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Crowe Chat

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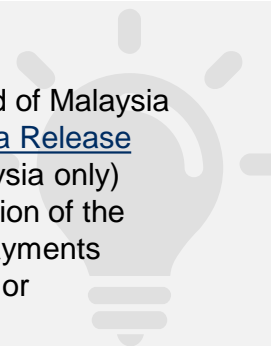
1. Implementation of 2% Withholding Tax on Payments Made to An Agent, Dealer or Distributor

A new withholding tax provision under Section 107D of the Malaysian Income Tax Act, 1967 (MITA) was introduced under the Finance Act 2021 with effect from 1 January 2022. Under this new provision, a company is required to impose and withhold 2% withholding tax on gross monetary payments made to a resident individual arising from sales, transactions or schemes carried out by that resident individual as the agent, dealer or distributor of the company.

The company is only required to withhold the said 2% withholding tax on monetary payments paid to the resident individual if the total sum of payments (whether monetary or otherwise) received by that resident individual from the company in the immediately preceding year of assessment (YA) exceeded RM100,000. The withholding tax is to be remitted to the Director General of the Inland Revenue Board within thirty (30) days after paying or crediting the agents, dealers or distributors.

Media Release

The Inland Revenue Board of Malaysia (IRBM) has issued a [Media Release](#) (available in Bahasa Malaysia only) regarding the Implementation of the 2% Withholding Tax on Payments Made to An Agent, Dealer or Distributor.



1. Implementation of 2% Withholding Tax on Payments Made to An Agent, Dealer or Distributor (cont.)

Details of the Media Release

Since the deadline for payment of the withholding tax is 30 days from the date of payment of the monetary payments to the resident individuals by the Company, some withholding tax may be due for payment to the IRBM in January 2022 to March 2022.

However, the IRBM has agreed to defer the implementation of the remittance of the 2% withholding tax until 31 March 2022. This is to ensure that all payer companies can notify their agents, dealers or distributors regarding the imposition and remittance of the 2% withholding tax. Hence, companies are allowed to delay the remittance of the 2% withholding tax to the IRBM until 1 April 2022 without being subject to any increase in tax.

The IRBM will issue Frequently Asked Questions (FAQs) on this subject matter in due course.

2. Gazette Order on Conditions for Tax Rebate for Companies and Limited Liability Partnerships (LLPs)

The Government announced an income tax rebate for new Small Medium Enterprises (SMEs) and LLPs of up to RM20,000 per YA for the first 3 YAs under the PENJANA economic stimulus package. Subsequently, Section 6D of the MITA was introduced under Finance Act 2020 to legislate the proposal. In order to enjoy the income tax rebate, the SMEs and LLPs must be incorporated and must have commenced business between 1 July 2020 and 31 December 2021.

Furthermore, the SMEs and LLPs must fulfill the requirements specified under Section 6D of the MITA and all other conditions that may be imposed by the Minister via a statutory order.

New Income Tax Order

[Income Tax \(Conditions For The Grant Of Rebate Under Subsection 6D\(4\)\) Order 2021](#) was gazetted on 31 December 2021.



2. Gazette Order on Conditions for Tax Rebate for Companies and Limited Liability Partnerships (LLPs) (cont.)

Details of the New Income Tax Order *(extracted verbatim from the relevant Order)*

- Effective from the YA 2021.
- A company or an LLP does not own or is being owned directly or indirectly by a related company or a related LLP which has a paid-up capital in respect of ordinary shares or a contribution of capital (whether in cash or in kind) of more than RM2.5 million at the beginning of the basis period for a YA.
- Business premises, plant, equipment and facility owned as well as employees (except for its Chief Executive Officer and directors) of the company or the LLP are different from its related company or its related LLP.
- Business activity carried out by the company or the LLP is different from its related company or its related LLP or a sole proprietorship where the sole proprietorship is converted to a company or an LLP.
- The company or the LLP is not a result of a merger or an acquisition of two or more companies or LLPs.
- The company or the LLP is not a partnership or a company which has been converted into an LLP.
- When the company or the LLP first commences operations on or after 1 July 2020 and its basis period ends on or before 31 December 2020, a rebate is granted for the YAs 2021 and 2022 only.

3. Gazette Order on Secretarial and Tax Filing Fee

The Income Tax (Deduction for Expenses in relation to Secretarial Fee and Tax Filing Fee) Rules 2020 provides that secretarial fees and tax filing fees which are incurred and paid in a YA are deductible up to a maximum of RM15,000 for a YA.

Amended Income Tax Rules

[Income Tax \(Deduction for Expenses in relation to Secretarial Fee and Tax Filing\) \(Amendment\) Rules 2021](#) was gazetted on 24 December 2021.



Details of the Amended Income Tax Rules

Major points highlighted in the Amended Income Tax Rules are:

- Effective from the YA 2022.
- A deduction in relation to secretarial and tax filing fees incurred can be claimed in the YA when the fees are incurred, regardless of whether the secretarial and tax filing fees incurred have been paid.
- However, for the YAs 2020 and 2021, the secretarial and tax filing fees incurred are only deductible when the fees are paid.

4. Gazette Order on Rental of Premises for Employees

The Government announced a further tax deduction on rental expenses of premises provided as living accommodation for employees under the PEMERKASA economic stimulus package. This further deduction applies to manufacturing companies and manufacturing related service companies registered under the Safe@Work program.

New Income Tax Rules

To legislate the proposal, [Income Tax \(Deduction for Expenditure on Provision of Employees' Accommodation\) Rules 2021](#) was gazetted on 24 December 2021.

Details of the New Income Tax Rules *(extracted verbatim from the relevant Rules)*

- Effective from the YA 2021.
- In ascertaining the adjusted business income of a company, a deduction of up to RM50,000 is allowed for the expenses incurred by the company on rental of a premise for the purpose of employees' accommodation within the period from 1 January 2021 until 31 December 2022.
- The amount of deduction allowed under these Rules is in addition to any deduction allowable under Section 33 of the MITA.
- The employees' accommodation must be an accommodation certified with a Certificate for Accommodation as provided for under Section 24D of the Employees' Minimum Standards of Housing, Accommodations and Amenities Act 1990, but excludes accommodation for directors.

A Quick Understanding on Taxability of Foreign Sourced Income

Written by:



Dr. Voon Yuen Hoong
Executive Director, Tax



Michael Cheah
Senior Manager, Tax



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Start the conversation with us

Corporate Tax Compliance

Foo Meng Huei
Executive Director
menghuei.foo@crowe.my
+603 2788 9898 Ext 2501

Voon Yuen Hoong
Executive Director
yuenhoong.voon@crowe.my
+603 2788 9898 Ext 2522

Wong Man Yee
Executive Director
manyee.wong@crowe.my
+603 2788 9898 Ext 2519

Liza Ooi Yap Lin
Director
liza.ooi@crowe.my
+603 2788 9898 Ext 2557

Tax Advisory

Chong Mun Yew
Executive Director
munyew.chong@crowe.my
+603 2788 9898 Ext 2523

Mervyn Ong Hean Chong
Executive Director
mervyn.ong@crowe.my
+603 2788 9898 Ext 2587

Indirect Tax

Fam Fui Chien
Manager
fuichien.fam@crowe.my
+603 2788 9898 Ext 2504

Transfer Pricing

Song Sylvia
Executive Director
sylvia.song@crowe.my
+603 2788 9898 Ext 2514

Global Mobility Services

Shalina Binti Jaafar
Executive Director
shalina.jaafar@crowe.my
+603 2788 9898 Ext 2505

Business Outsourcing

Esther Chan
Senior Manager
esther.chan@crowe.my
+603 2788 9898 Ext 2546



Our offices (West Malaysia)

Kuala Lumpur

Level 16, Tower C,
Megan Avenue 2,
12 Jalan Yap Kwan Seng,
50450 Kuala Lumpur.

+603 2788 9898 Main
+603 2788 9899 Fax

Klang

Suite 50-3, Setia Avenue,
No. 2, Jalan Setia Prima SU13/S,
Setia Alam, Seksyen U13,
40170 Shah Alam, Selangor.

+603 3343 0730 Main
+603 3344 3036 Fax

Ipoh

A-2-16, 2nd Floor, Wisma MFCB
1, Persiaran Greentown 2
Greentown Business Centre
30450 Ipoh, Perak Darul Ridzuan.

+605 238 0411 Main

Penang

Level 6, Wisma Penang Garden,
42 Jalan Sultan Ahmad Shah,
10050 Penang.

+604 227 7061 Main
+604 227 8011 Fax

Melaka

52 Jalan Kota Laksamana 2/15,
Taman Kota Laksamana, Seksyen 2,
75200 Melaka.

+606 282 5995 Main
+606 283 6449 Fax

Johor Bahru

E-2-3 Pusat Komersial Bayu Tasek,
Persiaran Southkey 1,
Kota Southkey,
80150 Johor Bahru,
Johor.

+607 288 6627 Main
+607 338 4627 Fax

Muar

8, Jalan Pesta 1/1,
Taman Tun Dr. Ismail 1,
Jalan Bakri, 84000 Muar,
Johor.

+606 952 4328 Main
+606 952 7328 Fax



Our offices (East Malaysia)

Kuching - iCom Square

2nd Floor, C378, Block C,
iCom Square, Jalan Pending,
93450 Kuching,
Sarawak.

+6082 552 688 Main
+6082 266 987 Fax

Kuching - Brighton Square

2nd Floor, Lots 11994 - 11996,
Brighton Square,
Jalan Song,
93350 Kuching,
Sarawak.

+6082 285 566 Main
+6082 285 533 Fax

Miri

Lot 2395, Block 4,
Bulatan Business Park,
Jalan Bulatan Park, 98000 Miri,
Sarawak.

+6085 658 835 Main
+6085 655 001 Fax

Bintulu

1st floor, Lot 4542-4543,
Jalan Abang Galau Shophouse,
Kampung Masjid, 97000 Bintulu,
Sarawak.

+6086 333 328 Main
+6086 334 802 Fax

Sibu

1st & 2nd Floor,
No. 1 Lorong Pahlawan 7A2, Jalan
Pahlawan, 96000 Sibu, Sarawak.

+6084 211 777 Main
+6084 216 622 Fax

Labuan

Lot 36, Block D, Lazenda Centre,
Jalan OKK Abdullah,
P.O. Box 81599, 87025, Labuan.

+6087 417 128 Main
+6087 417 129 Fax

Kota Kinabalu

Damai Plaza 3, 3rd Floor, C11,
Jalan Damai 88300, P.O. Box 11003,
88811 Kota Kinabalu, Sabah.

+6088 233 733 Main
+6088 238 955 Fax

Tawau

No.194, 2nd Floor, Block B,
Wisma DS, Jalan Bakau
91000 Tawau
Sabah.

+6089 771 040 Main



Crowe Malaysia PLT
Level 16, Tower C
Megan Avenue 2
12, Jalan Yap Kwan Seng
50450 Kuala Lumpur
Malaysia

Tel. +603 2788 9999

www.crowe.my

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