



# Crowe Chat

Vol.3/2021

**Tax**

Audit / Tax / Advisory

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# 1. Practice Note (PN) 1/2021 – Tax Treatment On Final Tax

## Introduction

With effect from the Year of Assessment (YA) 2014, taxpayers with only employment income and Monthly Tax Deductions (MTD) deducted throughout the year may opt not to submit an income tax return by virtue of Section 77C of the Malaysian Income Tax Act, 1967 (MITA). When taxpayers opt to do so, the total amount of MTDs will be deemed as final tax.

## New PN

The Inland Revenue Board of Malaysia (IRBM) issued [PN 1/2021 – Tax Treatment on Final Tax](#) on 3 May 2021. This new PN is available in Bahasa Malaysia only, under the title “Layanan Cukai Ke Atas Cukai Muktamad”.

## 1. Practice Note (PN) 1/2021 – Tax Treatment On Final Tax

### Details of the New PN

The objective of this PN is to explain the conditions for taxpayers to be eligible to treat the MTDs paid as final tax and the implications of final tax under various scenarios.

Some of the scenarios explained in this new PN are as follows:

Scenarios	Implications
A taxpayer satisfies the eligibility criteria and does not furnish the tax return by the stipulated deadline.	<ul style="list-style-type: none"><li>• The taxpayer is deemed to have opted for the MTDs to be treated as the final tax.</li><li>• If the MTDs are in excess of the actual tax liability, the taxpayer will not be eligible for any tax refunds.</li></ul>
A taxpayer does not furnish the tax return (MTDs paid is deemed as final tax) and the IRBM obtains new or additional information on the taxpayer's income.	<ul style="list-style-type: none"><li>• The IRBM has the power under Subsection 77C(3) of the MITA to raise an assessment or additional assessment.</li><li>• The MTDs will no longer be deemed as the final tax paid.</li></ul>

## 1. Practice Note (PN) 1/2021 – Tax Treatment On Final Tax

### Details of the New PN (cont'd)

Scenarios	Implications
<p>A taxpayer has opted for the MTDs as final tax but wishes to claim additional tax reliefs or apply for tax refunds.</p>	<ul style="list-style-type: none"> <li>• The taxpayer is required to submit the income tax return.</li> <li>• Penalties under Subsection 112(3) of the MITA may be imposed when the income tax return is submitted after the stipulated deadline.</li> </ul>
<p>A taxpayer has opted for MTDs as his final tax. Subsequently, a tax audit is carried out on the employer and a shortfall in MTDs is discovered.</p>	<ul style="list-style-type: none"> <li>• The employer will be subject to a compound under Section 124 of the MITA.</li> <li>• The employer will be required to make good the underpayment of MTDs to the IRBM.</li> <li>• The employee will be required to submit the income tax return to the IRBM. Penalty under Subsection 112(3) of the MITA may be imposed where the income tax return is submitted after the stipulated deadline.</li> </ul>

## 2. Guidance For Taxpayers On Filing Of Tax Returns And Tax Payments Due To The Movement Control Order (MCO) 3.0

### Introduction

Due to the rise in COVID-19 infections in Malaysia, the Government has decided to implement the MCO 3.0 restrictions from 12 May 2021 to 7 June 2021. Following the MCO that was implemented in selected states from January 2021, the Government has imposed a strict standard operating procedure that no more than 30% of management staff is allowed to operate for all economic sectors.

The Chartered Tax Institute of Malaysia (CTIM) has submitted a [letter dated 12 May 2021 to the IRBM](#) to enquire on whether the IRBM would consider extending the grace period for filing of tax returns as well as deferring tax payments for taxpayers who are affected by the MCO 3.0. In addition, the CTIM has also requested the IRBM to consider making e-filing and e-payment facilities available for payment of withholding tax and to allow Form Q to be filed via email.

## 2. Guidance For Taxpayers On Filing Of Tax Returns And Tax Payments Due To The Movement Control Order (MCO) 3.0

### The IRBM's Response

[The IRBM has responded via a letter dated 19 May 2021](#) that the affected taxpayers can apply for extension of time (EOT). The IRBM has agreed to give flexible conditions to facilitate applications for EOT as follows:

- a) Applications for EOT can be submitted within 30 days before the deadline of income tax return form submission (including the grace period); and
- a) Applications on a group basis (en bloc) are allowed.



## 3. Country-by-Country Reporting (CbCR) Notification Using The Form C

### Introduction

The Malaysian Income Tax (Country-by-Country Reporting) Rules 2016 (The Rules) P.U.(A) 357/2016 was gazetted on 23 December 2016. The Rules apply to multinationals headquartered in Malaysia, having total group consolidated revenue of more than RM 3 billion in a financial year. The CbCR rules in Malaysia took effect on 1 January 2017.

### IRBM's Announcement

The IRBM has issued an [announcement](#) on its website on 25 May 2021 whereby starting from the YA 2021, constituent entities can now furnish the Country-by-Country Reporting (CbCR) Notification using the Form C. The salient points highlighted in the announcement are:

- Constituent entities filing other forms (i.e. other than Form C) should continue furnishing the notification using the existing method (i.e. submission of hardcopy notification letter to the IRB on or before the last day of the reporting financial year).
- Notification (i.e. constituent entities submitting Form C return) should be made on or before the due date to file the Form C.



# Badges of Trade

## Factors to Consider on whether Trade Exists

By **Kathrina Lim**,  
Associate Director, Corporate Tax Compliance

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The banner features a background image of a hiker with a large backpack standing on a rocky outcrop against a blue sky with light clouds. The Crowe logo is in the top left, and the tagline 'Smart decisions. Lasting value.' is in the top right. The main title 'Crowe Perspectives' is centered in large white font. Below it, a yellow horizontal bar contains the article title 'Badges of Trade' and subtitle 'Factors to consider on whether trade exists' in black text. Underneath the yellow bar, the author's name and title are listed in small black text. At the bottom center, there is a red button with the text 'Download Now!' and a white downward-pointing arrow icon.

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## Crowe Perspectives

### Badges of Trade

Factors to consider on whether trade exists

By Kathrina Lim,  
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