July 2025 for the submission of income tax return form under section 5 and 10 of the Labuan Business Activity Tax Act 1990 for YA 2025 (preceding year basis) i.e. for basis periods ending in 2024.

With the shift of basis period from the preceding year basis to current year basis from 1 January 2025, IRB will be conducting a briefing session for the transition to the mandatory e-filing for YA 2025 (current year basis). The IRB will provide details in due course.

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