



## Tax Espresso

A snappy delight

### Greetings from Deloitte Malaysia Tax Services

#### Public Rulings (PRs)

##### **PR No. 3/2017: Income Tax Treatment Of GST Part III – Employee Benefits: GST Borne By An Employer**

The Inland Revenue Board (IRB) released the PR No. 3/2017 on 17 July 2017 to explain the income tax treatment on Goods and Services Tax (GST) in relation to the output tax on employee benefits accounted for and borne by the employer. Among the issues covered are:

- GST treatment of goods or services provided for free to employees as employee benefits, i.e., where output tax need to/need not be accounted for by an employer.
- Income tax treatment of GST output tax accounted for or

#### Quick links:

[Deloitte Malaysia](#)  
[Inland Revenue Board](#)

#### Takeaways:

Public Rulings (PRs)

PR No. 3/2017: Income Tax Treatment Of GST Part III – Employee Benefits: GST Borne By An Employer

PR No. 4/2017: Basis Period for a Business Source for Persons other than a Company, Limited Liability Partnership, Trust Body and Co-Operative Society

Technical Fee Article under Double Taxation Agreement

Gazette Orders

P.U.(A) 203/2017:  
Income Tax  
(Exemption) (No. 3)  
Order 2017

borne by employer on employee benefits.

### **PR No. 4/2017: Basis Period for a Business Source for Persons other than a Company, Limited Liability Partnership, Trust Body and Co-Operative Society**

The IRB released PR No. 4/2017 on 20 July 2017 to explain the determination of the basis period relating to a business source of a person other than a company, limited liability partnership, trust body and co-operative society.

PR No. 4/2017 replaces PR No. 6/2001 "Basis Period for A Business Source (Individuals & Persons other than Companies/Co-operatives)" which provides guidance prior to year of assessment (YA) 2004.

Commencing YA 2004, Section 21 of the ITA was amended in tandem with the implementation of self-assessment system (SAS) providing that the calendar year is the basis period for a year of assessment (e.g., the basis period for YA 2016 is 1 January 2016 to 31 December 2016) in relation to the source of income of a person other than a Company, Limited Liability Partnership, Trust Body and Co-Operative Society.

P.U.(A) 221/2017:  
Income Tax (Deduction for Expenditure on Issuance or Offering of Sustainable and Responsible Investment Sukuk) Rules 2017

#### **Upcoming events**

[Breakfast Talk 2017 \(Ipoh\)](#)

[Transfer Pricing: New Reporting Requirements Seminar](#)

#### **Important deadlines:**

Due date for 2018 tax estimates for companies with September year-end (31 August 2017)

6th month revision of tax estimates for companies with February year-end (31 August 2017)

9th month revision of tax estimates for companies with November year-end (31 August 2017)

Statutory filing of 2017 tax returns for companies with January year-end (31 August 2017)

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### **Technical fee article under Double Taxation Agreement**

Reference is made to our last month's *Deloitte Malaysia Tax Espresso – July 2017 issue* regarding the IRB's Practice Notes No. 1/2017 and No. 2/2017.

We wish to highlight that the 'Technical Fees / Fees for Technical Services' article of the relevant DTAs apply only to services that are of "technical, managerial or consultancy" nature. The exemptions or lower withholding tax rates granted under "Technical Fee Article" deal with fees for technical service which means payments of any kind to any person, other than to an employee of the person making the payments, in consideration for any services of a technical, managerial or consultancy nature.

Other treaty conditions need to be met before the Technical Fee Article can be relied on.

## **Gazette Orders**

### **P.U.(A) 203/2017: Income Tax (Exemption) (No. 3) Order 2017**

P.U. (A) 203/2017 (the Exemption Order) was gazetted on 21 July 2017 and is deemed to have come into operation from the year of assessment (YA) 2015.

The Exemption Order exempts a qualifying company from the payment of income tax for a period of five consecutive years in respect of statutory income derived from a qualifying project, which is equivalent to the amount of qualifying capital expenditure (as defined in Rule 3) incurred in the basis period for that YA.

A qualifying project for the purpose of the Exemption Order is:

- 1) a business of providing private healthcare services at a new private healthcare facility; or
- 2) a project of expansion, modernisation or refurbishment of the existing business of providing private healthcare services,

which has been approved by the Minister of Health and registered with the Malaysia Healthcare Travel Council.

It is provided in Subrule 4(5) that the application for exemption has to be received by the Malaysian Investment Development Authority not later than 31 December 2017.

There are other qualifying criteria and conditions attached to the Exemption Order that must be satisfied.

### **P.U.(A) 221/2017: Income Tax (Deduction for Expenditure on Issuance or Offering of Sustainable and Responsible Investment Sukuk) Rules 2017**

P.U. (A) 221/2017 (the Rules) was gazetted on 28 July 2017 and shall be deemed to have effect from YA 2016 until YA 2020.

The Rules provide that in ascertaining the adjusted income of a Malaysian resident company (as defined in Rule 2) from its business for the basis period for a YA, a deduction is allowed for the amount of expenses incurred on the issuance or offering of a Sustainable and Responsible Investment Sukuk approved by / authorised by / lodged with the Securities Commission Malaysia under the Capital Markets and Services Act 2007.

There are other qualifying criteria and conditions attached to the Rules that must be satisfied.

We invite you to explore other tax-related information at:

<http://www2.deloitte.com/my/en/services/tax.html>

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