



Building a better
working world

EY Tax Alert (Special Edition)

1 June 2020 - Issue No. 15

Updates to IRB's FAQs on tax matters during the MCO and CMCO period, and certain proposals in the Economic Stimulus Packages

Coverage of this Alert

- ▶ Frequently Asked Questions on Tax matters during the Movement Control Order and the Conditional Movement Control Order period - updated on 29 May 2020
- ▶ Frequently Asked Questions on Special Tax Treatment to Financial Institutions in relation to moratorium granted to customer
- ▶ Stamp duty exemption on the instrument of loan or financing agreement relating to the restructuring or rescheduling of a business loan or financing executed between a borrower or customer and a financial institution

On 1 May 2020, the Government of Malaysia announced the Conditional Movement Control Order (CMCO), under which most economic sectors would be allowed to resume operations from 4 May 2020, subject to observing conditions and standard operating procedures that have been put in place to continue addressing the COVID-19 pandemic. The stricter Movement Control Order (MCO) was previously meant to last until 12 May 2020. On 10 May 2020, the Government announced that the CMCO would be in place until 9 June 2020 (see *Special Tax Alert No. 12/2020*).

The Inland Revenue Board (IRB) has now issued an updated version of its "Frequently Asked Questions" document with respect to the tax deadlines during the MCO and CMCO period, titled "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)" (IRB's FAQs) dated 29 May 2020. The key clarifications are as follows:

▶ Part A, Item 1

The IRB's FAQs will be applicable for the MCO / CMCO period of 18 March 2020 to 12 May 2020 only.



▶ **Part G, Item 9**

For donations or contributions made under Section 34(6)(h) of the Income Tax Act 1967 (ITA), a claim for tax deduction is now allowed in the basis period for the year of assessment (YA) in which the contribution is made. Previously, a tax deduction could only be claimed in YA 2020.

The IRB's FAQs are available in the following link:

http://lampiran2.hasil.gov.my/pdf/pdfam/faq_2.pdf

Frequently Asked Questions on Special Tax Treatment to Financial Institutions in relation to moratorium granted to customer

As part of the measures to ease the cash flow difficulties of those impacted by the COVID-19 pandemic, Bank Negara Malaysia (BNM) had announced the following:

- ▶ Banking institutions will grant an automatic six-month moratorium (deferment) on loan repayments for individuals and Small and Medium Enterprises (SMEs) effective 1 April 2020. This only applies to performing loans denominated in Ringgit.
- ▶ Upon application, credit card balances with banking institutions can also be converted into a three-year term loan with a reduced interest rate.
- ▶ Banking institutions will also consider requests from corporations which are not SMEs to defer or restructure their loan repayments.

It was thereafter proposed that the interest income or profits accrued by the banking institutions during the moratorium period be taxed only when received (see *EY Take 5: COVID-19 Second Economic Stimulus Package 2020*).

Following the above, the IRB recently issued a Frequently Asked Questions (FAQs) document, titled "Frequently Asked Questions on Special Tax Treatment to Financial Institutions in relation to moratorium granted to customer" to provide clarification on the above proposal.

Some of the key points are outlined below.

Q1: Who qualifies for the special tax treatment?

All licensed banks, licensed investment banks, licensed Islamic banks and prescribed development financial institutions (DFIs) regulated by BNM

Q2: What is the special tax treatment?

Interest or profit accrued and deferred during the moratorium period, arising from loans or financing which have been granted the moratorium package, shall not constitute the gross income of the

financial institution (FI) for that basis period for that YA. The moratorium period is from 1 April 2020 until 30 September 2020.

Q3 and Q5: Which types of loan or financing granted to individuals, SMEs and corporate borrowers or customers qualify for the special tax treatment?

- (i) Individuals and SMEs: All types of loan or financing (except credit card facilities); and
- (ii) Corporates: All types of loan or financing

that satisfy the following criteria:

- ▶ Denominated in Malaysian Ringgit
- ▶ Not in arrears exceeding 90 days as at 1 April 2020; and
- ▶ Granted moratorium from 1 April 2020 until 30 September 2020

Q4: What is the definition of "individuals" and "SMEs" for the purpose of this special tax treatment?

- ▶ Individuals: Individual borrowers or customers, other than SMEs
- ▶ SMEs: As defined by SME Corporation Malaysia per the following link:
<https://www.smecorp.gov.my/index.php/en/policies/2020-02-11-08-01-24/sme-definition>

Q6: How does an FI report its income with regard to the special tax treatment, to the IRB?

The accrued interest or profit income from the moratorium portfolio must be reported separately from the non-moratorium portfolio according to the customers' records.

Q7: Is the special tax treatment applicable to accrued interest or profit income received during the moratorium period?

No, any accrued interest or profit received during the moratorium period is treated as the gross income for the basis period for that YA.

Q8: What is the tax treatment for impairment provision in relation to loans or financing in the moratorium program?

The impairment provision for loans or financing in the moratorium program is not allowed as a tax deduction during the moratorium period. The tax treatment on the impairment provision before and after the moratorium period is based on the current tax treatment.

The full version of the FAQs is available at the following link:

http://lampiran1.hasil.gov.my/pdf/pdfam/FAQ_Moratorium_2.pdf

Stamp duty exemption on the instrument of loan or financing agreement relating to the restructuring or rescheduling of a business loan or financing executed between a borrower or customer and a financial institution

To ease the financial strain of borrowers in the tourism and other affected businesses, it was proposed in the first Economic Stimulus Package for all FIs to provide financial relief to viable borrowers by restructuring or

rescheduling their loans. It was also proposed that stamp duty exemption be given on loan agreements arising from such restructuring and rescheduling of business loans.

To legislate this proposal, the Stamp Duty (Exemption) (No. 2) Order 2020 [P.U. (A) 165] was gazetted on 21 May 2020 to provide stamp duty exemption on the instrument of loan or financing agreement relating to the restructuring or rescheduling of a business loan or financing between a borrower or customer and an FI, which is executed between 1 March 2020 and 31 December 2020. This is on condition that the existing instrument of loan or financing agreement has been duly stamped under Item 22 or 27 of the First Schedule of the Stamp Act 1949.

This exemption is not automatic and must be applied for. The application for the exemption will have to be accompanied by a letter of offer from the FI for the restructuring or rescheduling of the loan or financing.

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

(b) Restructuring or rescheduling

Any modification made to the existing repayment terms and conditions of the loan or financing agreement pursuant to a concession provided by the FI due to the inability of the borrower or customer to comply with the existing repayment schedule consequent to deteriorating financial conditions

The Order is effective 1 March 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--

Contact details

Principal Tax

Yeo Eng Ping (EY Asia-Pacific Tax Leader)
eng-ping.yeo@my.ey.com
+603 7495 8288

Amarjeet Singh (EY Asean Tax Leader and Malaysia Tax Leader)
amarjeet.singh@my.ey.com
+603 7495 8383

People Advisory Services

Tan Lay Keng (EY Asean People Advisory Services Leader and Malaysia People Advisory Services Leader)
lay-keng.tan@my.ey.com
+603 7495 8283

Christopher Lim (EY Asean Immigration Leader)
christopher.lim@my.ey.com
+603 7495 8378

Irene Ang
irene.ang@my.ey.com
+603 7495 8306

Business Tax Services

Robert Yoon (EY Asia-Pacific Fixed Assets Services Leader)
robert.yoon@my.ey.com
+603 7495 8332

Wong Chow Yang
chow-yang.wong@my.ey.com
+603 7495 8349

Bernard Yap
bernard.yap@my.ey.com
+603 7495 8291

Global Compliance and Reporting

Julian Wong (EY Asean Global Compliance and Reporting Leader)
julian.wong@my.ey.com
+603 7495 8347

Farah Rosley
farah.rosley@my.ey.com
+603 7495 8254

Janice Wong (EY Japan Business Services (JBS) Tax Asean Leader)
janice.wong@my.ey.com
+603 7495 8223

Julie Thong
julie.thong@my.ey.com
+603 7495 8415

Liew Ai Leng
ai-leng.liew@my.ey.com
+603 7495 8308

Simon Yeoh
simon.yeoh@my.ey.com
+603 7495 8247

Datuk Goh Chee San
(based in Sabah)
chee-san.goh@my.ey.com
+6088 532 000

Lee Li Ming
(based in Johor)
li-ming.lee@my.ey.com
+607 288 3299

Linda Kuang
(based in Kuching)
linda.kuang@my.ey.com
+6082 752 660

Mark Liow
(based in Penang)
mark.liow@my.ey.com
+604 688 1899

Contact details

International Tax and Transaction Services

Yeo Eng Ping

eng-ping.yeo@my.ey.com
+603 7495 8288

Amarjeet Singh

amarjeet.singh@my.ey.com
+603 7495 8383

Sockalingam Murugesan (EY Asean Transfer Pricing Leader and Malaysia Transfer Pricing Leader)

sockalingam.murugesan@my.ey.com
+603 7495 8224

Anil Kumar Puri

anil-kumar.puri@my.ey.com
+603 7495 8413

Asaithamby Perumal

asaithamby.perumal@my.ey.com
+603 7495 8248

Sharon Yong

sharon.yong@my.ey.com
+603 7495 8478

Hisham Halim (Transfer Pricing)

hisham.halim@my.ey.com
+603 7495 8536

Vinay Nichani (Transfer Pricing)

vinay.nichani@my.ey.com
+603 7495 8433

Indirect Tax

Yeoh Cheng Guan

cheng-guan.yeoh@my.ey.com
+603 7495 8408

Aaron Bromley

aaron.bromley@my.ey.com
+603 7495 8314

Jalbir Singh Riar

jalbir.singh-riar@my.ey.com
+603 7495 8329

Shanmuganathan Govinda Konal

(based in Penang)

shanmuganathan.govinda-konal@my.ey.com
+604 6881801

Financial Services

Koh Leh Kien

leh-kien.koh@my.ey.com
+603 7495 8221

Bernard Yap

bernard.yap@my.ey.com
+603 7495 8291

Chen Keng Haw

keng-haw.chen@my.ey.com
+603 7495 8385

About EY

EY is a global leader in assurance, tax, transaction and advisory services. The insights and quality services we deliver help build trust and confidence in the capital markets and in economies the world over. We develop outstanding leaders who team to deliver on our promises to all of our stakeholders. In so doing, we play a critical role in building a better working world for our people, for our clients and for our communities.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. Information about how EY collects and uses personal data and a description of the rights individuals have under data protection legislation is available via ey.com/privacy. For more information about our organization, please visit ey.com.

© 2020 Ernst & Young Tax Consultants Sdn. Bhd.
All Rights Reserved.

APAC no. 07002176

ED None.

This material has been prepared for general informational purposes only and is not intended to be relied upon as accounting, tax or other professional advice. Please refer to your advisors for specific advice.

ey.com