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## EY Tax Alert (Special Edition)

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### Important update: The Inland Revenue Board's new and updated guidelines on e-Invoices

#### Coverage of this Alert

- ▶ e-Invoice Guideline (Version 2.0)
- ▶ e-Invoice Specific Guideline (Version 1.0)
- ▶ e-Invoice Catalogue

On 29 September 2023, the Inland Revenue Board (IRB) published on its website the following documents, which can be accessed via the following [link](#):

- ▶ e-Invoice Guideline (Version 2.0)
- ▶ e-Invoice Specific Guideline (Version 1.0)
- ▶ e-Invoice Catalogue

#### e-Invoice Guideline (Version 2.0)

The updated e-Invoice Guideline (Version 2.0) replaces the earlier e-Invoice Guideline (Version 1.0).

Some of the key changes made to the e-Invoice Guideline are outlined below:



► **Exemption from implementing e-Invoices**

The updated Guidelines indicate that the following persons are exempted from issuing e-Invoices (including the issuance of self-billed e-Invoices):

- (a) Ruler and Ruling Chief
- (b) Former Ruler and Ruling Chief
- (c) Consort of a Ruler of a State having the title of *Raja Perempuan, Sultanah, Tengku Ampuan, Raja Permaisuri, Tengku Permaisuri* or *Permaisuri*
- (d) Consort of a Former Ruler of a State previously having the title of *Raja Perempuan, Sultanah, Tengku Ampuan, Raja Permaisuri, Tengku Permaisuri* or *Permaisuri*
- (e) Government
- (f) State government and state authority
- (g) Government authority
- (h) Local authority
- (i) Statutory authority and statutory body
- (j) Facilities provided by the above government, authority or body (e.g., hospital, clinic, multipurpose hall)
- (k) Consular offices and diplomatic officers, consular officers and consular employees

The above exemption is only applicable to the abovementioned persons. Any entities (e.g., companies or limited liability partnerships) owned by the abovementioned persons are required to implement e-Invoicing in accordance with the stipulated implementation timeline.

In addition to the above, the IRB acknowledges that there are various challenges in issuing e-Invoices for certain types of income or expense. As such, e-Invoices (including self-billed e-Invoices) are not required for the following types of income or expense:

- (a) Employment income
- (b) Pension
- (c) Alimony
- (d) Distribution of dividend in specific circumstances [Please refer to Item 9 under the e-Invoice Specific Guideline (Version 1.0) section below]
- (e) *Zakat*
- (f) Scholarship

The list above will be reviewed and updated by the IRB from time to time.

▶ **Rejection or cancellation of e-Invoices**

If an e-Invoice contains errors, within 72 hours from the time of validation via the *MyInvois* portal or Application Programming Interface (API), the buyer may request that the e-invoice be rejected. When the buyer initiates the rejection request (with the specified reason), a notification will be sent to the supplier.

The IRB has now clarified that if the supplier accepts the reason provided, the supplier can proceed to cancel the said e-Invoice within 72 hours from the time of validation.

If the supplier does not accept the request which is initiated by the buyer or does not withdraw the e-Invoice, no cancellation will be allowed after 72 hours have lapsed. Any amendments to the e-Invoice will require the issuance of a new e-Invoice (e.g., a credit note or refund note e-Invoice).

▶ **e-Invoice transmission methods**

The IRB has clarified that the methods of transmission of an e-Invoice via the Application Programming Interface (API) include:

- (i) Direct integration of a taxpayer's Enterprise Resource Planning (ERP) system with the *MyInvois* System
- (ii) Through Peppol service providers
- (iii) Through non-Peppol technology providers

▶ **Data fields**

In the e-Invoice Guideline (Version 2.0), the number of data fields for an e-Invoice has been reduced from the earlier 53 data fields to 51 data fields. The following data fields are no longer mandatory for an e-Invoice:

- ▶ Supplier's website
- ▶ Product tariff code/service category

The data field for the product tariff code has instead now been included as an optional data field in the Annexure to the e-Invoice, and it is only applicable for the importation or exportation of goods. With this, the number of data fields for the Annexure to an e-Invoice has been increased from 11 to 12 data fields.

# e-Invoice Specific Guideline (Version 1.0)

The e-Invoice Specific Guideline provides further guidance on the issuance of e-Invoices relating to the following areas:

## 1. Transactions with buyers

The IRB recognises that certain buyers, particularly end consumers, may not require an e-Invoice as proof of expense.

As such, the e-Invoice Specific Guideline provides an overview of the e-Invoice process flow for the following two scenarios:

### Scenario 1: Where the buyer requires an e-Invoice

- ▶ The normal e-Invoice process flow shall apply (Please see [Take 5: e-Invoice Guideline: Navigating the future of tax digitalization](#) for further information).
- ▶ In order to ease the burden of individual buyers in providing both their Tax Identification Number (TIN) and identification number details, the IRB has provided the following concession to individual buyers:
  - ▶ Malaysian individuals have the option to provide:
    - ▶ TIN only;
    - ▶ MyKad identification number only; or
    - ▶ Both the TIN and MyKad identification number.
  - ▶ Non-Malaysian individuals have the option to provide:
    - ▶ TIN only; or
    - ▶ Both the TIN and passport number.

### Scenario 2: Where the buyer does not require an e-Invoice

- ▶ The supplier will issue a receipt/bill/invoice to the buyer as per normal business practice.
- ▶ However, the supplier is required to aggregate transactions with buyers who do not require e-Invoices on a monthly basis and submit a consolidated e-Invoice to the IRB within seven calendar days after the month-end.
- ▶ If the buyer requires an e-Invoice after receiving the receipt/bill/invoice from the supplier, the buyer can request an e-Invoice from the supplier within the month of the transaction.
- ▶ The e-Invoice Specific Guideline provides guidance on the consolidation methods and details to be included in the consolidated e-Invoices.
- ▶ The e-Invoice Specific Guideline also specifically provides that the consolidation of e-Invoices is not allowed for the following activities/transactions:
  - ▶ Sale of any motor vehicles;
  - ▶ Sale of flight tickets;
  - ▶ Private charters of aircraft;
  - ▶ Activities relating to luxury goods and jewellery (Further details will be released by the IRB);
  - ▶ Construction contractors undertaking construction contracts, as defined in the Income Tax (Construction Contracts) Regulations 2007;
  - ▶ Sale of construction materials by wholesalers and retailers of construction materials, regardless of the volume sold;

- ▶ Payout to winners for all betting and gaming activities in the licensed betting and gaming industry; and
- ▶ Payments made to agents, dealers or distributors as defined under Section 83A(4) of the Income Tax Act 1967 (ITA).

The e-Invoice Specific Guideline also provides guidance on various options for suppliers to issue e-Invoices to buyers in business-to-consumer (B2C) transactions, depending on when the buyer requests the e-invoice (i.e., either requested at the point of the transaction or requested at a later date). The options for suppliers to issue e-Invoices to buyers as suggested by the IRB are through the Online Platform (retailer's web portal / mobile app), Point-of-Sale (POS) System (for retailers) and *MyInvois* mobile app. Suppliers are allowed to implement any other methods other than the aforementioned options.

## 2. Statements or bills on a periodic basis

The current practice of some businesses/industries is the periodic issuance of statements or bills (e.g., monthly, quarterly or annually) to record multiple transactions with a customer over a specific period of time. These businesses/industries include but are not limited to those involved in:

- ▶ Digital/Electronic payments
- ▶ Financial services, including banking and financial institutions
- ▶ Healthcare
- ▶ Insurance
- ▶ Stockbroking
- ▶ Telecommunications

The IRB allows suppliers that issue statements or bills on a periodic basis to issue e-Invoices in the XML or JSON formats for IRB's validation and thereafter, convert the validated e-Invoices into visual formats as statements or bills that will be sent to buyers. The IRB also allows suppliers to create and submit e-Invoices for IRB's validation in accordance with their respective frequency of the issuance of statements or bills (e.g., monthly, quarterly, annually).

Where the buyers do not require e-Invoices, the supplier can issue ordinary statements or bills to the buyers as per current business practice. However, in such cases the supplier is required to aggregate the statements or bills and thereafter, create and submit a consolidated e-Invoice for IRB's validation in accordance with the current issuance period for the statements or bills (e.g., monthly, quarterly, annually), within seven calendar days after the end of the period.

### **3. Disbursement or reimbursement**

'Reimbursement' refers to out-of-pocket expenses incurred by the payee (supplier) in the course of rendering services or selling goods to the payer (buyer), which are subsequently reimbursed by the payer. Examples of such expenses are costs of air fares, travelling expenses and accommodation.

'Disbursement' refers to out-of-pocket expenses incurred by the payer (buyer) and paid to a third party by the payee (supplier) on behalf of the payer in connection with services rendered or the sale of goods by the payee.

Based on the definition of the above terms in the e-Invoice Specific Guideline, a reimbursement should generally be included in an e-Invoice issued by a supplier, while a disbursement should not be included in an e-Invoice issued by the supplier (as this is merely a payment on behalf).

### **4. Employment perquisites and benefits**

Currently, employees are generally required to submit their expense claims (in respect of employment benefits such as club membership, professional subscriptions or car maintenance charges) to their employers and these claims would be recorded as the employer's expense for tax purposes.

Upon implementation of e-Invoices, the employee should request the supplier to issue an e-Invoice in the name of his/her employer as proof of expense. However, the IRB recognizes the challenges in getting the e-Invoice issued in the name of the employer. Hence, the IRB will provide the following concessions:

- a) The employer will be allowed to use the e-Invoice issued in the name of the employee as proof of expense for tax purposes.
- b) Where payment in relation to any employment perquisite and benefit is made to a foreign supplier, neither the employer nor employee are required to issue a self-billed e-Invoice. The foreign supplier's receipt/bill/invoice will be accepted as proof of expense.

This concession is only applicable if the perquisites and benefits are clearly stated in the employer's policy.

### **5. Expenses incurred by an employee on behalf of the employer**

An employee may incur certain expenses on behalf of the employer such as accommodation, toll, mileage and parking.

Similar to the treatment for employment perquisites and benefits, the employee should request the supplier to issue an e-Invoice in the name of his/her employer as proof of expense. However, the IRB will provide the following concessions:

- a) The employer will be allowed to use the e-Invoice issued in the name of the employee as proof of expense for tax purposes.

- b) Where an employee has paid for expenses incurred overseas, neither the employer or employee are required to issue a self-billed e-Invoice. The foreign supplier's receipt/bill/invoice can be accepted as proof of expense.

These concessions are only applicable if the employer is able to prove that the employee is acting on the employer's behalf in incurring the expenses.

## 6. Self-billed e-Invoice

Generally, a supplier is required to issue an e-Invoice to a buyer. An e-Invoice serves as proof of income for the supplier and proof of expense for the buyer. However, there are certain circumstances where another party (other than the supplier) is allowed to issue a self-billed e-Invoice on behalf of the supplier.

Self-billed e-Invoices will be allowed for the following transactions:

- ▶ Payment to agents, dealers and distributors (Please refer to Item 7 below)
- ▶ Goods sold or services rendered by foreign suppliers (Please refer to Item 8 below)
- ▶ Profit distribution, e.g., dividend distribution (Please refer to Item 9 below)
- ▶ e-Commerce transactions (Further details will be released by the IRB)
- ▶ Payouts to betting and gaming winners<sup>1</sup>
- ▶ Acquisition of goods or services from individuals who are not conducting a business

Where a buyer (payer) is required to issue a self-billed e-Invoice, the buyer (payer) will assume the role of the supplier (payee) as the issuer of the e-Invoice. The buyer (payer) is required to submit the self-billed e-Invoice to the IRB for validation. Upon validation, the buyer (payer) can use the validated e-Invoice as proof of expense for tax purposes.

## 7. Transactions which involve monetary payments to Agents, Dealers or Distributors ("ADDs")

The e-Invoice Specific Guideline provides that suppliers are required to issue self-billed e-Invoices for payments in monetary form (e.g., commissions) to ADDs, as proof of expense. Companies that currently issue Forms CP58 under Section 83A of ITA to their ADDs will be required to issue self-billed e-Invoices once e-Invoices are implemented.

In addition, the e-Invoice Specific Guideline provides examples and details to be included in the self-billed e-Invoice in relation to monetary payments to ADDs.

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<sup>1</sup> Payouts to winners in relation to betting and gaming (i) in casino and (ii) from gaming machines are exempted from self-billed e-Invoice until further notice.

## 8. Cross border transactions

A 'cross border transaction' refers to a transaction between a Malaysian buyer and a foreign supplier, and vice versa. A 'foreign supplier' refers to a supplier operating outside of Malaysia or which is not established in Malaysia. Foreign suppliers include non-Malaysian individuals.

In a transaction where goods are sold or services are rendered by a foreign supplier to a Malaysian buyer, the Malaysian buyer is required to issue a self-billed e-Invoice. The IRB has clarified that once the self-billed e-Invoice has been validated, the IRB will send a notification to the Malaysian buyer only and the self-billed e-Invoice does not need to be shared with the foreign supplier.

Where goods are sold or services are rendered by a Malaysian supplier to a foreign buyer, the Malaysian seller is required to issue an e-Invoice to the foreign buyer. The IRB has clarified that once the e-Invoice has been validated, the IRB will send a notification to the Malaysian seller only.

## 9. Profit distribution (e.g., dividend distribution)

### 9.1 Domestic distribution

Currently, companies distributing profits (in the form of dividends) would issue dividend vouchers or dividend warrants to their shareholders. Investment entities, such as unit trusts, would generally adopt a similar practice.

Upon the implementation of e-Invoices, companies which are currently under the single-tier taxation system as well as taxpayers listed on Bursa Malaysia will be exempted from issuing self-billed e-Invoices on dividend distributions. Further, the shareholders receiving the dividends are not required to issue e-Invoices as proof of income. Hence, the taxpayers paying such dividends can continue with their existing practice of issuing dividend vouchers or warrants to their shareholders. This exemption will be reviewed and updated by the IRB from time to time.

However, taxpayers, which are not companies or which are not entities listed on Bursa Malaysia, are required to issue self-billed e-Invoices in relation to their profit/dividend distributions.

Consequently, it would appear that listed investment entities such as listed Real Estate Investment Trusts (REITs) would be exempted from issuing self-billed e-Invoices in relation to profit distributions, while unit trust funds which are not listed on Bursa Malaysia, would be required to issue self-billed e-Invoices in relation to profit distributions.

### 9.2 Foreign profits/Dividends received in Malaysia

The recipient is required to issue an e-Invoice to document the foreign profits/dividends received in Malaysia as proof of income for tax purposes.



## 10. Foreign income

For tax purposes, an e-Invoice is required for all foreign income received in Malaysia from outside Malaysia, as proof of income. To effect this, the recipient of the foreign income is required to issue an e-Invoice within the same month the said income is received in Malaysia.

## 11. Currency exchange rate

For transactions conducted in foreign currencies, the currency exchange rate should be disclosed in the e-Invoice. The e-Invoice Specific Guideline explains that the currency exchange rate shall be determined based on the following:

- i. If the supplier is required to comply with the legal or tax requirement on the currency exchange rate as imposed by the relevant authorities (e.g., Royal Malaysian Customs Department or IRB), the relevant currency exchange rate should be used for e-Invoice purposes.
- ii. Where (i) above is not applicable (i.e., there is no legal or tax requirement on the currency exchange rate), the supplier may adopt the currency exchange rate per its internal policy.

## 12. API overview

The e-Invoice Specific Guideline provides additional information in relation to the API flow, validation logic flow, data structure/data dictionary and failure scenario.

## 13. Cybersecurity

The following measures and practices will be put in place to protect the confidentiality, integrity and availability of the *MyInvois* System's data and transactions:

- i. Authentication and authorization
- ii. Data encryption
- iii. Cybersecurity standards - The IRB will ensure the *MyInvois* System is in compliance and certified with the ISO/IEC 27001 Information Security Management System (ISMS) and ISO 22301 Business Continuity Management System BCMS Audit Certification.

## e-Invoice Catalogue

The e-Invoice Catalogue outlines a list of the codes to be used for the following specific data fields in an e-Invoice:

- ▶ Malaysia Standard Industrial Classification (MSIC) Code
- ▶ e-Invoice Type
- ▶ Invoice Currency Code
- ▶ Frequency of Billing
- ▶ Classification
- ▶ Tax Type
- ▶ Payment Mode
- ▶ Country of Origin

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