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Crowe Perspectives

Updates on Employers' Tax Obligations in Malaysia

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Introduction

Employers should always keep abreast of the changes in tax law and latest announcements made by the Inland Revenue Board of Malaysia (IRBM). This article provides updates on the tax law subsequent to the article entitled “Tax Awareness for Employers in Malaysia” which was published in our Tax Chat Vol. 1/2020 January.

Changes to the tax law and updates during the Covid-19 pandemic

The following changes have been made to the tax law with effect from 1 January 2021 in relation to the deadline for submission of the prescribed forms to the IRBM under Section 83 of the Income Tax Act, 1967 (ITA):

ITA	Description	New deadline	Forms	Mode of submission
Section 83(2)	Notification of new commencement of employment of an employee	Within thirty (30) days from the date of commencement of an employment	CP22	i. By hand ii. By post iii. Customer feedback form via the IRBM's Official Portal at: https://maklumbalaspelanggan.hasil.gov.my/MaklumBalas/en-US/
Section 83(3)	Notification of cessation of an employment (includes cessation by reason of death) for private sector/ public sector	Not less than thirty (30) days before the cessation date; or Not more than thirty (30) days after being informed of the death.	CP22A/ CP22B	i. By hand ii. By post iii. Online submission via e-SPC iv. Customer feedback system through: http://www.hasil.gov.my/bt_goindex.php?bt_kump=2&bt_skum=5&bt_posi=1&bt_unit=3&bt_sequ=1&bt_lgv=2 <ul style="list-style-type: none"> Select the relevant IRBM branch and click 'Contact Us: Click here'. Application will be received and processed by the relevant Customer Care Officer (CCO) from the selected branch. Please also refer to the Operational Guideline for the procedure to obtain the Tax Clearance Letter (TCL)/ Surat Penyelesaian Cukai (SPC) which is available in the IRBM's Official website.
Section 83(4)	Notification of an employee leaving Malaysia	Not less than thirty (30) days before the expected date of departure from Malaysia	CP21	

Changes to the tax law and updates during the Covid-19 pandemic (cont'd)

During the Covid-19 pandemic, the IRBM announced the relaxation of the submission deadline of the prescribed forms under Section 152 of the ITA from 4 June 2021 until 31 December 2021. The submission of the forms can be done via hand delivery, by post or e-mail.

With effect from 1 January 2022, the enforcement towards the submission of the prescribed forms pursuant to Section 152 of the ITA will be strictly adhered to. Any submission made not in the prescribed forms as well as submission via e-mail or fax will not be accepted.

Employers who submit late or do not submit Forms CP22, CP22A/ CP22B and CP21 may be subject to prosecution. If the employers are found guilty, they 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.

Latest prescribed forms

The latest Forms CP22, CP22A/CP22B and CP21 under Section 152 of the ITA can be downloaded here: http://www.hasil.gov.my/bt_goindex.php?bt_jborang=12&bt_tahunbor=Semua%7CAll&bt_kump=2&bt_sku m=3&bt_posi=1&Submit=Cari

Please refer below for the updates and changes in relation to the IRBM's prescribed forms issued in 2021 for employers' completion and submission:

Forms	Updates and changes
Form CP22 (Pin 1/2021) (a form on notification of a new commencement of an employee)	<ul style="list-style-type: none"> • Additional information is required for the particulars of an employer i.e. Company's email address and Employer's full address. • The structure and information is needed in the latest Form CP22 which is similar with the detailed information required in the individual income tax return form i.e. basic particulars, particulars of individual and particulars of spouse of the Forms BE/e-BE/M/e-M (tax returns of individuals without business sources). • Comprehensive information is required for the particulars of monthly remuneration. The structure has been designed similar to the details of remuneration required in the Statement of Remuneration (Form EA). • Detailed information on the particulars of previous employer in Malaysia is required. For this information, the current employer is required to obtain the completed "Employment Information Form with the Former Employers In The Current Year For The Purpose of MTD (Form TP3)" from the new employee in the month of joining. This is in accordance with the Operation Guideline for the Monthly Tax Deduction (MTD) issued on 17 November 2020. • A note has been added to the latest Form CP22 for employers to make a declaration in accordance with the category of employer (i.e. Partnerships, Companies and Bodies of Persons, Executors, Trustees, Hindu Joint Families, Masters of Ships and Captains of Aircraft, Incapacitated Persons and Appointed Agents) as provided for under Sections 66 to 76 and Section 86 of the ITA.

Latest prescribed forms (cont'd)

Forms	Updates and changes
Form CP22A/ CP22B (Pin 1/2021) (notification of cessation of an employment)	<ul style="list-style-type: none"> The updated Form CP22A/ CP22B provides an extra column for employers to report benefits-in-kind provided to the employees. A note has been added to the latest Form CP22A/ CP22B for employers to make a declaration in accordance with the category of employer (i.e. Partnerships, Companies and Bodies of Persons, Executors, Trustees, Hindu Joint Families, Masters of Ships and Captains of Aircraft, Incapacitated Persons and Appointed Agents) as provided for under Sections 66 to 76 and Section 86 of the ITA.
Form CP21 (Pin 1/2021) (notification on an employee leaving Malaysia)	<ul style="list-style-type: none"> A note has been added to the latest Form CP21 for employers to make a declaration in accordance with the category of employer (i.e. Partnerships, Companies and Bodies of Persons, Executors, Trustees, Hindu Joint Families, Masters of Ships and Captains of Aircraft, Incapacitated Persons and Appointed Agents) as provided for under Sections 66 to 76 and Section 86 of the ITA.

In view of the relaxation of the submission deadline of the prescribed forms until 31 December 2021, no action will be taken against employers who fail to submit the prescribed forms within the stipulated due date or imposition of penalty on late submission of the prescribed forms to the IRBM. However, the IRBM may conduct an employer's tax audit for the period prior to the concession period or from 1 January 2022 onwards.

What's Next

In view of this, it is time for employers to comply with the tax law and consider setting up proper Standard Operating Procedures on the arrangement for new employees joining the company as well as cessation of employment due to termination, retirement, death and leaving Malaysia for more than ninety (90) days or permanently leaving Malaysia.

Lastly, employers must always ensure that all records are properly kept and the acknowledgment receipts are obtained from the IRBM for the purpose of the IRBM's employer's tax audit.



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Need assistance on these matters?

Please contact us if you wish to seek clarification on any of these issues.



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