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MALAYSIAN TAX RELIEFS AND COVID-19

Introduction

The sudden and deadly COVID-19 pandemic has led to lockdowns across the globe in an effort to stymy the spread of the virus. The unfortunate side effect of this necessary life-saving measure is a near standstill of business activity within affected countries. This article will look at Malaysian tax relief efforts and consider what else might be done to lessen the effects of the impending global recession.

On 18th March 2020, the Malaysian government issued a nation-wide Movement Control Order ('**MCO**') that compelled all non-essential businesses to shut their physical premises until 31 March in an effort to keep the population in their homes. With the subsequent extension of the order for a further 2 weeks Malaysian taxpayers, whether individuals or corporations, are now faced with the daunting task of surviving an extended period without revenue.

A Summary Malaysian Tax & Economic Reliefs

The Inland Revenue Board ('**IRB**') and Royal Malaysian Customs ('**RMC**') implemented a number of measures to ease the taxpayers' hardship during these difficult times. Some of the measures are:

- A tax deduction for donors who donate to either the Ministry of Health's COVID-19 Fund; the National Disaster Management Agency's COVID-19 Fund; or one of the institutes/organisations approved under s44(6) of the Income Tax Act 1967.

- A 2-month extension for filing of income tax returns due between March 2020 and June 2020.

- Automatic extension to 30 April 2020 for Notice of Appeal (Form Q) to the Special Commissioners with filing deadlines that fall within the MCO period.

- Import duty and sales tax exemption for personal protective equipment ('**PPE**'), face masks, medical devices, laboratory equipment and other disposal equipment.

- Extension of deadline for filing of any returns due to RMC on 31 March 2020 to 15 April 2020 and the remittance of penalties in respect of such returns.

- Extension for filing of Real Property Gains Tax ('**RPGT**') returns to 30 April 2020.

- Extension to 30 April 2020 for responses to income tax audit and investigation queries.

- Country-by-country reporting ('**CbCr**'), previously due on 31 March 2020, has been extended to 30 April 2020.

- Extension of time until 30 April 2020 to make payments in respect of tax estimates for companies and self-employed individual taxpayers which were due on 31 March 2020.

- Extension to 30 April 2020 for data submission and payment of the Monthly Tax Deduction ('**MTD**') and/or CP38 payments for the remuneration for March 2020.

- Extension to 30 April 2020 for Form CP204A for revision of tax estimate for companies.

- Service Tax exemption for hotels from 1 March 2020 to 31 August 2020.

- Tourism sector (tour agencies, hotels, and airlines) relief in the form of revising and deferment of monthly tax installments due between 1 April 2020 and 30 September 2020, with no penalty for tax estimate revision.

The list of extensions goes on. Broadly summarised, these relief measures come in two forms:

1) Tax incentives for specific goods, industries or donations, and;

2) Extensions to the filing and payment deadlines.

These are supplemented by the RM250 billion broad-spectrum economic stimulus package ('**PRIHATIN**') targeted at individuals. For businesses, Bank Negara Malaysia ('**BNM**') has recently enhanced allocations to the Special Relief Fund ('**SRF**') from RM2 billion to RM5 billion with a lower financing rate at 3.50% and the All Economic Sectors ('**AES**') Facility from RM5.8 billion to RM6.8 billion, with a reduced financing rate of 7% (down from 8%), among other measures.

The Big Picture

While individual taxpayers may be able to get by on the handouts temporarily, without continued income in the form of steady employment, their economic position becomes unsustainable. Hence the importance of supporting Small – Medium Enterprises ('**SME**').

SMEs account for the majority of Malaysian businesses and the majority of Malaysian jobs. With business slowed, or dried up entirely, their ongoing overheads will mean that employee pay cuts and retrenchments are likely.

Deadline extensions will allow SMEs more time to prepare their finances. Indeed, similar extensions have also been implemented by tax authorities in major countries like the United States, Germany and Australia.

Germany, for example, has allowed for deferring tax payments, reducing advance payments, and relief in the area of enforcement; Deferrals of tax collection to be facilitated, without the assessment of interest—in particular if the collection would impose a considerable hardship on the taxpayer. Postponement of the date of tax payments and a waiver of late payment surcharges until 31 December 2020.

Great efforts have already been made to assist the Malaysian taxpayer. However, more relief will be needed. Beyond deferment and extensions, the IRB should look into measures that actually lower the tax burden.

On top of their own deadline extensions, the Australian Tax Office has recently introduced the “backing business investment” initiative which allows eligible businesses to accelerate their depreciation deductions on the purchase of certain new depreciating assets. This is also coupled with ‘cash-flow boosts’ that are automatically credited, dispensing with the need to apply for the boost.

Double Deduction, Double Relief

Generally, Malaysia has used double deduction to incentivise taxpayers to incur certain revenue expenses. In the past, this has been used to encourage spending on:

- approved training (Income Tax (Deductions for Approved Training) Rules 1992 [P.U. (A) 61/1992] and Income Tax (Deductions for Approved Training) (Amendment) Rules 1995 [P.U. (A) 111/1995]);

- employment of handicapped staff, (Income Tax (Deductions for The Employment of Disabled Persons) Rules 1982 [P.U.(A) 73/1982] and Income Tax (Deductions for The Employment of Disabled Persons) (Amendment) Rules 2019 [P.U.(A) 204/2019]),

And more.

In the present crisis, SMEs should be given double deductions for the salaries of retained employees (provided no retrenchments occurred) and for expenses incurred in retaining employees through the next 12 months when, hopefully, the economy has recovered to some degree.

Conclusion

More must be done to ensure the survival of SMEs. Deadline extensions only delay the inevitable and increased financing facilities are not always desirable for SMEs, especially the smaller businesses which cannot afford the added financial obligations. Tax deductions lighten the employer's burden and provides a way for the government to keep SMEs running while also safeguarding employee retention.

Important Information

Azmi & Associates has set up Azmilaw Task Force to look into all issues arising from COVID-19 and MCO. Clients are welcomed to contact their usual Partner who will bring their issues to Azmilaw Task Force for our further action.

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