Building a better working world

EY Tax Alert

Vol. 25 – Issue no. 21
20 December 2022

Malaysian developments

- Public Ruling (PR) No. 5/2022 – Taxation of a Resident Individual Part II – Computation of Total Income and Chargeable Income
- Extension of time (EOT) for the submission of YA 2022 tax returns under the Labuan Business Activity Tax Act 1990 (LBATA) for selected Labuan entities

Overseas developments

- Singapore passes Goods and Services Tax (Amendment) Bill 2022
- European Commission publishes proposals for VAT in the Digital Age

Malaysian developments

Public Ruling (PR) No. 5/2022 – Taxation of a Resident Individual Part II – Computation of Total Income and Chargeable Income

The Inland Revenue Board (IRB) has published PR No. 5/2022: Taxation of a Resident Individual Part II – Computation of Total Income and Chargeable Income, dated 9 December 2022. This new 45-page PR replaces PR No. 5/2018, which was issued on 13 September 2018 (see *Tax Alert No. 20/2018*). The new PR comprises the following paragraphs and sets out 15 examples:

1.0 Objective
2.0 Relevant provisions of the law
3.0 Interpretation
4.0 Determination of total income and chargeable income
5.0 Determination of basis period
6.0 Residence status
7.0 Computation of gross income
8.0 Computation of adjusted income or loss
9.0 Computation of statutory income
10.0 Computation of aggregate income

11.0 Computation of total income
12.0 Taxation of husband and wife
13.0 Computation of chargeable income
14.0 Updates and amendments
15.0 Disclaimer

The content of this new PR is broadly similar to the earlier PR and explains the computation of total income and chargeable income of a resident individual who derives income from business, employment and other sources. The new PR was updated mainly to reflect the legislative changes from 2018, including the following:

- Effective from the year of assessment (YA) 2019, the carry-forward period for unabsorbed business losses is limited to ten consecutive YAs.
- Effective from YA 2019, the tax relief on contributions to approved provident funds or payment for life insurance premiums was increased from RM6,000 to RM7,000 (subject to conditions).
- Effective from YA 2020, the scope of tax deduction pursuant to Section 34(6)(h) of the Income Tax Act 1967 (ITA) was expanded to include contributions for the maintenance of a building designated as a heritage site by the Commissioner of Heritage under the National Heritage Act 2005.
- Effective from YA 2020, the tax deductions given for sponsorship of local arts, cultural and heritage activities in Malaysia (pursuant to Section 34(6)(k) of the ITA) was increased from RM700,000 to RM1 million per YA.
- Effective from YA 2021, the tax relief for expenses (medical treatment, special needs and carer expenses) incurred for parents was increased from RM5,000 to RM8,000.

Extension of time (EOT) for the submission of YA 2022 tax returns under the Labuan Business Activity Tax Act 1990 (LBATA) for selected Labuan entities

The IRB's Labuan Branch issued a letter dated 8 December 2022 to the Association of Labuan Trust Companies (ALTC) to state that selected Labuan entities have been granted an EOT until 30 December 2022 to submit their tax returns (under Section 5 and 10 of the LBATA) for YA 2022 (based on the financial year ended in 2021). The EOT was granted on a case-by-base basis based on the date of application and justification provided.

Please contact your EY engagement team if you have further questions on this.

Overseas developments

Singapore passes Goods and Services Tax (Amendment) Bill 2022

On 7 November 2022, the Singapore Parliament passed the Goods and Services Tax (Amendment) Bill. The key amendments to the Goods and Services Tax Act are highlighted below.

Goods and Services Tax (GST) rate change

The current rate of GST will increase from 7% to 8% as of 1 January 2023 and from 8% to 9% as of 1 January 2024.

Clarification of transitional rules for supplies spanning GST rate change

The transitional rules set forth the GST treatment and rate applicable for supplies spanning a change in GST treatment or rate. The amendments seek to provide greater clarity in the application of the rules, particularly for more unique supplies made, such as supplies which span both a change in GST rate and the effective date of GST registration of a business.

Update in the GST treatment of travel arranging services

From 1 January 2023, the GST treatment for a supply of travel arranging services will be based on where the person who contracts the service and where the person who directly benefits from the service belongs (rather than factors such as the location of the accommodation, or whether the transportation being arranged is international in nature which do not reflect the place of consumption of those services).

For example, where the services pertain to the arrangement of international transport, such services will only qualify for zero-rating if they are:

- Contractually supplied to a person belonging outside Singapore; and
- Directly benefiting either: (1) a person belonging outside Singapore who is outside Singapore at the time the services are performed or (2) a GST-registered person belonging in Singapore.

Refinement of rules for taxing Low Value Goods (LVG) and imported services under the Overseas Vendor Registration (OVR) and Reverse Charge (RC) regimes

The amendments serve to provide certainty on the rules under the OVR and RC regimes, prevent double taxation and ease the compliance burden of businesses.

From 1 January 2023, overseas businesses that exceed SGD1 million in global turnover and provide SGD100,000 worth of remote services to Singapore consumers (individuals and businesses which are not GST registered) will be required to register for GST under the OVR regime and charge 8% GST on their supplies of remote services. Also, overseas suppliers of LVG (meeting the same SGD1 million global turnover and SGD100,000 supply of LVG to Singapore consumer threshold) will need to register for GST under the OVR regime and charge 8% on their supplies. LVG are goods imported by post or air with a value of up to SGD400. A GST-registered business who is subject to RC will need to take into account remote services and LVG when determining its RC GST liability.

Provision of criminal sanctions to counter Missing Trader Fraud (MTF) schemes

To provide strong deterrence against MTF schemes, criminal sanctions based on a two-tiered approach will be introduced from 1 January 2023. The first tier applies to MTF masterminds, co-conspirators and syndicate members who participate in such schemes, and it carries a maximum imprisonment term of 10 years and/or a maximum fine of SGD500,000 (increased from a maximum imprisonment of seven years). The second tier applies to current or former sole-proprietors, partners or directors of business entities who incorporate entities that are used by syndicates in MTF schemes. Such offenses carry a maximum imprisonment term of one year and a maximum fine of SGD50,000.

The Comptroller of GST is empowered to extend the filing deadline of GST returns where necessary, such as during the COVID-19 pandemic. A similar amendment was passed earlier under the Income Tax (Amendment) Bill 2022 to empower the Comptroller to extend all filing deadlines related to the Income Tax and Property Tax Acts.

European Commission publishes proposals for value-added tax (VAT) in the Digital Age

On 8 December 2022, the European Commission (the Commission) proposed its VAT in the Digital Age Package. This follows consultations held earlier this year.

The changes aim to reduce the VAT Gap in the EU (€93 billion in VAT revenues in 2020 according to the latest VAT Gap figures) and make the VAT system efficient for businesses. The Commission's proposals cover three topics as summarized below.

Detailed discussion

A move to real-time digital reporting based on e-invoicing for businesses that operate cross-border in the EU and a harmonized framework for domestic transactions

The new system introduces digital reporting for VAT purposes for intra-community transactions to provide the Member States with information on a real-time basis. Businesses will also be obliged to follow e-invoicing for intra-community supplies based on a European standard. The information reported would be shared between tax authorities for a joint analysis.

The Commission believes that the real time availability of information on the cross-border trade of goods/services will help in addressing missing trader fraud. The Member States will also have the option to introduce mandatory e-invoicing for domestic B2B transactions which should comply with the same European standard as cross-border e-invoicing. The Commission expects that the existing digital reporting requirements in various Member States should converge with the proposed requirements by 2028.

Updated VAT rules for passenger transport and short-term accommodation platforms

The Commission acknowledges that the current system of VAT in this sector creates inequality where private individuals and small enterprises can supply services to a larger customer base without VAT via the platform economy. Another issue in this sector has been to determine the correct VAT treatment due to either the lack of availability of information on the status of underlying suppliers or based on differing interpretations adopted by Member States on the taxability of "facilitation services" by platforms.

The Commission is of the view that these issues can be addressed by introducing a deemed supplier model which involves making platforms responsible for collecting and remitting VAT to tax authorities when service providers do not, for example because they are a small business or individual provider. The proposals also call for standardizing the format and timeframe for submitting information to tax authorities and including both B2B and business-to-consumer (B2C) supplies in the information reporting.

Introduction of a single VAT registration across the EU

Building on the already existing "VAT One Stop Shop" (OSS) model for online shopping companies, the proposals expand the scope of the OSS to include additional transactions within its scope, including movement of stock from one Member State to another during the course of sales to consumers. This would effectively mean in some cases allowing businesses selling to consumers to register only once for VAT purposes for the entire EU. The proposals also allow for use of the reverse charge mechanism by a B2B customer when sales are made in a Member State where the supplier is not established.

Additionally, the proposals seek to make changes for online platforms facilitating the sale of goods in the EU:

- It would be mandatory for platforms to use the Import One Stop Shop (IOSS) Scheme when facilitating the sale of goods from non-EU (third countries) to consumers in the EU. However, it is not proposed at this stage to increase or remove the threshold for using IOSS (€150).
- Making them a deemed supplier for VAT purposes for the transfer of underlying suppliers' goods to other Member States for storage prior to sale to consumers in the EU.

Next steps

The package of proposals takes the form of amendments to three pieces of EU legislation: the

VAT Directive (2006/112/EC), Council Implementing Regulation (EU 282/2011) and the Council Regulation on Administrative Cooperation (EU 904/2010).

The legislative proposals will be sent to the Council for agreement and to the European Parliament and the Economic and Social Committee for consultation.

Businesses operating in the EU should start to consider their readiness for the changes should they come into force, particularly in respect of the systems changes that would be required for standardized e-invoicing. The simplification regime (OSS) if implemented offers opportunities for businesses to streamline their reporting obligations.

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

Farah Rosley (Malaysia Tax Leader and Malaysia Global Compliance and Reporting Leader)
farah.rosley@my.ey.com
+603 7495 8254

People Advisory Services

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

Christopher Lim (EY Asean Immigration Leader and Malaysia People Advisory Services 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)
(based in Johor)
robert.yoon@my.ey.com
+603 7495 8332

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

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

Chan Vai Fong
vai-fong.chan@my.ey.com
+603 7495 8317

Chua Siong Chee
siong-chee.chua@my.ey.com
+603 7495 8410

Global Compliance and Reporting

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

Farah Rosley (Malaysia Tax Leader and Malaysia Global Compliance and Reporting Leader)
farah.rosley@my.ey.com
+603 7495 8254

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

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

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

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

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

Jaclyn Tan (Payroll Operate Services)
jaclyn.tan@my.ey.com
+603 7495 8404

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

Andrew Loh
andrew.loh@my.ey.com
+603 7495 8313

Chua Meng Hui
meng-hui.chua@my.ey.com
+603 7495 8261

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

Derek Chan
derek.chan@my.ey.com
+603 7495 8336

Florence Tan
florence.tan@my.ey.com
+603 7495 8585

Shalini R Chandrarajah
shalini.chandrarajah@my.ey.com
+603 7495 8281

International Tax and Transaction Services (cont'd)

Gary Ling (Transfer Pricing)
gary.ling@my.ey.com
+603 7495 8388

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

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

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

Financial Services

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

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

Gary Ling (Transfer Pricing)
gary.ling@my.ey.com
+603 7495 8388

Important dates

31 December 2022	6th month revision of tax estimates for companies with June year-end
31 December 2022	9th month revision of tax estimates for companies with March year-end
31 December 2022	Statutory deadline for filing of 2022 tax returns for companies with May year-end. A blanket extension of time has been provided until 31 January 2023.
31 December 2022	Extended 2022 tax return filing deadline for companies with April year-end.
15 January 2023	Due date for monthly instalments
31 January 2023	6th month revision of tax estimates for companies with July year-end
31 January 2023	9th month revision of tax estimates for companies with April year-end
31 January 2023	Statutory deadline for filing of 2022 tax returns for companies with June year-end. A blanket extension of time has been provided until 28 February 2023.
31 January 2023	Extended 2022 tax return filing deadline for companies with May year-end.

Publisher:
Ernst & Young Tax Consultants Sdn. Bhd.
Level 23A Menara Milenium
Jalan Damanlela, Pusat Bandar Damansara
50490 Kuala Lumpur
Tel: +603 7495 8000
Fax: +603 2095 7043