

# Deloitte.



## Tax Espresso

Latest Media Release, Public Rulings,  
Gazette Order and more

December 2020



**MAKING AN  
IMPACT THAT  
MATTERS**  
*since 1845*

# Greetings from Deloitte Malaysia Tax Services

## Quick links:

[Deloitte Malaysia](#)

[Inland Revenue Board of Malaysia](#)

## Takeaways:

1. [Media release: IRBM to stop accepting tax payments by cheques delivered via mail or courier services from 1 January 2021](#)
2. [PR No. 11/2020: Reinvestment Allowance Part II - Agricultural and Integrated Activities](#)
3. [PR No. 10/2020: Reinvestment Allowance Part I – Manufacturing Activity](#)
4. [PR No. 9/2020: Taxation of Trusts](#)
5. [Stamp Duty \(Exemption\)\(No. 6\) Order 2020](#)
6. [Operational Guidelines 4/2020 – MTD under the Income Tax \(Deduction from Remuneration\) Rules 1994](#)

## Upcoming events:

1. [Beneficial Ownership I Reporting Framework](#)
2. [2020 Employer's income Tax Reporting Seminar](#)

## Important deadlines:

Task	Due Date	
	31 December 2020	1 January 2021
1. <b>2021 tax estimates for companies with January year-end</b>		√
2. <b>6<sup>th</sup> month revision of tax estimates for companies with June year-end</b>	√	
3. <b>9<sup>th</sup> month revision of tax estimates for companies with March year-end</b>	√	
4. <b>Statutory filing of 2020 tax returns for companies with May year-end</b>	√	
5. <b>Maintenance of transfer pricing documentation for companies with May year-end</b>	√	
6. <b>Deadline for 2020 CbCR notification for companies with December year-end</b>	√	

## 1. Media release: IRBM to stop accepting tax payments by cheques delivered via mail or courier services from 1 January 2021

The Inland Revenue Board of Malaysia (IRBM) has recently announced via a [media release](#) (available in Bahasa Malaysia only) that tax payments by cheques delivered via mail or courier services will not be accepted from 1 January 2021, in line with the government's effort to increase the use of online payment (e-payment).

### Not applicable to certain payments

This move does not apply to payments made for the purposes of:

1. Real property gains tax (RPGT)
  - taxes under Section 21B of the Real Property Gains Tax Act 1976 (Form CKHT 502)
2. Public entertainer's income tax (visiting artists)
3. Withholding tax
4. Compound

### Payment methods from 1 January 2021

Taxpayers are expected to pay their taxes using the following methods:

- (i) through the IRBM's official [ByrHASIL portal](#);
- (ii) internet banking facilities of commercial banks which are designated as tax collection agents by IRBM;
- (iii) over the counter at banks appointed as collection agents;
- (iv) payment counters at IRBM's payment centres;
- (v) cash/cheque deposit machine; and
- (vi) automated teller machine (ATM).

For payments made at the bank's counter, the taxpayer shall ensure the following information is furnished, complete and accurate:

- Income tax file reference number
- Full name and MyKad number
- Year of assessment and tax installment number
- Tax payment code
- Amount of tax payment.

### Proof of payment

The IRBM will not issue payment receipts for all transacted tax payments through e-payment facilities and banks appointed as tax collection agents. Instead, taxpayers or tax representatives need to ensure all valid bank confirmation slips or e-payment transaction slips are kept as payment receipts / proof of payment.

### Ensure tax payment made by cheque delivered via mail or courier is completed before 1 January 2021

To avoid the imposition of late payment penalty (or increase in the amount of unpaid tax which is not paid by the due date), taxpayers or tax representatives shall ensure that these new rules are complied with and that any tax payment made by cheque delivered via mail or courier services is completed before 1 January 2021.

### Feedback and enquiries

Any inquiries and related feedback can be submitted to the IRBM through:

- (a) Hasil Care Line at 603-8911 1000 or 603-8911 1100 (overseas)
- (b) HASiL Live Chat; and
- (c) Feedback Form on IRBM's official portal at the link: <https://maklumbalaspelanggan.hasil.gov.my/MaklumBalas/ms-my/>.

Please refer to the media release for the full details.

[Back to top](#)

## 2. PR No. 11/2020: Reinvestment Allowance Part II - Agricultural and Integrated Activities

The IRBM has on 10 November 2020 replaced [Public Ruling \(PR\) No. 10/2017](#) 'Reinvestment Allowance Part II - Agricultural and Integrated Activities (issued on 22 December 2017)' with [PR No. 11/2020](#). New Paragraphs 8 and 9 have been inserted into PR No. 11/2020 to include:

1. a time limit for the carrying forward of unutilised reinvestment allowance (RA) for a maximum of 7 consecutive years of assessment (YAs) after the expiry of the qualifying period, with effect from YA 2019. The enacted Finance Act 2018 imposed the time limit by adding a new Paragraph 4B to Schedule 7A of the Income Tax Act 1967 (along with a transitional provision i.e. special provision relating to Paragraph 4B of Schedule 7A); and
2. the procedures for claiming RA incentive.

**Prior to YA 2019**, if the qualifying project has been completed, RA carried forward (if any) is allowed to be deducted against a portion of the statutory income from the business in respect of the qualifying project until the RA is fully absorbed. The apportioned statutory income from business related to the qualifying project continues until the full amount of the RA is fully absorbed. However, **starting from YA 2019**, the balance of unabsorbed RA can only be carried forward to be absorbed for a maximum period of seven (7) consecutive YAs. The calculation of the maximum period of 7 consecutive YAs begins immediately after the expiry of the qualifying period for RA. Any RA balances that is unabsorbed after the end of that 7 consecutive YAs will be disregarded. Any unabsorbed RA in the YA 2018 can be carried forward to be absorbed for another 7 consecutive YAs i.e. from YA 2019 to 2025 (i.e. an unabsorbed RA brought forward from YA 2018 will be disregarded in YA 2026). Any unabsorbed RA in the YA 2019 can be carried forward to be absorbed for another 7 consecutive YAs i.e. from YA 2020 to 2026 (i.e. an unabsorbed RA will be disregarded in YA 2027). [See our [Special Alert – Finance Bill 2018 \(Amendment in Committee\)](#) for details on the time limit for carrying forward the unabsorbed RA.]

Please refer to [PR No. 11/2020](#), which should be read with [PR No. 10/2020](#) ‘Reinvestment Allowance Part 1 – Manufacturing Activity’, for the full details on reinvestment allowance.

[Back to top](#)

### 3. PR No. 10/2020: Reinvestment Allowance Part I – Manufacturing Activity

The IRBM has recently issued PR No. 10/2020: Reinvestment Allowance Part I – Manufacturing Activity dated 6 November 2020 ([PR No. 10/2020](#)) to replace [PR No. 9/2017](#) dated 22 December 2017.

The updates and amendments are summarised below:

#### 1) Capital expenditure – Additional or replacement of plant and machinery

If the purchase of plant and machinery is not for a qualifying project, the company is not eligible to claim RA on the expenditure incurred. This includes replacement of the existing tools or machinery parts. The company is not eligible to claim RA on the expenses incurred in replacing the tools or machinery parts unless it can be shown that such capital expenditure results in expanding, modernising, automating or diversifying the existing business. [Paragraph 8.3.2 of the PR refers]

#### 2) Limitation period for carrying forward of unabsorbed RA

Prior to YA 2019, the unabsorbed RA can be carried forward to be absorbed in the subsequent YAs until it is fully absorbed. However, effective YA 2019, the unabsorbed RA can only be carried forward to be absorbed for a maximum period of seven (7) consecutive YAs upon expiry of the qualifying period of that RA. Any balance of unabsorbed RA after the end of that seven (7) consecutive YAs will be disregarded. [Paragraph 10.5.5 of the PR refers]

For businesses that still have unabsorbed RA balances brought forward from the YA 2018 even though the qualifying period (15 years) has ended, those balances can be carried forward to be absorbed for another 7 consecutive YAs i.e. from YA 2019 until YA 2025 (i.e. an unabsorbed RA brought forward from YA 2018 will be disregarded in YA 2026). [Paragraph 10.5.6 of the PR refers]

New examples 37, 38, 39 and 40 have been provided in the PR.

#### 3) Procedures for claiming of RA

Claiming of RA incentive does not need a written approval from the IRBM. However, the claim must be recorded in the RA claim form which can be downloaded from IRBM’s Official Portal (Appendix C) [Paragraph 13.2 of the PR refers]

Please refer to [PR No. 10/2020](#) for the full details.

[Back to top](#)

#### 4. PR No. 9/2020: Taxation of Trusts

The IRBM has released [PR No. 9/2020](#) to explain the taxation of trusts including the ascertainment of a trust beneficiary's statutory income from the trust. Generally a trust involves a settlor, a trustee and beneficiaries.

##### Trust body

For tax purposes a trustee or trustees of a trust is a trust body. The total income of a trust body for a YA is subject to tax regardless of whether a share of that total income may be deemed [under Sections 61 or 62 of the Income Tax Act 1967 (ITA)] to be the statutory income of a beneficiary.

A trust body is subject to tax on its chargeable income at the prevailing rates under Paragraph 2, Part 1, Schedule 1 of the ITA. Income tax is imposed on any income accrued in or derived from Malaysia, foreign source income received by the trust is exempt from tax under Paragraph 28, Schedule 6 of the ITA. The deductibility of expenses is governed by Section 33(1) and is subject to any specific prohibition under Section 39 of the ITA. Hence, a trustee remuneration paid for the management and administration of the trust is not deductible in the ascertainment of the total income of a trust. However, if it can be proven that the trustee is directly involved in carrying on the business of the trust, the trustee remuneration may be deductible if it is wholly and exclusively incurred in the production of income.

The sources of income of a trust body are as follows:

- (a) any source forming part of the property / assets of the trust such as business, rental, interest, dividends and other income; and
- (b) any source of a trustee of a trust, being a source of his in respect of partnership income where a trust body is a partner and is assessable to tax in respect of its share of partnership income.

A trust body of a trust is treated as a chargeable person that is subject to all the provisions under the ITA except for Part VIII - Offences and Penalties (other than Section 122 of the ITA). Section 122 of the ITA covers the requirement to pay tax and make a return despite the institution of proceeding or the imposition of a penalty, special penalty, fine, etc. In other words, the trust body is required to pay tax and make a return even if it is not subject to:

- (a) penalties under Section 112, 113 or 114 of the ITA; and
- (b) prosecution under Section 120 of the ITA.

##### Beneficiary of a trust body

A beneficiary receives from a trust the actual amount of money that is available for distribution (i.e. the distributable income). The beneficiary would receive either the *whole or a fraction* of the distributable income of the trust according to the beneficiary's share entitlement as stipulated in a trust deed. This same **share entitlement (whole or a fraction) would be applied to the total income of the trust body to determine the beneficiary's share of the total income of the trust body for the purposes of the beneficiary's tax**. Distributable income differs from total income. Total income is determined in accordance with the provisions in the ITA whereas distributable income is determined in accordance with accounting principles.

A beneficiary of a trust is subject to tax in respect of any income of his from his *ordinary source or further source (foreign source)* under Paragraph 4(e) of the ITA. However, a further source income of a beneficiary is a foreign source and is deemed to be derived from outside Malaysia, hence it is exempt from tax by virtue of Paragraph 28, Schedule 6 of the ITA.

If the beneficiary's share of the total income from the trust body has been taxed at the trust body level, a set-off under Section 110(8) of the ITA is allowed to the beneficiary. A beneficiary who is a resident for tax purposes would be allowed a personal relief.

Kindly refer to [PR No. 9/2020](#) for the full details.

[Back to top](#)

#### 5. Stamp Duty (Exemption)(No. 6) Order 2020

Further to the announcement that Bank Negara Malaysia will provide a RM2 billion Special Relief Fund under the 2020 Economic Stimulus Package to ensure that companies affected by the COVID-19 pandemic can stay afloat and ride

through the challenging environment (as reported in our [Tax Espresso Special Edition @ 27 February 2020](#)), the Minister has gazetted the Stamp Duty exemption order [P.U.(A) 328/2020] on 18 November 2020.

[P.U.\(A\) 328/2020](#) which is deemed to have come into operation on 1 June 2020, provides for Stamp Duty exemption on an instrument of loan or financing agreement which is executed between Bank Negara Malaysia and a participating financial institution<sup>1</sup> for the purposes of Special Relief Fund (SRF) under Bank Negara Malaysia's Fund for small and medium enterprises<sup>2</sup> (SMEs). The instrument of loan or financing agreement must be executed during the period of 1 June 2020 to 31 December 2020.

<sup>1</sup>"Participating financial institution" has the same meaning assigned to "banker" in Section 2 of the Stamp Act 1949 and includes any person prescribed as a financial institution by the Minister under Section 2(1) of the Central Bank of Malaysia Act 2009 [Act 701] for the purposes of Section 49 of the Stamp Act 1949.

<sup>2</sup>"Small and medium enterprises" has the same meaning assigned to it in Section 2 of the Small and Medium Industries Development Corporation Act 1995 [Act 539].

Kindly refer to [P.U.\(A\) 328/2020](#) for the full details.

[Back to top](#)

## 6. Operational Guidelines 4/2020 – MTD under the Income Tax (Deduction from Remuneration) Rules 1994

The IRBM recently released the [Operational Guidelines 4/2020](#) on 'Monthly tax deduction (MTD) under the Income Tax (Deduction from Remuneration) Rules 1994 [P.U.(A) 507/1994]' dated 17 November 2020, which is available in Bahasa Malaysia only. The objective of these Guidelines is to explain:

- (a) the employer's responsibility in relation to the implementation of MTD on an employee's monthly remuneration; and
- (b) method of determining the amount of MTD.

These Guidelines help employers determine the MTD amount correctly and accurately in line with P.U.(A) 507/1994 and the laws which are effective at the date these guidelines are published. MTD is a mechanism in which employers deduct income tax payments from the monthly remuneration of their current employees as provided under Section 107(2) of the ITA. The deductions are intended to relieve employees from the burden of paying a lump sum tax once the actual taxes are determined. The amount of MTD is determined according to the formula under the MTD Schedule or formula for Computerised Calculation Method as prescribed by the IRBM in the Schedule referred to in Rule 3 of P.U.(A) 507/1994.

These Guidelines cover the following topics:

1. Employer responsibility;
2. Determination of MTD amount;
3. Deduction and rebate allowed under the ITA;
4. MTD calculation formula; and
5. Determination of MTD amount for additional remuneration.

Please refer to the [Operational Guidelines 4/2020](#) for the full details.

[Back to top](#)

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

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

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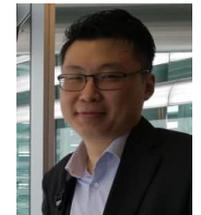
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