



Crowe

Tax Chat

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Audit / Tax / Advisory

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Highlights of the Finance Act 2019 and Income Tax (Amendment) Act 2019

Highlights of the Finance Act 2019 and Income Tax (Amendment) Act 2019

The [Finance Act 2019](#) and the [Income Tax \(Amendment\) Act 2019](#) have been gazetted on 31 December 2019. Both the Acts came into operation on 1 January 2020. You may refer to the following editions of our Tax Chat for a recap of the Budget 2020 proposals:

- [Tax Chat Special Edition Pt. 1 – Highlights of Budget 2020](#)
- [Tax Chat Special Edition Pt. 2 – Finance Bill 2019](#)

Finance Act 2019 Amendments

The following amendments were made to the Finance Bill 2019 (FB2019) before the FB2019 was passed at the Dewan Rakyat on 2 December 2019:

Additional clarification on the acquisition price of real properties acquired prior to year 2013

The original proposal that the market value of real properties as at 1 January 2013 is used as the acquisition price for real properties acquired prior to year 2013 has been amended to clarify that the 1 January 2013 deemed acquisition date will not apply to the following:

- Disposal of shares acquired by an individual in exchange for real property transferred to a company controlled by that individual, his wife, jointly with his wife, or with a connected person (Paragraph 34 of the RPGT Act 1976); and
- Disposal of shares in a real property company (Paragraph 34A of the RPGT Act 1976).

Highlights of the Finance Act 2019 and Income Tax (Amendment) Act 2019

Finance Act 2019 Amendments (cont'd)

Withdrawal of the proposed amendment to Section 153 of the Income Tax Act, 1967 (ITA)

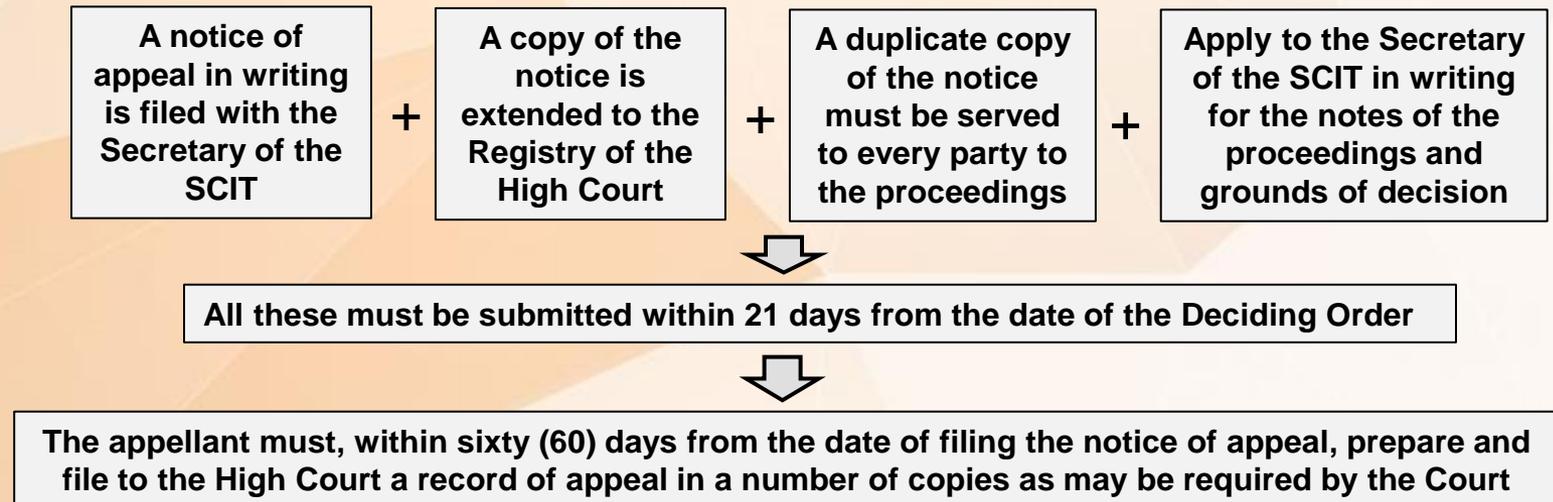
The original proposal to empower the Director General of Inland Revenue (DGIR) to approve or renew an approval for a person to act as a tax agent is withdrawn. Therefore, the existing provision on the Ministry of Finance having the power to approve or renew tax agents' licence is retained.

Highlights of the Finance Act 2019 and Income Tax (Amendment) Act 2019

Income Tax (Amendment) Act 2019 on tax appeals

The Income Tax (Amendment) Act 2019 introduced the following changes to Schedule 5 of the ITA on tax appeals:

- To expedite the hearing of tax appeal cases, the Chairman of the Special Commissioners of Income Tax (SCIT) may decide that a tax appeal can be heard by one (1) SCIT sitting alone. Previously, every appeal is to be heard by three (3) SCITs.
- The previous procedure of requiring the SCIT to state the case to the High Court when either party to the proceedings before the SCIT is dissatisfied with a question of law against a deciding order of the SCIT has now been changed to be as follows:



The above changes are effective from 1 January 2020. Any appeals pending before the three (3) SCITs prior to 1 January 2020 shall not be affected by the changes and shall continue to be heard by a panel of three (3) SCITs. Any appeals to the High Court before 1 January 2020 are not affected by the above changes.

PR7/2019 – Taxation of Foreign Fund Management Company

PR7/2019 – Taxation of Foreign Fund Management Company

The Inland Revenue Board of Malaysia (IRBM) issued [PR7/2019 – Taxation of Foreign Fund Management Company](#) on 3 December 2019 to replace PR 6/2014 which was published on 4 September 2014.

The objective of this PR is to explain the tax treatment of income received by a foreign fund management company that provides fund management services to foreign and local investors.

The main changes identified in this new PR are as follows:

- Changes to the legislation have been incorporated by reflecting that the tax exemption period for foreign fund management companies which manage funds of foreign and local investors according to Syariah principles is extended until the Year of Assessment (YA) 2020.
- The tax rates applicable to a foreign fund management company have been updated as follows:

Shareholding of a Foreign Fund Management Company	Type of Investors	Tax Rate (%) of Foreign Fund Management Company	
		YA 2020 and prior	YA 2021 onwards
100% foreign equity	Foreign	10	24
At least 30% local equity	Foreign	10	24
At least 30% local equity	Local	Prevailing domestic tax rates applicable to the Foreign Fund Management Company resident in Malaysia	

PR8/2019 – Notification of Change of Accounting Period by a Company / Limited Liability Partnership / Trust Body / Co-operative Society

PR8/2019 – Notification of Change of Accounting Period by a Company / Limited Liability Partnership / Trust Body / Co-operative Society

The IRBM issued [PR8/2019 – Notification of Change of Accounting Period by a Company / Limited Liability Partnership / Trust Body / Co-operative Society](#) on 6 December 2019 to replace PR7/2011 which was published on 23 August 2011.

The objective of this PR is to explain the requirement to notify the DGIR of any change of accounting period by a company, limited liability partnership, trust body or co-operative society, which has to make payment by instalments on an estimate of tax payable for a YA.

There are no significant changes in the new PR as compared to the old PR except for the incorporation of the provision under Section 21A(3A) of the ITA which is effective from YA 2019.

Section 21A(3A)

Section 21A(3A) of the ITA requires a company, limited liability partnership, trust body or co-operative society to notify the DGIR of any changes in the accounting period through a Notification of Change in Accounting Period Form (i.e., Form CP204B) in the following periods:

Where accounting period is shortened

The DGIR has to be notified via Form CP204B, thirty (30) days before the end of the new accounting period if the new accounts are less than twelve (12) months and are closed before the end of the original accounting period.

Where accounting period is extended

The DGIR has to be notified via Form CP204B, thirty (30) days before the end of the original accounting period if the new accounts are more than twelve (12) months and are closed after the end of the original accounting period.

PR9/2019 – Residence Status of Companies and Bodies of Persons

PR9/2019 – Residence Status of Companies and Bodies of Persons

Residence status is one of the main criteria that determines the tax treatment and tax consequences of a company or body of persons.

The IRBM issued [PR9/2019 – Residence Status of Companies and Bodies of Persons](#) on 6 December 2019 to replace PR 5/2011 which was published on 16 May 2011.

The new PR essentially included the following key issues:

- Tax rates have been updated to be in line with the latest legislation; and
- The determining factor of the residence status of a Limited Liability Partnership (LLP) and business trust in Malaysia has been included as follows:

LLP carrying on a business in Malaysia	Any other LLP	Business Trust
Management and control of its business is exercised in Malaysia.	Management and control of its affairs is exercised in Malaysia by its partners.	Management and control of the business trust's business is exercised in Malaysia.
Resident in Malaysia		

Tax Awareness for Employers in Malaysia

An article by:

Monaliza binti Mohd Ali

Associate Director, Global Mobility Services

Crowe KL Tax Sdn Bhd

Tax Awareness for Employers in Malaysia

What will be the IRBM's next course of action in reforming the tax system to address tax leakages, reduce the existing tax gap and explore new sources of revenue to increase tax collections? Will the IRBM place more emphasis on employers' audits?

Employers should get ready and be prepared for an audit before it is too late. Having an in-depth understanding of the tax obligations of an employer in Malaysia is important due to the increasingly stringent tax laws and tax audits carried out by the IRBM. Employers' tax obligations in Malaysia are clearly spelled out under Section 83 of the ITA and Income Tax (Deduction From Remuneration) Rules 1994, 2015 and 2017. A brief summary is as follows:-

Act	Description	Deadline	Forms
83(1)	Obligation to submit employer's return	31 March of the following tax year	E/ e-E
83(1A)	Provide the employee with the Statement of Remuneration	By end of February of the following tax year	EA/ EC
83(2)	Notify the new commencement of employee	Within one (1) month from the date of commencement	CP22
83(3)	Notify the cessation of employment	Not less than one (1) month before the cessation date	CP22A/ CP22B
83(4)	Notify on employee leaving Malaysia	Not less than one (1) month before the expected date of departure	CP21
83(5)	Moneys withheld due to cessation	Date of last drawn salary	-
83(6)	Deemed employer shall also be responsible under Section 83 of the ITA and Income Tax (Deduction From Remuneration) Rules	-	-
Rules 1994, 2015, 2017	Monthly Tax Deductions (MTD) System	By 15 th of the following month	e-CP39

Tax Awareness for Employers in Malaysia

Most employers are aware of the annual and monthly submissions that are required to be submitted by them to the IRBM and employees, i.e. Forms E, EA and MTD. However, some employers may face difficulties in executing the IRBM's requirements in accordance with the relevant legislation due to various practical issues. The following are some of the practical issues that may be faced by employers:-

Section 83(2) of the ITA: Notify the new commencement of employee

Most employers are not aware of the requirement to notify the IRBM on the commencement of new employees even though the new employee already has an income tax file number (especially for Malaysian employees). It is often assumed that the reason for notifying on the new employees to the IRBM is for the purpose of obtaining an income tax file number for the new employees. However, this is not the case. An employer needs to notify the IRBM on the new commencement of employee even though the employee has an income tax file number.

HOW ABOUT

- Are employers required to notify the IRBM on the new commencement of non-Malaysian employees i.e. expatriate employees, foreign workers and independent consultants?
- When will be the date of commencement? Will it be as per the employment contract signed or date of performing duties or date of work permit issued?

Tax Awareness for Employers in Malaysia

Section 83(3) of ITA: Notify the cessation of employment (terminate/ retire/ death)

Based on the ITA, employers are not required to notify the cessation of employment if the employer deducts MTD, monthly remuneration is below the threshold of MTD and the employee is not retiring from employment. Nevertheless, employers must notify the IRBM if the employee ceases employment due to retirement, termination of contract or death if the employee's employment income is likely to be chargeable to tax. However, a few IRBM branches have advised employers to notify on the cessation of employment for all scenarios of cessation. In this regard, it is advisable for employers to clarify and confirm with their respective IRBM branches on this matter before notifying on the cessation of employment.

Section 83(4) of ITA: Notify on employees leaving Malaysia

In order to notify on employees leaving Malaysia, the employers must prepare a proper checklist to be completed by the employee in order to identify whether the employee will be leaving Malaysia or not (i.e. for a period exceeding three (3) months).

HOW ABOUT

- If the employer is not aware of the cessation of the employee due to an international assignment, how is the employer going to fulfil his obligations?
- If the employee's remuneration cannot be finalised within one (1) month before the cessation date, how is the employer going to report his remuneration?

Tax Awareness for Employers in Malaysia

Section 83(6) of ITA: Deemed employer

Employers are considered as “deemed employers” if they employ:

- Trainees/ Interns (including non-Malaysian citizen);
- Temporary staff;
- Contract workers;
- Third party vendors (especially non-Malaysian citizens);
- Sponsoring any work permit for non-Malaysian citizens; and
- Employees from head office/ subsidiary on temporary assignment/ frequent business travelers.

Most employers are not aware that they are considered as “deemed employers” especially if they are sponsoring any work permit (e.g. Professional Visit Pass) for their third party vendors. In this case, they will still be the “deemed employer” even though the third party vendors’ employees’ remuneration are paid from their home country.

Nevertheless, further analysis may be required in order to determine the “deemed employer” status. A “deemed employer” must be aware that its tax responsibilities are the same as those of an employer.

Tax Awareness for Employers in Malaysia

Consequences for non-compliance

In the event that an employer fails to comply with Section 83 of the ITA, the employer will be liable for prosecution and if found guilty, shall, on conviction be liable to a fine of not less than RM200 and not more than RM20,000, or to imprisonment for a term not exceeding six (6) months, or to both.

In conclusion, all employers need to be prepared for an employer's audit which may be conducted by the IRBM in the near future. Employers must be prepared with all the information/documents required to be presented during an audit. It is also advisable for employers to lay out their internal processes and procedures in order to be in compliance with all the employer's tax obligations.

This article is written by Monaliza binti Mohd Ali, Associate Director, Global Mobility Services, Crowe KL Tax Sdn Bhd

Crowe KL Tax Events

Tax Awareness for Employers and 2019 Form E Preparatory Course

With the tax season approaching, it is time for employers to start preparing the employer's return (Form E).

Pursuant to subsection 83 (1B) of the ITA, it is mandatory for all employers (including those dormant and/or those who have not commenced business) to submit the Form E for the year ending 31 December 2019 to the IRBM by 31 March 2020.

Our preparatory course is comprehensively tailored to help you better understand the Form E reporting requirements. Wait no more, join us today!

Topics to be covered:

- New updates on the 2019 Form E
- How to complete the 2019 Form E and CP.8D
- Highlight on the issues relating to the Form E via e-Filing
- Latest updates on the new Public Rulings issued in 2019 relating to reporting of employment income
- Tax awareness of employer and employer's audit

Click below to download the event brochure:

[Download brochure](#)



Date: **13 February 2020, Thursday**
Time: 9:00 a.m.
Venue: Pullman Hotel,
Kuala Lumpur City Centre

Latest Updates on Sales Tax and Service Tax in Year 2020

Are you up to date on the latest changes to the Sales Tax and Service Tax? We will be conducting a short half-day briefing on these amendments with a special focus on new updates on the exemptions granted by the Minister of Finance.

As seats are limited, registration is on first-come, first-served basis. Kindly make your reservations by **14 February 2020** to guarantee your seat!

Click below to make your reservations:

[Join us!](#)



Date: **20 February 2020, Thursday**
Time: 9:30 a.m.
Venue: Crowe Training Centre
Level 17, Tower C, Megan Avenue II

Start the Conversation with Us

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About Crowe Malaysia

Crowe Malaysia is the 5th largest accounting firm in Malaysia and an independent member of Crowe Global. The firm in Malaysia has 13 offices, employs over 1,300 staff, serves mid-to-large companies that are privately-owned, publicly-listed and multinational entities, and is registered with the Audit Oversight Board in Malaysia and the Public Company Accounting Oversight Board in the US.

About Crowe Global

Ranked the 8th largest accounting network in the world, Crowe Global has over 250 independent accounting and advisory firms in 130 countries. For almost 100 years, Crowe has made smart decisions for multinational clients working across borders. Our leaders work with governments, regulatory bodies and industry groups to shape the future of the profession worldwide. Their exceptional knowledge of business, local laws and customs provide lasting value to clients undertaking international projects.

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