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GROWING STRATEGICALLY

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Latest News on Law, Tax and Business in Malaysia

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Dear Readers,

We recently published several articles on the legal and tax framework in Malaysia which might be of relevance for your cross-border and local business operations. For your convenience, please find below an overview of these latest updates:

There are [New transfer pricing provisions in Malaysia](#) in place with a possible effect on your business operations. In [Covid-19 and commercial agreements in Malaysia](#) we outlined the different commercial regimes in case of default between parties.

Together with our colleagues in ASEAN, we contributed to the special insights in [M&A ASEAN](#), providing an overview of relevant aspects of [M&A transactions in Malaysia](#). Since M&A transaction may also play a role in corporate reorganization in Germany or other European countries, we also looked into the [Implications of corporate reorganization on subsidiaries in ASEAN](#).

Our recent [digital ASEAN Forum 2021](#) attracted many clients and contacts. We are glad to let you know that all webinars of the ASEAN Forum series have been recorded, and can now be found on our [YouTube](#) channel for you to recap anytime.

Furthermore, we will soon publish an article on nominee structures in times of disclosure of ultimate beneficial owners in Malaysia. As we also want to engage with you in a more direct way and are planning a webinar on transfer pricing to be broadcasted in the next weeks. In April, we will be hosting a threefold webinar series on supply chains and Malaysia as alternative supply chain hub.

Stay tuned – Follow us on [LinkedIn](#) or subscribe to our [YouTube](#) channel for further updates.

Sincerely yours,



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Please note: We have received and registered your contact details for the purpose of providing you with our Malaysia Newsflash. We assume that you are still interested in receiving this publication. Should you wish though to no longer receive the Newsflash, please simply send [unsubscribe](#) to: ezreenda.ayobazari@roedl.com.

→ Tax Updates

Special deduction on rental reduction by business premises

The Malaysian Inland Revenue Board (“MIRB”) has clarified that the special deduction granted to landlords for the minimum 30 per cent rental discount provided to tenants for the lease of business premises has been extended to discounts provided to non-small and medium sized enterprises (“non-SME”) tenants from January 2021 to June 2021. Previously, this was only granted to business premises rented to SMEs.

The following conditions must be met in order for landlords to be entitled to the special tax deduction:

- The taxpayer must be a person (including companies and non-companies) that rent out business premises to SMEs and non-SMEs;
- The premises must be used by the tenant for business purposes; and
- The landlord must be a taxpayer deriving rental income under Section 4(a) or 4(d) of the Income Tax Act.

Tightened conditions for RPGT exemption on disposals by citizens

The Real Property Gains Tax (Exemption) Order 2018 (Amendment) Order 2021 was gazetted on 9 February 2021, and came into operation on 10 February 2021. This Amendment Order tightens the conditions of the RPGT exemption for Malaysian citizens on disposals from 1 January 2019 in respect of real property (other than Real Property Company (“RPC”) shares) after the 5th year of acquisition, provided that the disposal consideration is not more than MYR 200,000.

In addition to the above condition, the market value for the disposal must also not be more than MYR 200,000.

Updated guidelines on digital service tax for foreign service providers

The Royal Malaysian Customs Department (“RMCD”) has issued updated guidelines on the 6 per cent service tax for digital services provided by foreign service providers (“FSPs”), including clarification on intra-group relief, issuance of credit and debit notes, and remission of penalties.

The main updates are as follows:

- Effective 14 May 2020, FSPs or foreign registered persons (“FRPs”) that provide digital services to a company in Malaysia within the same group of companies are exempt from charging service tax, subject to conditions. As such, an FRP that provides digital services only to a company in Malaysia in the same group of companies may apply for cancellation of registration. An FSP providing digital services only to a company in Malaysia in the same group of companies is not liable to be registered as an FRP;
- The Director General (“DG”) may approve an application made by an FRP to account for the service tax at the time when an invoice is issued;
- Where the service tax has been accounted for and there is a reduction or increase in the amount of service tax, an FRP is required to issue credit notes or debit notes, as applicable, for adjustment purposes. The credit notes and debit notes issued must comply with the prescribed format;
- The DG may remit whole or any part of the amount of penalties levied for non-compliance with the provisions of the Service Tax Act 2018.

Malaysia deposits instrument of ratification for BEPS multilateral convention

Malaysia has deposited the instrument of ratification for the Multilateral Convention to Implement the Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (“MLI”) with the OECD on 18 February 2021.

With this, the MLI for Malaysia will enter into force on 1 June 2021. The effective date of the relevant provision under the MLI is subject to the date of deposit of the MLI instrument of the respective Double Tax Agreement (“DTA”) partners.

The effective date of the MLI provisions for Malaysian DTAs which are covered under the MLI are:

- Withholding tax: 1st January of the next calendar year after the DTA is modified by the MLI;
- Other taxes: Taxable periods beginning on or after the expiration of a period of six calendar months after the DTA is modified by the MLI.

The modification date generally refers to the later of 1 June 2021 and the date on which the MLI enters into force for the DTA partner.

The key MLI provisions applicable to Malaysian DTAs are:

- Artificial avoidance of permanent establishment status
- Prevention of treaty abuse
- Mutual agreement procedures
- Corresponding adjustments
- Transparent entities

Contact for further information



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→ Secretarial Updates

Extension of time by the Companies Commission of Malaysia

The Companies Commission of Malaysia (“SSM”) intends to reduce the compliance burden in the light of the pandemic and is providing an extension of time (“EOT”) of 90 days for those companies with a financial year ending from 1 April 2020 to 31 July 2020, to hold their Annual General Meeting (“AGM”), circulate the financial statements and subsequently lodge the financial statements with SSM.

If the financial year end of your company is from 1 April 2020 to 31 July 2020, and you wish to apply for the abovementioned EOT, kindly contact your Company Secretary as soon as possible for a submission of the application on EOT before the dateline of 31 March 2021.

Reduction of compound value for applications to strike off the company name

SSM continues to offer a 90 per cent reduction from the original compound value to directors and/or companies for applications to strike off the name of a company until 30 June 2021, in order to ease the financial burden faced by the company

and directors before closing down the company during the economic uncertainties arising from the Covid-19 pandemic.

Contact for further information



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→ Payroll Updates

Human Resource Development Fund: Expansion of the Pembangunan Sumber Manusia Berhad Act

The Human Resource Development Fund (“HRDF”) levy is a mandatory levy payment collected for the purpose of training and skills upgrading for the Malaysian workforce under the Pembangunan Sumber Malaysia Berhad Act 2001 (“PSMB”) for certain industries.

Effective as of 1 March 2021, the PSMB has been expanded to all industries, covering a wider range of Malaysians and increasing the number of eligible employees for training under HRDF. All new sectors are granted an exemption from the levy payments for a period of three (3) months up to 31 May 2021.

If your company has received a letter from HRDF, please keep in mind that registration is required to be completed and submitted within 30 days from the date of the letter. It is not based on the date the letter is received.

Under the new updates covering all sectors and industries, your company would be required to register if you have a minimum of ten (10) local employees, and may register optionally if you

have more than five (5) and less than nine (9) local employees.

The Federal as well as the State government and statutory bodies are exempted from application. Any employer which does not register with HRDF within 30 days shall also be convicted of an offence under the PSMB Act 2001

Contact for further information



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