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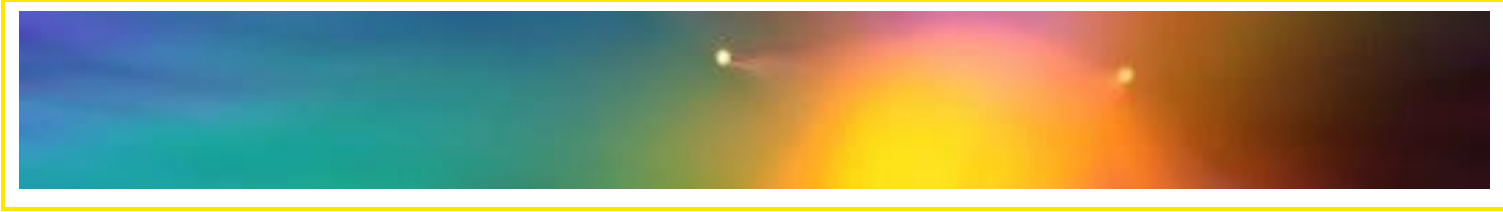
Updates to certain proposals in the Economic Stimulus Packages

Coverage of this Alert

- ▶ Operational Guideline No. 2/2020 on the revision of estimate of tax payable (CP204) in the month of the third tax instalment (where the third-month tax instalment falls in 2020) and the deferment of monthly income tax instalment payments (CP204 and CP500) under the Economic Stimulus Packages
- ▶ Stamp duty exemption on the instrument of loan or financing agreement executed between an SME and a financial institution
- ▶ Withdrawal of funds from Private Retirement Schemes (PRS) without penalties

As highlighted in earlier alerts, the Government of Malaysia announced various Economic Stimulus Packages to help individuals and businesses cope with the impact of the COVID-19 pandemic. A number of concessions have also been granted by the Inland Revenue Board (IRB). The proposals and concessions include the following:

- ▶ Businesses are allowed to revise their estimate of tax payable in the month that the third tax instalment is due, where the third-month tax instalment falls in the calendar year 2020.
- ▶ Businesses in the tourism sector are allowed to defer their monthly income tax instalment payments due between the period 1 April 2020 and 30 September 2020 (i.e. six months of instalments).
- ▶ Small and Medium Enterprises (SMEs) are allowed to defer their monthly income tax instalment payments due between the period 1 April 2020 and 30 June 2020 (i.e. three months of instalments).
- ▶ Taxpayers are allowed to defer their CP500 income tax estimate payments. The months eligible for deferment are March 2020 and May 2020.



The IRB has also issued the following Frequently Asked Questions (FAQs) documents to provide clarification on the above proposals:

- ▶ Frequently Asked Questions on Tax Matters during the Movement Control Order and the Conditional Movement Control Order Period (18 March 2020 to 12 May 2020) - last updated on 20 May 2020 (IRB's FAQs)
- ▶ "Soalan Berkaitan Pindaan Anggaran Cukai (CP204) Pada Bulan Ketiga Ansuran Dalam Tahun 2020 Dan Penangguhan Bayaran Anggaran Cukai Bagi Syarikat Berkaitan Industri Pelancongan Dan Perusahaan Kecil Dan Sederhana (PKS) Di Bawah Pakej Rangsangan Ekonomi (PRE) 2020" (see *Special Tax Alert No. 10/2020*)

Following the above, the IRB has now published on its website Operational Guidelines No. 2/2020 in Bahasa Malaysia, titled "Pindaan Anggaran Cukai (CP204) Pada Bulan Ke-3 Ansuran Yang Jatuh Dalam Tahun Kalendar 2020 Dan Penangguhan Bayaran Anggaran Cukai (CP204 Dan CP500) Di Bawah Pakej Rangsangan Ekonomi 2020 (PRE)" dated 12 May 2020. Broadly, the Operational Guidelines reiterate the points outlined in the earlier FAQs. Some of the additional clarifications are set out below:

(a) Paragraphs 1.1, 1.2 and 1.3

The Operational Guidelines stipulate that the categories of taxpayers who are eligible for each proposal are as follows:

- (i) Revision in the third month of tax instalments
 - Companies, limited liability partnerships (LLPs), co-operative societies and trust bodies
- (ii) Deferment of monthly income tax instalment payments for six months
 - Resident companies, LLPs, co-operative societies and trust bodies in the tourism sector - including SMEs
- (iii) Deferment of monthly income tax instalment payments for three months
 - CP204 tax instalment payments: Resident companies that are SMEs (as defined)
 - CP500 tax instalment payments: Taxpayers other than resident companies

(b) Paragraph 3.1.4

Based on the earlier FAQs, where a company's third monthly tax instalment falls in April 2020, the effective date of the revision is 15 April 2020 (with a special extension of time given for payments to be remitted by 31 May 2020 due to the COVID-19 pandemic). The Operational Guidelines now clarify that if a company has remitted the payment due on 15 April 2020 based on the amount in the original instalment scheme, then the effective date of the revision will commence from the fourth monthly tax instalment.

Basis period	Third month of tax instalments	Due date for the submission of the revision	Effective date of the revision
1 January 2020 - 31 December 2020	April 2020	31 May 2020 (extension of time granted as per the IRB's FAQs)	<p>As per the IRB's FAQs, an extension of time is granted until 31 May 2020 for tax instalment payments due on 15 April 2020 and 15 May 2020.</p> <p>The effective date of the revision is on 15 April 2020. <i>However, if the company has remitted the payment due on 15 April 2020, then the effective date of the revision will commence in the fourth monthly tax instalment (originally due on 15 May 2020, now extended to 31 May 2020) (upon application by the taxpayer)</i></p>
1 August 2020 - 31 July 2021	November 2020	30 November 2020	<p>If the application form is submitted before 15 November 2020, the revision is effective for the instalment due on 15 November 2020. If the application form is submitted after 15 November 2020, the revision is effective for the instalment due on 15 December 2020.</p> <p>Editor's note: It remains unclear, however, what the effective date is for applications submitted <u>on the 15th</u> of the month.</p>

(c) Paragraph 3.3.1.10

The Operational Guidelines clarify that a taxpayer can lodge an appeal by way of letter or e-mail to the Records Management and Taxation Information Division if the company finds that it satisfies the criteria to be eligible for the deferment of tax estimate, but has not received a notification e-mail from the IRB confirming its entitlement for the deferment.

(d) Paragraph 3.3.2

The Operational Guidelines clarify that the deferment of the CP500 payments will be given automatically to eligible taxpayers based on the IRB's records, which is the Form CP500 tax instalment scheme for the Year of Assessment (YA) 2020. An example has also been provided to illustrate the mechanism of the deferment.

The Operational Guidelines are available in the following link:
http://lampiran1.hasil.gov.my/pdf/pdfam/GPO_2_2020_1.pdf

Stamp duty exemption on the instrument of loan or financing agreement executed between an SME and a financial institution

The Stimulus Package proposals announced by the Government include the following financing facilities to assist Malaysian SMEs:

- (a) Special Relief Facility to alleviate short-term cash flow problems faced by SMEs
- (b) All Economic Sectors Facility to improve SMEs' access to financing and to support growth
- (c) Automation and Digitalization Facility to incentivize SMEs to automate processes and digitalize operations to increase productivity and efficiency
- (d) Agrofood Facility to increase food production for Malaysia and for export purposes
- (e) Micro Enterprises Facility to increase access to collateral-free financing for micro enterprises

Following the above, the Stamp Duty (Exemption) Order 2020 [P.U. (A) 152] was gazetted on 14 May 2020 to provide a stamp duty exemption on the instrument of loan or financing agreement relating to the above-mentioned loans or financing facilities executed between an SME and a financial institution (FI). This exemption is not automatic and must be applied for.

The exemption shall apply to relevant instruments executed pursuant to a letter of offer issued by the FI between 27 February 2020 and 31 December 2020. The application for the exemption will have to be accompanied by the letter of offer, stipulating the approval of the loan or financing facility.

The following terms have also been defined in the Order:

(a) Financial institution

Same meaning as that assigned to "banker" in Section 2 of the Stamp Act 1949, and any person prescribed as a FI by the Minister under Section 2(1) of the Central Bank of Malaysia Act 2009 (CBA) for the purposes of Section 49 of the CBA

(b) Loan or financing facility

Loan or financing facility approved under Bank Negara Malaysia (BNM)'s Fund for SMEs:

- (i) Special Relief Facility;
- (ii) All Economic Sectors Facility including SMEs Automation and Digitalization Facility
- (iii) Agrofood Facility; or
- (iv) Micro Enterprises Facility

(c) Small and medium enterprises

Enterprises as may be determined by the National Small and Medium Enterprises Development Council established under Section 2A of the Small and Medium Industries Development Corporation Act 1995

Further details pertaining to the financing facilities are available in the following links:

- ▶ [Features of BNM's Financing Facilities to assist Malaysian SMEs](#)
- ▶ [Frequently Asked Questions: Financing Facilities to assist SMEs affected by COVID-19](#)

Withdrawal of funds from Private Retirement Schemes (PRS) without penalties

In the second Economic Stimulus Package announced on 27 March 2020, it was proposed that withdrawals of funds from Sub-Account B of a Private Retirement Scheme (PRS) be permitted up to a maximum amount of RM1,500, without the imposition of the 8% tax penalty (see *EY Take 5: COVID-19: Second Economic Stimulus Package 2020*).

To legislate this proposal, the Income Tax (Exemption) (No. 3) Order 2020 [P.U. (A) 153] was gazetted on 19 May 2020. The Order exempts an individual from the payment of income tax in respect of withdrawal from a PRS before reaching the age of 55, which was contracted by the individual with a PRS provider approved under Section 139Q of the Capital Markets and Services Act 2007. The exemption applies to withdrawals made from 30 April 2020 until 31 December 2020, and is subject to a maximum of RM1,500 withdrawn from each PRS provider. The Order provides that Section 109G of the Income Tax Act 1967, which stipulates that the payer (i.e. PRS provider) would need to deduct withholding tax at 8% on the amount withdrawn, would not apply to the income exempted under the Order.

The Order is effective for YA 2020.

Access the latest EY tracker on global economic and state aid measures:

- ▶ https://www.ey.com/en_gl/tax/how-covid-19-is-causing-governments-to-adopt-economic-stimulus-

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