



# Malaysia Tax Profile

**Produced in conjunction with the  
KPMG Asia Pacific Tax Centre**

July 2018

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# 1 Corporate Income Tax

## 1.1 General Information

### Corporate Income Tax

Corporate income tax.

### Tax Rate

Corporate tax rates for companies resident in Malaysia is 24%.

Special tax rates apply for companies resident and incorporated in Malaysia with an ordinary paid-up share capital of MYR 2.5 million and below at the beginning of the basis period for a year of assessment [provided not more than 50% of the ordinary paid-up share capital of the company is directly or indirectly owned by (or linked to) a related company which has an ordinary paid-up share capital of more than MYR 2.5 million at the beginning of the basis period for a year of assessment]:

- 18% on the first MYR 500,000
- 24% on every ringgit exceeding MYR 500,000

Labuan companies carrying on Labuan trading activities, which did not make an irrevocable election to be taxed under the Malaysian Income Tax Act 1967 ('MITA'), are taxed under the Labuan Business Activity Tax Act 1990 at 3% of audited net profits or may elect a fixed tax of MYR 20,000.

### Residence

A company will be a Malaysian tax resident if, at any time during the basis year, the management and control of the company's business or any one of its businesses are exercised in Malaysia.

### Basis of Taxation

Income tax is imposed on a territorial basis except for income of a resident company carrying on a business of banking, insurance or sea or air transport, which is accessible on a world income basis.

### Tax Losses

Current period offset – business losses may be set off against income from other sources for that year. Tax losses may be carried forward indefinitely to set off against future business income only, unless the company is dormant and does not satisfy the continuity of ownership test.

Business losses cannot be carried back.

### Tax Consolidation/Group Relief

There are no consolidation provisions in Malaysia. However, resident companies within a 70% Malaysian owned group can surrender up to 70% of their current year's adjusted business losses to other related resident companies, provided certain conditions are met.

### Transfer of Shares

Stamp duty of 0.3% (of the price or value, whichever is higher) is payable on the transfer of shares.

Stamp duty relief is available in certain circumstances, such as transfers within 90% groups, provided certain conditions are met.

### Transfer of Assets

On the transfer of land and buildings, ad valorem stamp duty at rates from 1 to 3% on the transfer consideration or the market value of the property, whichever is higher, is payable.

Stamp duty relief is available in certain circumstances, such as transfers within 90% groups, provided certain conditions are met.

### CFC rules

There is no CFC regime in Malaysia.

### Thin Capitalization

Malaysia has thin capitalization legislation. However, the implementation of the thin capitalization rules has been in abeyance. Instead, thin capitalization will now be replaced by earning-stripping rules ('ESR'), which are proposed to take effect from January 2019. Legislation to implement the ESR has not yet been released.

### Interest Deductibility Restrictions

A deduction may be claimed for interest expense that is wholly and exclusively incurred in the production of a company's gross income. A company with an ongoing business may deduct the interest expense if the expense relates to a loan used for working capital purposes. The deductibility of the interest expense against the income from a business source would be restricted, when monies borrowed are used directly or indirectly for non-trade purposes (e.g. investments or loans other than for business purposes). The interest restricted can only be allocated and set off against the taxable income, if any, derived from the non-business investments or loans to which the monies have been applied.

### Amalgamations of Companies

Where the transfer is part of a scheme of amalgamation of companies and where not less than 90% of the consideration for the acquisition consists of the issuance of shares in the transferee company for the acquisition of an undertaking or at least 90% of the shares of an existing company, a stamp duty exemption may be applied for.

### Earnings Stripping

ESR, are proposed to take effect from January 2019. Legislation to implement the ESR has not yet been released

### General Anti-avoidance

There are general anti-avoidance rules in Malaysia which allow the Malaysian Inland Revenue Board ('MIRB') to disregard, vary or make any adjustment deemed fit, if there is a reason to believe that any transaction has the effect of evading, avoiding or altering the incidence of tax. The anti-avoidance provision allows the MIRB to disregard or vary a transaction to counter tax avoidance.

### Anti-treaty Shopping

There are no specific anti-treaty shopping provisions. However, the general anti-avoidance provisions can be used. Malaysia signed the Multilateral Instrument in January 2018.

### Other Specific Anti-avoidance Rules

None.

### Rulings

Private rulings can be obtained from the MIRB.

### Hybrid Instruments

A commonly used hybrid is the redeemable preference share, which is usually treated as a form of equity for tax purposes.

## Hybrid Entities

Limited liability partnership ('LLP'). For income tax purposes, an LLP is treated as a separate legal entity from its partners. The income of the LLP is taxed at the LLP level. Consequently, the partners are not liable to tax on their share of income from the LLP.

## Related Business Factors

### *Forms of legal entities typically used for conducting business*

An incorporated company limited by shares, limited liability partnership, partnership, and branch of a foreign company are the most common legal entity used for conducting business in Malaysia.

### *Capital requirements for establishing a legal entity*

There are capital requirements for establishing a legal entity. The amount will vary depending on the percentage of foreign ownership and the existing Government policies, regulations and guidelines which are in force for relevant sectors.

### *Other local requirements for establishing a legal entity*

There are conditions on foreign ownership which are regulated by specific industry sector regulators. The level of restrictions will depend upon the type of operations and the deemed importance of such operations to the Government's socio-economic imperatives of the day.

## 1.2 Determination of taxable income and deductible expenses

### 1.2.1 Income

#### General

The MITA taxes income accrued or derived from Malaysia or received in Malaysia from outside Malaysia. Foreign source income, however, when received in Malaysia by a resident company (other than a company carrying on the business of banking, insurance, air and sea transport) is exempt from tax.

#### Branch Income

Malaysia does not impose branch profits tax on the remittance of branch profits. Therefore, the profits of a local branch that are repatriated back to its head office will not attract further tax liabilities in Malaysia. However, profits that are repatriated in the form of (among other things) royalties, interest or payments for management fees may attract withholding tax.

#### Capital Gains

There is no capital gains tax in Malaysia. However, there is real property gains tax ('RPGT') which is levied on the disposal of real property situated in Malaysia as well as the disposal of shares in a Real Property Company ('RPC'). A RPC is a controlled company which owns real property, shares in another RPC, or both which has a defined value of not less than 75% of the value of its total tangible assets.

RPGT rates for companies:

Date of disposal from date of acquisition	Rates
Within 3 years	30%
In the 4th year	20%
In the 5th year	15%
In the 6th and subsequent years	5%

Where, with the prior approval of the Director General of the MIRB, a chargeable asset is transferred between companies and the transferee company is resident in Malaysia, the transfer is treated as one from which no gain or loss arises in any of these circumstances:

- The asset is transferred between companies in the same group to bring about greater efficiency for a consideration consisting substantially of shares (i.e. at least 75%) and the balance in cash.
- The transfer is a result of a scheme of reorganization, reconstruction or amalgamation.
- A liquidator of a company distributes the asset and the liquidation of the company was made under a scheme of reorganization, reconstruction or amalgamation.

The Director General cannot pre-approve the transfer or distribution of an asset under the last two categories above unless he is satisfied that the asset is transferred to implement a scheme that complies with the government's policy on capital participation in industry. Under these approved transfers, the date of the transferee's acquisition of the chargeable asset is deemed to be the original date of acquisition of the chargeable asset by the transferor. Various anti-avoidance provisions may apply.

The RPGT Act also empowers the Ministry of Finance to exempt specific transactions from RPGT, but this power is rarely exercised in practice.

#### Dividend Income

From 1 January 2014, dividends paid by companies resident in Malaysia are exempt from Malaysian tax in the hands of shareholders. Dividends are not subject to withholding tax.

#### Interest Income

Interest income received by a resident company is generally taxed as non-business income, unless it satisfies the requirement to be assessed as business income. Certain types of interest may be exempted wholly from income tax.

## 1.2.2 Expenses

### General

In general, the MITA permits deductions only in respect of out-goings and expenses of a revenue nature wholly and exclusively incurred in the production of income.

### Minimum Taxation Requirements for the Deductibility of Losses

See 'Tax Losses' under Item 1.1 and 'Change of Control Rules' under Item 1.2.2 for further details.

### Capital Losses

Expenses of a capital nature are generally not deductible.

Under the RPGT Act, capital losses can be set off against gains otherwise chargeable to RPGT.

### Bad Debts

The MITA allows a tax deduction for a trade debt which is reasonably estimated in all the circumstances to be wholly or partly irrecoverable in the relevant period. A provision for doubtful debts is not allowable unless it is for specific trade debts and action has been taken to recover the debts. Non-trade debts are not allowable as a tax deduction.

### Change of Control Rules

The utilization of business losses and capital allowances carried forward within a company is subject to a continuity of ownership test, i.e. more than 50% of the shareholders of the company on the last day of the basis period in which such business losses and / or capital allowances arose, are the same as on the first day of the basis period in which the unabsorbed business losses and/or unutilised capital allowances are to be utilised. However, the Ministry of Finance has clarified that the continuity of ownership test would only be applied to a dormant company

### Depreciation/Capital Allowance

Depreciation is not an allowable expense. However, the MITA contains provisions for granting initial and annual capital allowances on qualifying capital expenditure incurred in acquiring or constructing industrial buildings and qualifying plant and machinery used for the purposes of the taxpayer's business, subject to certain conditions.

### Double Deductions

There are various double deduction incentives available to resident companies, which, amongst others, are on the promotion of exports, certification for recognized quality systems and standards and halal certification, research expenditure and etc, subject to meeting the prescribed conditions.

### Interest Expenses

A deduction may be claimed for interest expense that is wholly and exclusively incurred in the production of a company's gross income. See 'Interest Deductibility Restrictions' under Item 1.1 for further details.

### Inventories

A write-down or write-off of inventory which is charged to the business accounts is allowable for a tax deduction. A provision for inventory obsolescence is not allowable.

### Other Significant Items

None

## 1.3 Tax Compliance

### Compliance Requirements

Assessment system – Self assessment

Estimates of tax payable must be made one month before the commencement of a year of assessment. Companies which commence operations in a year of assessment have to furnish the estimate of tax payable to the MIRB within 3 months from the date of the commencement of operations.

Monthly instalments must be paid based on the estimate of tax payable.

Filing due date – seven months from the date following the close of the accounting period.

### Mandatory Electronic Filing

Effective Year of Assessment 2014, it is mandatory for all companies to furnish the Tax Return by way of electronic transmission to the MIRB.

### Requirement to Prepare Tax Computation / Return in Functional Currency

Tax returns must be in Ringgit Malaysia.

### Documents to File with Tax Return

Companies are required to submit a Tax Return to the MIRB based on the signed audited accounts. Supporting documents and relevant details must be readily available should the MIRB request for additional information in the event of a tax audit.

### Language to File Return, Computation and Supporting Documentation(s)

Generally, Tax Returns are required to be submitted in Malaysia's national language i.e. Bahasa Malaysia. The computation, supporting documents and correspondence to the MIRB can be prepared in either Bahasa Malaysia or English.

### Filing Extension Availability and Details

Based on the Income Tax Return Form Filing Programme for the Years 2017 and 2018, companies are given an extension of one month from the statutory deadline for the submission of tax returns for Years of Assessment 2017 and 2018. The MIRB's concession on filing extension will be announced via the Income Tax Return Form Filing Programme annually.

### Payment of Tax

The estimated tax payable shall be paid in 12 equal monthly instalments, starting from the 2nd month of the basis / taxable period. Each instalment must be paid to the MIRB by the 15th day of each calendar month. In the event of default in payment, a 10% penalty will be imposed on the amount unpaid by the due date.

Any balance of income tax payable, net of instalments paid for the Year of Assessment, must be paid by the due date for the submission of the tax return. A penalty of 10% is imposed if any balance of tax is not paid by the due date and an additional penalty of 5% is added if any amount remains unpaid more than sixty days after the due date.

### Interim Tax Returns

There is no interim Tax Return in Malaysia for corporate tax.

### Penalties for Non-compliance

Failure to furnish a tax return by the stipulated deadline, would render a person, on conviction, liable to a fine of MYR 200 to MYR 20,000 or a term of imprisonment not exceeding six months, or to both. Where there is no prosecution, the MIRB is empowered to impose a penalty equal to treble the amount of the tax which, before any set-off, repayment or relief under the MITA, is payable for that year.



If the above has not been instituted, the MIRB may enforce the submission of the tax return by issuing a notice. Failure to comply with the notice could render the director of the Company, on conviction, liable to a fine of MYR 200 to MYR 20,000 or a term of imprisonment not exceeding 6 months, or to both.

### **Penalties and/or Interest for Underpayment of Taxes**

In the event that the tax payable under an assessment exceeds the estimate/revised estimate of tax payable by an amount of more than 30% of the tax payable under the assessment, a 10% penalty will be imposed on the difference in excess of the 30% of the tax payable under the assessment.

### **Statute of Limitation**

The time frame for the MIRB to raise an assessment or additional assessment is 5 years.

However, where negligence, wilful default or fraud has occurred, additional assessments may be raised at any time in respect of any prior period without regard to the 5 year time limit.

The statute of limitation for non arm's length transactions is 7 years upon the expiration of a particular year of assessment, except in cases of fraud, wilful default, or negligence.

## 1.4 Financial Statements/Accounting

### Details of Local Accountant Requirements

Malaysia has 2 accounting frameworks for entities that are incorporated under the Companies Act, 1965; being Malaysian Private Entities Reporting Standard (MPERS), which can only be applied by a private entity, and Malaysian Financial Reporting Standards (MFRS). MFRS is an accounting framework which is similar to IFRS. Entities that are incorporated under the Companies Act, 1965 are required to file the audited financial statements to the Companies Commission of Malaysia. Submission of audited financial statements to tax office would be required upon request by the tax office.

### Fiscal Year

There are no specific requirements in Malaysia to have a specific fiscal year.

### Periodicity of Local Books to be Closed

Annually.

### Retention Period for Statutory Financial Statements/Working Papers

7 years [Section 245(3) of Companies Act 2016].

### Requirements to Retain Physical Copies Locally/Electronically Stored Data to Reside on In-country Server

Records are to be retained at the registered office of the company or at such other place as the directors think fit, and shall at all times be open for inspection by the directors (Section 245(4) of Companies Act 2016). For records of operations outside Malaysia, they may be kept by the company outside Malaysia provided they shall be sent to and kept at a place in Malaysia and be made available for inspection at all times.

### Requirements to Prepare Financial Statements in Local Currency

Yes [Section 259(1)(c) of Companies Act 2016].

### What GAAP must the Financial Statements be Prepared Under?

MFRS and MPERS.

### Prescribed Format and Details for Financial Statements

NA.

### Filing Due Date

For private company, within 30 days from the financial statements and reports are circulated to members (which is within 6 months from financial year end) (Sections 259(1)(a) and 258(1)(a) of Companies Act 2016).

For public company, within 30 days from Annual General Meeting (AGM) (within 6 months of the company's financial year end and not more than 15 months after the last preceding AGM) (Sections 259(1)(b) and 340(2) of Companies Act 2016).

### Filing Format of Financial Statements

NA.

### Filing Extension Availability and Details

If an application for extension is made before expiry of lodgement period, the Registrar may, as he considers fit, extend the period as specified in the notice of extension. (Section 259(2) of Companies Act 2016).

## 1.5 Incentives

### Intellectual Property Incentives

An income tax exemption of up to 100% of the statutory income for up to 10 years is available for companies that create and commercialize new intellectual property provided the prescribed conditions are met.

### R&D Incentives

Malaysia's R&D tax incentive scheme includes tax exemptions and double deductions for certain R&D expenditure incurred in Malaysia.

### Special Tax Regimes For Specific Industries or Sectors

Foreign-sourced income received in Malaysia by a resident company (other than a resident company carrying on the business of banking, insurance, shipping, or air transport) is exempt from tax.

### Other Incentives

Tax incentives are available for a wide range of activities in Malaysia, including Treasury Management Centers and Principal Hubs operating in Malaysia. Additionally, incentives are available in Malaysia for investments in promoted activities in the manufacturing, agricultural, biotechnology, global business services, hotel and tourism industries as well as training activities and specific business activities promoted by the Malaysian Government. Generally, the incentives provide for partial or total relief from income tax or an incentive based on capital expenditure, for a duration of five or ten years

## 1.6 International Taxation

### Double Taxation Relief

Malaysia has concluded double taxation agreements with a number of countries. (Not all have been ratified, however, and not all are comprehensive).

### Foreign-exchange Controls

Malaysia maintains a liberal foreign exchange administration policy. This means foreign exchange rules are mainly prudential measures to support the overall macroeconomic objective of maintaining monetary and financial stability while safeguarding the balance of payments position.

### International Withholding Tax Rates

**Dividends** paid to non-residents are not subject to withholding tax.

**Royalties** paid/credited to non-residents are subject to withholding tax at 10%. The rate may be reduced by the relevant Double Taxation Agreement (DTA).

**Interest** paid/credited to non-residents is subject to withholding tax at 15%. The rate may be reduced by the relevant DTA.

**Fees for technical** and other services paid/credited to non-residents are subject to withholding tax at 10% where the services are performed in Malaysia. The rate may be reduced by the relevant DTA.

Any gains or profits paid/credited to non-residents under paragraph 4(f) of the MITA are subject to withholding tax at 10%. The rate may be reduced by the relevant DTA.

## Withholding Tax Rates under the Income Tax Treaties

Malaysia — Treaty Withholding Rates Table				
	Dividends		Interest	Royalties
	Individuals, companies	Qualifying companies		
	(%)	(%)	(%)	(%)
<b>Domestic Rates</b>				
<b>Companies:</b>	0	0	15	10
<b>Individuals:</b>	0	0	15	10
<b>Treaty Rates</b>				
<b>Albania</b>	15	5 [1]	0 / 10 [2]	10
<b>Argentine</b>	0	0	15	10
<b>Australia</b>	0	0	0 / 15 [3]	15
<b>Austria</b>	0	0	0 / 15 [4]	10/15 [5]
<b>Bahrain</b>	5	5	0 / 5 [6]	8 / 10 [7]
<b>Bangladesh</b>	0	0	0 / 15 [8]	0 / 15 [9]
<b>Belarus</b>	-	-	-	-
<b>Belgium</b>	0 [10]	0 [10]	0 / 10 / 15 [11]	10 [12]
<b>Bosnia and Herzegovina</b>	10	5 [13]	0 / 10 [14]	8
<b>Brunei</b>	10	10	0 / 10 [15]	10
<b>Canada</b>	0	0	0 / 15 [8]	0 / 15 [16]
<b>Chile</b>	15	5 [17]	0 / 15 [18]	10
<b>China (People's Rep.)</b>	0	0	0 / 10 [19]	0 / 10 / 15 [20]
<b>Croatia</b>	10	5 [21]	0 / 10 [22]	10
<b>Czech Republic</b>	0	0	0 / 12 [23]	0 / 12 [24]
<b>Denmark</b>	0 [25]	0 [25]	0 / 15 [26]	0 / 10 [27]
<b>Egypt</b>	0	0	0 / 15 [28]	15
<b>Fiji</b>	15	15	0 / 15 [29]	15
<b>Finland</b>	0	0	0 / 15 [30]	0 / 15 [31]

Treaty Rates				
France	0 [32]	0 [32]	0 / 15 [33]	0 / 10 [34]
Germany	15	5 [21]	0 / 10 [35]	7
Hong Kong	10	5 [36]	0 / 10 [37]	8
Hungary	0	0	0 / 15 [38]	15
India	5	5	0 / 10 [39]	10
Indonesia	0	0	0 / 10 [40]	0 / 10 [41]
Iran	0	0	0 / 15 [42]	10
Ireland	10	10	0 / 10 [43]	8
Italy	0 [44]	0 [44]	0 / 15 [45]	0 / 15 [46]
Japan	15	5 [47]	0 / 10 [48]	10
Jordan	10	10	0 / 15 [49]	15
Kazakhstan	10	10	0 / 10 [50]	10
Korea (Rep.)	0	0	0 / 15 [51]	10 / 15 [52]
Kuwait	0	0	0 / 10 [53]	0 / 10 [54]
Kyrgyzstan	10	5 [21]	0 / 10 [55]	10
Laos	10	5 [21]	0 / 10 [56]	10
Lebanon	5	5	0 / 10 [57]	8
Luxembourg	10	0 / 5 [58]	0 / 10 [59]	8
Malta	0	0	0 / 15 [60]	15
Mauritius	0	0	0 / 15 [61]	15
Mongolia	10	10	0 / 10 [62]	10
Morocco	10	5 [63]	0 / 10 [64]	10
Myanmar	10	10	0 / 10 [65]	10
Namibia	10	5 [66]	0 / 10 [67]	5
Netherlands	0	0	0 / 10 [68]	0 / 8 [69]
New Zealand	0	0	0 / 15 [70]	0 / 15 [71]
Norway	0	0	0 / 15 [72]	0 [73]

Treaty Rates				
<b>Pakistan</b>	0	0	0 / 15 [74]	0 / 15 [75]
<b>Papua New Guinea</b>	0	0	0 / 15 [76]	10
<b>Philippines</b>	0	0	0 / 15 [77]	0 / 15 [78]
<b>Poland</b>	0 [79]	0 [79]	0 / 15 [80]	0 / 15 [81]
<b>Qatar</b>	10	5 [82]	0 / 5 [83]	8
<b>Romania</b>	0	0	0 / 15 [84]	0 / 12 [85]
<b>Russia</b>	0	0	0 / 15 [86]	10 / 15 [87]
<b>San Marino</b>	10	5 [21]	0 / 10 [88]	10
<b>Saudi Arabia</b>	5	5	0 / 5 [89]	8
<b>Senegal</b>	10	5 [21]	0 / 10 [90]	10
<b>Seychelles</b>	10	10	0 / 10 [91]	10
<b>Singapore</b>	10	5 [1]	0 / 10 [92]	8
<b>Slovak Republic</b>	5	0 [93]	0 / 10 [94]	10
<b>South Africa</b>	10	5 [95]	0 / 10 [96]	5
<b>Spain</b>	5	0 [97]	0 / 10 [98]	7
<b>Sri Lanka</b>	0	0	0 / 10 [99]	10
<b>Sudan</b>	0	0	0 / 10 [100]	10
<b>Sweden</b>	0	0	0 / 10 [101]	8
<b>Switzerland</b>	0	0	0 / 10 [102]	0 / 10 [103]
<b>Syria</b>	10	5 [1]	0 / 10 [104]	12
<b>Taiwan</b>	0	0	15 [105]	10
<b>Thailand</b>	0	0	0 / 15 [106]	0 / 15 / Reduced by 50% (JDA) [107]
<b>Turkey</b>	0	0	0 / 15 [108]	10
<b>Turkmenistan</b>	10	10	0 / 10 [109]	10
<b>United Arab Emirates</b>	0	0	0 / 5 [110]	0 / 10 [111]
<b>United Kingdom</b>	10	5 [112]	0 / 10 [113]	8 [114]
<b>United States</b>	0	0	15	10



Treaty Rates				
<b>Uzbekistan</b>	10	10	0 / 10 [115]	10
<b>Venezuela</b>	10	5 [116]	0 / 15 [117]	10
<b>Vietnam</b>	0	0	0 / 10 [118]	10
<b>Zimbabwe</b>	0	0	0 / 10 [119]	10

Notes:

[1] A 5% rate applies where a company holds directly at least 25% of the capital of the company paying the dividends.

[2] A 0% rate applies to interest paid on an approved loan or other indebtedness as defined under Malaysian law or to interest paid to the government, the Central Bank or to agreed institutions, the capital of which is wholly owned by the Government.

[3] A 0% rate applies to interest paid on an approved loan or other indebtedness as defined under Malaysian law, or to interest arising from the investment of official reserve assets paid to the government or to a bank performing central banking functions.

[4] A 0% rate applies to interest paid on an approved loan or other indebtedness as defined under Malaysian law, or to the government including the political subdivisions and local authorities thereof or the Osterreichische Kontrollbank AG.

[5] A 15% rate applies to royalties paid for the use, or the right to use, cinematograph films, or tapes for radio or television broadcasting or any copyright of literary or artistic work.

[6] A 0% rate applies to interest paid to the government, the local authorities, the statutory bodies, Bahrain Development Bank and Bahrain Monetary Agency.

[7] The domestic withholding tax rate of 10% applies to royalties in respect of the operation of oil or gas wells, or the extraction of mineral deposits or other natural resources.

[8] A 0% rate applies to interest paid on an approved loan or other indebtedness as defined under Malaysian law.

[9] A 0% rate applies to approved industrial royalties derived from Malaysia by a resident of Bangladesh who is the beneficial owner.

[10] Once the 2010 protocol enters into force:

- the rate will be increased to 10%, however
- a 5% rate applies where a company holds directly at least 10% of the capital of the company paying the dividends, and
- a 0% rate applies where:
  - a company holds, for an uninterrupted period of 12 months, a direct shareholding of at least 10% of the company paying the dividends
  - a pension fund organised under Belgian law and regulated by the Bank Finance and Insurance Commission where such dividends are not derived from the carrying on of a business by the pension fund and through an associated enterprise.

[11] A 0% rate applies to interest paid to the government, any political subdivision or local authority, the National Bank of Belgium (Banque Nationale de Belgique) or any other agreed institution, the capital of which is wholly owned by the government, any political subdivision or local authority.

A 10% rate applies to interest paid by a Malaysian enterprise engaged in an industrial undertaking.

Once the 2010 protocol enters into force:

- the rate will be reduced to 10%, and

- a 0% rate applies to interest paid by an enterprise to a resident of Belgium licensed to carry on banking business, to interest paid to the government, any political subdivision or local authority, the National Bank of Belgium and a resident of Belgium where such interest is paid in the framework of a loan or a credit granted by the Association for the coordination of medium-term financing of Belgian export or insured by the National Office of Del Credere or for which financial support is granted after advice of the Committee for financial support to export.

[12] Once the 2010 protocol enters into force, the rate will be reduced to 7%.

[13] A 5% rate applies where a company holds directly at least 20% of the capital of the company paying the dividends.

[14] A 0% rate applies to interest paid to the government, the Council of Ministers of Bosnia and Herzegovina, the local authorities, the Central Bank of Bosnia and Herzegovina or the Export Guarantee Agency (IGA) of Bosnia and Herzegovina.

[15] A 0% rate applies to interest paid on an approved loan or other indebtedness as defined under Malaysian law, or to interest paid to the government, the local authorities, the statutory bodies or the Brunei Currency and Monetary Board.

[16] A 0% rate applies to approved industrial royalties by a resident of Canada who is the beneficial owner.

[17] A 5% rate applies where a company holds directly at least 20% of the voting power in the company paying the dividends.

[18] A 0% rate will apply to interest paid to the government, Central Bank, local authorities, or statutory bodies if, subsequent to the date of signing of this treaty, Chile includes such a clause in a treaty with another State.

[19] A 0% rate applies to interest paid on an approved loan or other indebtedness as defined under Malaysian law, or to interest paid to the government, the local government, the People's Bank of China, the head office of the Bank of China, the China International Trust and Investment Corporation or any other agreed institution, the capital of which is wholly owned by the government.

[20] A 15% rate applies to royalties paid for the use, or the right to use, any copyright of literary or artistic work including cinematograph films, or tapes for radio or television broadcasting.

A 0% rate applies to royalties derived by a resident of China which are subjected to film hire duty under the Cinematograph Film-Hire Duty Act in Malaysia.

[21] A 5% rate applies where a company holds directly at least 10% of the capital of the company paying the dividends.

[22] A 0% rate applies to interest paid to the government, the local authorities, the statutory bodies engaged in governmental functions, or the National Bank of Croatia.

[23] A 0% rate applies to interest paid on an approved loan or other indebtedness as defined under Malaysian law, or to interest paid to the government, the governments of the States, the local authorities, the Czech State Bank or any other agreed institution, the capital of which is wholly owned by the government, the government of the states or the local authorities.

[24] A 0% rate applies to royalties paid as film rentals which are subject to the cinematograph film-hire duty in Malaysia.

[25] The 0% rate applies if the beneficial owner is subject to tax on the dividends in Denmark.

[26] A 0% rate applies to interest paid to the government, National Bank of Denmark, any local statutory authority or any other agreed institution.

[27] A 0% rate applies to royalties paid to the government, National Bank of Denmark, any local statutory authority or any other agreed institution.

[28] A 0% rate applies to interest paid on an approved loan or other indebtedness as defined under Malaysian law, or to interest paid to the government, the local authorities, the statutory bodies or the Central Bank of Egypt.

[29] A 0% rate applies to interest paid on an approved loan or other indebtedness as defined under Malaysian law, or to interest paid to the government, Fiji National Provident Fund, the Reserve Bank of

Fiji (Central Bank) or any other agreed institution, the capital of which is wholly owned by the government.

[30] A 0% rate applies to interest paid on an approved loan or other indebtedness as defined under Malaysian law, or to interest paid to the government, the local authorities, the statutory bodies, the Finnish Export Credit Limited, the Finnish Fund for Industrial Co-operation Limited, or any agreed institution wholly or mainly owned by the government, the local authorities or the statutory bodies.

[31] A 0% rate applies to approved industrial royalties and royalties paid as film rentals which are subject to the cinematograph film-hire duty in Malaysia.

[32] In order to obtain the 0% rate, the beneficial owner must be subject to tax in France on the dividends.

[33] A 0% rate applies to interest paid on an approved loan or other indebtedness as defined under Malaysian law, or to interest paid to the government, the local authorities, the Bank of France (Banque de France) or any other agreed institution, the capital of which is wholly owned by the government or the local authorities insofar as they engage in public interest activities.

[34] A 0% rate applies to certain approved royalties and to royalties paid to the government, the local authorities, the Bank of France (Banque de France) or any other agreed institution, the capital of which is wholly owned by the government or the local authorities insofar as they engage in public interest activities.

The reduced rate does not apply to royalties paid for the use of, or the right to use, cinematograph films or tapes for radio or television broadcasting.

[35] A 0% rate applies to interest paid to the government, the Länder, the political subdivisions or the local authorities, the "Deutsche Bundesbank" (German Federal Bank), the "Kreditanstalt für Wiederaufbau" (Credit Bank for Reconstruction) and the "Deutsche Finanzierungsgesellschaft für Beteiligungen in Entwicklungsländern".

Notwithstanding the above, 0% is not applicable if they are derived from rights or debt claims carrying a right to participate in profits, including income derived by a silent partner ("stiller Gesellschafter") from his participation as such, or from a loan with an interest rate linked to borrower's profit ("partiarisches Darlehen") or from profit sharing bonds ("Gewinnobligationen") within the meaning of the tax law of the Federal Republic of Germany; and under the condition that they are deductible in the determination of profits of the debtor of such income.

[36] A 5% rate applies where a company (other than partnership) holds, directly or indirectly, at least 10% of the capital of the company paying the dividends.

[37] A 0% rate applies to interest paid to the government, Hong Kong Monetary Authority or any other agreed institution established by the government.

[38] A 0% rate applies to interest paid on an approved loan or other indebtedness as defined under Malaysian law, or to interest paid to the government, the Central Bank, or to interest paid in respect of a loan provided, guaranteed or insured by the government or the National Bank of Hungary.

[39] A 0% rate applies to interest paid to the government, the political sub-divisions, the statutory bodies, the local authorities, the Export-Import Bank of India (EXIM Bank), the Reserve Bank of India, the Industrial Finance Corporation of India, the Industrial Development Bank of India, the National Housing Bank, the Small Industries Development Bank of India or any other agreed institution.

[40] A 0% rate applies to interest paid on an approved loan or other indebtedness as defined under Malaysian law, or to interest paid to the government, the local authorities, the statutory bodies, Bank Indonesia (The Central Bank of Indonesia) or any other agreed institution, the capital of which is wholly owned by the government, the local authorities or the statutory bodies.

[41] A 0% rate applies to royalties derived by a resident of Indonesia which are subjected to film hire duty under the Cinematograph Film-Hire Duty Act in Malaysia.

[42] A 0% rate applies to interest paid on an approved loan as defined under Malaysian law, or to interest paid to the government, ministries, government institutions, municipalities, legal foundations, central bank and other banks wholly owned by the government, governmental corporations or any other agreed institution, the capital of which is wholly owned by the government.

[43] A 0% rate applies to interest paid to the government, the political subdivisions, the statutory bodies,

the local authorities, the Central Bank of Ireland or by any agency or instrumentality of, or any financial institution wholly owned by the government, or to interest paid in respect of a loan made, guaranteed or insured, or any other debt-claim or credit guaranteed or insured by these bodies.

[44] The 0% rate applies if the beneficial owner is subject to Italian tax on the dividend.

[45] A 0% rate applies to interest paid on an approved loan or a long-term loan, or to interest paid to the government or local authority thereof or any agency or instrumentality (including financial institutions) in respect of loans made in application of an agreement concluded between the governments of the Contracting States.

[46] A 0% rate applies to approved industrial royalties derived from Malaysia by a resident of Italy who is the beneficial owner.

[47] A 5% rate applies where a company owns at least 25% of the voting shares issued by the company paying the dividends during the period of six months, immediately before the end of the accounting period for which the distribution of profits takes place.

[48] A 0% rate applies to interest paid to the government, the political subdivisions, the local authorities, the Central Bank, the Export-Import Bank of Japan, the Overseas Economic Cooperation Fund, the Japan International Cooperation Agency or any other agreed financial institution, the capital of which is wholly owned by the government.

[49] A 0% rate applies to interest paid to the government, the local authorities, the government statutory bodies or the Central Bank of Jordan.

[50] A 0% rate applies to interest paid to the government, the central authorities, the statutory bodies, the local authorities, the National Bank of Kazakhstan or any other agreed institution, the capital of which is wholly owned by the government.

[51] A 0% rate applies to interest paid by a licensed banking business in Malaysia to a Korean tax resident carrying on banking business, to interest paid on certain approved loans or long-term loans, or to interest paid to the government, the local authorities, the Bank of Korea, the Export-Import Bank of Korea or such agreed institutions, the capital of which is wholly owned by the government or the local authorities.

[52] A 15% rate applies to royalties paid for the use of, or the right to use, cinematograph films, or tapes for radio or television broadcasting, or any copyright of literary or artistic work. A 0% rate applies to approved industrial royalties.

[53] A 0% rate applies to interest paid on an approved loan or other indebtedness as defined under Malaysian law, or to interest paid to the government, government institutions, companies which are wholly owned, directly or indirectly, or controlled by the government or a government institution or a combination of both or any other agreed entity. If the government participates in a loan indirectly through an agent or otherwise, the exemption shall apply proportionally to the participation of the government in such loan.

[54] A 15% rate applies to royalties paid for the use of, or the right to use, cinematograph films, or tapes for radio or television broadcasting, any copyright of literary or artistic work.

[55] A 0% rate applies to interest paid to the government, the Bank of the Lao P.D.R, the Bank for Foreign Trade of the Lao P.D.R, the local authorities, the statutory bodies or any other agreed institution, the capital of which is wholly owned by the government.

[56] A 0% rate applies to interest paid to the government, the Bank of the Lao P.D.R, the Bank for Foreign Trade of the Lao P.D.R, the local authorities, the statutory bodies or any other agreed institution, the capital of which is wholly owned by the government.

[57] A 0% rate applies to interest paid to the government, the statutory bodies, the local authorities or the Central Bank of Lebanon.

[58] A 5% rate applies where a company holds directly at least 10% of the capital of the company paying the dividends.

A 0% rate applies where the beneficial owner has had, during an uninterrupted period of 12 months preceding the date of payment of the dividends, a direct shareholding of at least 25% of the company paying the dividends. The exemption only applies if the dividend is derived from the active conduct of trade or business in Malaysia, other than the business of making or managing investments, unless such

business is carried on by a banking or insurance company.

[59] A 0% rate applies to interest paid by a licensed banking business in Malaysia, or to interest paid to the government, the local authorities, the National Credit Investment Corporation (la Société Nationale de Crédit et d'Investissement), the Central Bank of Luxembourg (la Banque Centrale du Luxembourg), or to interest paid on an approved loan.

[60] A 0% rate applies to interest paid on an approved loan or other indebtedness as defined under Malaysian law, or to interest paid to the government, the statutory bodies, the Central Bank, the Malta Development Corporation or any other agreed institution, the capital of which is wholly owned by the government.

[61] A 0% rate applies to interest paid on an approved loan or other indebtedness as defined under Malaysian law, or to interest paid to the government, the local authorities, the statutory bodies, the Bank of Mauritius or any other agreed institution, the capital of which is wholly owned by the government or the local authorities or the statutory body.

[62] A 0% rate applies to interest paid to the government, the political subdivision, the local authorities, the statutory bodies or the Mongol Bank.

[63] A 5% rate applies where a company (other than a partnership) holds directly at least 10% of the capital of the company paying the dividends.

[64] A 0% rate applies to interest paid to the government, the local authorities, the statutory bodies, the BANK AL MAGHRIB or the Moroccan Foreign Trade Bank.

[65] A 0% rate applies to interest paid to the government, the government of the states, the local authorities, the statutory bodies, the Central Bank of Myanmar or any agreed institution, the capital of which is wholly owned by the government.

[66] A 5% rate applies where a company holds directly at least 25% of the share capital of the company paying the dividends.

[67] A 0% rate applies to interest paid to the government, the regional authorities, the local authorities, the statutory bodies or the Bank of Namibia.

[68] A 0% rate applies to interest paid by a licensed banking business in Malaysia or certain approved loans or long-term loans, or to interest paid to the government, the local authorities, the statutory bodies, the Nederlandse Bank (Central Bank), the Nederlandse Financierings Maatschappij voor Ontwikkelingslanden N.V. (Netherlands finance company for developing countries) and the Nederlandse Investeringsbank voor Ontwikkelingslanden N.V. (Netherlands investment bank for developing countries) or such agreed institutions, the capital of which is wholly owned by the government or the local authorities.

[69] A 0% rate applies to approved industrial royalties and certain other royalties subject to the cinematograph film hire duty in Malaysia.

[70] A 0% rate applies to interest paid on certain approved loans or other indebtedness as defined under Malaysian law.

[71] A 0% rate applies to approved industrial royalties derived from sources in Malaysia and beneficially owned by a New Zealand resident.

[72] A 0% rate applies to interest paid on certain approved loans or other indebtedness as defined under Malaysian law, or to interest paid to the government, the Norges Bank (the Bank of Norway) or such agreed institutions, the capital of which is wholly owned by the government.

[73] 76 A 0% rate applies to approved royalties where the beneficial owner is subject to tax in Norway on such approved royalties. A 0% rate applies to royalties paid to the government, the Norges Bank (the Bank of Norway) or such agreed institutions, the capital of which is wholly owned by the government.

[74] A 0% rate applies to interest paid on certain approved loans or other indebtedness as defined under Malaysian law, or to interest paid to the government, the governments of the Provinces, the local authorities, the State Bank of Pakistan or such agreed institutions, the capital of which is wholly owned by the government or the governments of the Provinces or the local authorities.

[75] A 0% rate applies to approved industrial royalties derived from Malaysia by a resident of Pakistan.

[76] A 0% rate applies to interest paid on certain approved loans or other indebtedness as defined under



Malaysian law, or to interest paid to the government, the Provincial governments, the local authorities, the statutory bodies or such agreed institutions, the capital of which is wholly owned by the government, the Provincial governments, the local authorities or the statutory bodies.

[77] A 0% rate applies to interest paid on an approved loan or a long-term loan, or to interest paid to the government, the Central Bank of the Philippines or such agreed institutions, the capital of which is wholly owned by the government.

[78] A 0% rate applies to approved industrial royalties or royalties that are subject to cinematograph film-hire duty in Malaysia.

[79] Once the new DTA enters into force, the rate will be increased to 5%.

[80] A 0% rate applies to interest paid on an approved loan or a long-term loan, or to interest paid to the government, the local authorities, Narodowy Bank Polski, Bank Handlowy w Warszawie S.A. for activities within the scope of the normal authority of a central bank, or such agreed institutions, the capital of which is wholly owned by the government or local authorities.

Once the new DTA enters into force:

- The rate will be reduced to 10%.
- A 0% rate applies to interest paid to the government, the political subdivisions, the local authorities, the statutory bodies, the National Bank of Poland or the Bank Gospodarstwa Krajowego in Poland (the Bank of National Economy of Poland).

[81] A 0% rate applies to certain approved royalties. The tax treaty rate does not apply to royalties paid for the use of, or the right to use cinematograph films, or works recorded on tapes for television or broadcasting. Once the new DTA enters into force, the rate will be reduced to 8%.

[82] A 5% rate applies where the beneficial owner is an individual or company (other than a partnership) which holds directly at least 10% of the capital of the company paying the dividends.

[83] A 0% rate applies to interest paid to the government, the Qatar Investment Authority, the local authorities and subdivision, the statutory bodies, the Qatar Central Bank, the Qatar Development Bank or any other agreed financial institution fully owned or financed by the government.

[84] A 0% rate applies to interest paid on an approved loan as defined under Malaysian law or a long-term loan.

[85] A 0% rate applies to approved industrial royalties, and certain film rentals which are subject to cinematograph film-hire duty in Malaysia.

[86] A 0% rate applies to interest paid on an approved loan or other indebtedness as defined under Malaysian law, or to interest paid to the government, the Central Bank, or to interest paid in respect of a loan provided, guaranteed or insured by the government.

[87] A 15% rate applies to royalties paid for the use, or the right to use, cinematograph films, or tapes for radio or television broadcasting, any copyright of literary or artistic work. A 0% rate applies to royalties which are subjected to film hire duty under the Cinematograph Film-Hire Duty Act in Malaysia.

[88] A 0% rate applies to interest paid to the government of the Republic of San Marino, the government of the states, local authorities, the statutory bodies, the Central Bank of San Marino.

[89] A 0% rate applies to interest paid by the government of Malaysia, a political subdivision, a statutory body or a local authority, or to interest paid to the government of Saudi Arabia, a political subdivision, a statutory body or a local authority, or any institution, agency or instrumentality wholly owned by these bodies.

[90] A 0% rate applies to interest paid to the government, the local authorities, the statutory bodies, Banque Centrale des Etats de l' Afrique de l'Ouest (Central Bank of West African States) and any other financial institution whose capital is wholly owned by the government.

[91] A 0% rate applies to interest paid to the government of the Seychelles, the statutory bodies or the Central Bank.

[92] A 0% rate applies to interest paid on certain approved loans or other indebtedness as defined under Malaysian law, or to interest paid to the government, the Monetary Authority of Singapore, the government of Singapore Investment Corporation Pte. Ltd. or the statutory bodies.

[93] A 0% rate applies where a company holds at least 10% of the capital of the company paying the dividends for an uninterrupted period of at least 12 months.

[94] A 0% rate applies to interest paid to the Government of the Slovak Republic, local authorities, statutory bodies, Národná banka Slovenska (the National Bank of Slovakia), EXIMBANKA SR (Export-Import Bank of the Slovak Republic), Slovenská záručná a rozvojová banka, a.s

[95] A 5% rate applies where a company holds at least 25% of the capital of the company paying the dividends.

[96] A 0% rate applies to interest paid to the government, the political subdivisions, the local authorities, the statutory bodies engaged in governmental functions or the South African Reserve Bank.

[97] A 0% rate applies where a company holds directly at least 5% of the capital of the company paying the dividends.

[98] A 0% rate applies to interest paid to the government, the political subdivisions, the local authorities, the Central Bank of Spain, Instituto de Crédito Oficial, Compañía Española de Seguros de Crédito a la Exportación, Campaña Española de Financiación del Desarrollo or any other agreed financial instrumentality of Spain.

Lower rate as provided in a treaty with another State, signed by Malaysia, subsequent to the enter into force of this treaty, will apply, upon request of the Spanish competent authority, from the date of entry into force of the treaty between Malaysia and that another State.

[99] A 0% rate applies to interest paid on certain approved loans or other indebtedness as defined under Malaysian law, or to interest paid to the government, the local authorities, the statutory bodies, the Central Bank of Sri Lanka or such agreed institutions, the capital of which is wholly owned by the government or the local authorities or the statutory bodies.

[100] A 0% rate applies to interest paid on certain approved loans or other indebtedness as defined under Malaysian law, or to interest paid to the government, the governments of the States, the local authorities, the statutory bodies, the Central Bank of the Sudan or such agreed institutions, the capital of which is wholly owned by the government or the governments of the States, or the local authorities or the statutory body.

[101] A 0% rate applies to interest paid to the government, the Central Bank of Sweden, the political subdivisions, the local authorities, the statutory bodies, the Swedish Export Credit Corporation (SEK), to the extent that the loan is guaranteed by the government and the Swedish International Development Authority (SIDA).

[102] A 0% rate applies to interest paid on certain approved loans or other indebtedness.

[103] A 0% rate applies to certain approved royalties.

[104] A 0% rate applies to interest paid to the government, the local authorities, the Central Bank of Syria or the public bodies established by a decree or law.

More favourable rate as provided in a treaty with another State, signed by Syrian Arab Republic, subsequent to the enter into force of this treaty, will apply, from the date of entry into force of the treaty between Syrian Arab Republic and that another State.

[105] The interest exemption is calculated based on the prescribed formulae = gross interest x ((15% – 10%) / 15%) pursuant to the *Income Tax (Exemption) (No 10) Order 1998*.

[106] A 0% rate applies to interest paid to the government, the local authorities, the Bank of Thailand or such agreed institutions, the capital of which is wholly owned by the government or any local authority.

[107] A 0% rate applies to approved industrial royalties.

[108] A 0% rate applies to interest paid on certain approved loans or other indebtedness as defined under Malaysian law, or to interest paid to the government, the local authorities, the Central Bank of Turkey (Turkiye Cumhuriyet Merkez Elankasi) or the Turkish Eximbank.

[109] A 0% rate applies to interest paid to the government or the Central Bank of Turkmenistan.

[110] A 0% rate applies to interest paid to the government, the local governments, the local authorities, the statutory bodies, the United Arab Emirates Central Bank or such agreed institutions, the capital of which is wholly owned by the government, the local governments, the local authorities or the statutory

bodies.

[111] A 0% rate applies to royalties paid to government, the local governments, local authorities, statutory bodies, the United Arab Emirates Central Bank or such agreed institutions, the capital of which is wholly owned by the government, the local governments, the local authorities or the statutory bodies.

[112] A 5% rate applies where a company controls, directly or indirectly, at least 10% of the voting power in the company paying the dividends. In order to obtain the reduced rate, the beneficial owner must be subject to tax on the dividends in the UK.

[113] A 0% rate applies to interest paid to the government, the statutory bodies, the political subdivisions, the local authorities, the Bank of England, the United Kingdom Export Credits Guarantee Department, the Commonwealth Development Corporation or any other agreed agency or instrumentality of, or any financial institution wholly owned by the government, or to interest paid in respect of a loan made, guaranteed or insured, or any other debt-claim or credit guaranteed or insured by these bodies.

[114] In order to obtain the reduced rate, the beneficial owner must be subject to tax on the royalty in the UK.

[115] A 0% rate applies to interest paid to the government, the local authorities, the statutory bodies, the National Bank of the Republic of Uzbekistan for Foreign Economic Activities or the Central Bank.

[116] A 5% rate applies where a company (other than a partnership) holds directly at least 10% of the capital of the company paying the dividends.

[117] A 0% rate applies to interest paid to the government, the Central Bank, the political subdivisions, the local authorities or financial institutions wholly owned by the Contracting State with the objective to promote exports and development.

[118] A 0% rate applies to interest paid to the government, the local authorities, the State Bank of Vietnam or such agreed institutions, the capital of which is wholly owned by the government or the local authorities.

[119] A 0% rate applies to interest paid on an approved loan or other indebtedness as defined under Malaysian law, or to interest paid to the government, the local authorities, the statutory corporations, the Reserve Bank of Zimbabwe or any other agreed institution, the capital of which is wholly owned by the government, the local authorities or the statutory corporations.

### Other Agreements

None

### Income Tax Treaties for the Avoidance of Double Taxation

Double tax agreements with Poland (2014) and Senegal have been gazetted but at the time of writing are not yet in force.

Double tax agreements with Argentina and United States are limited double tax agreements.

Protocols which amend limited articles of the treaties with Belgium, Indonesia, Kuwait, New Zealand, Seychelles and Turkey have been gazetted but at the time of writing are not yet in force.

Source – MIRB's website.

### Agreements for the exchange of information

There is an agreement for the exchange of information relating to tax matters ('TIEA') with Bermuda. TIEAs with The Bahamas, Guernsey and Liberia are under negotiation.

Source – MIRB's website

### Indirect offshore disposal rules

There is no such regulation.



# 2 Transfer Pricing

## Requirements

Malaysia's transfer pricing guidelines are largely based on the guidelines issued by the OECD. The arm's length provision is set out in Section 140A of the MITA. Section 140A requires taxpayers to determine and apply the arm's length price for their transactions with an associated person for the acquisition or supply of property or services.

Income Tax (Transfer Pricing) Rules 2012 (TP Rules 2012) were released on 11 May 2012, with retrospective effect from 1 January 2009. The TP Rules 2012 require taxpayers who are engaged in transactions with associated persons to prepare contemporaneous transfer pricing documentation. The Transfer Pricing Guidelines provide further guidance to taxpayers on the MIRB's requirements and the types of records and documentation to maintain.

Transfer pricing documentation does not need to be submitted to the MIRB unless requested for but corporate taxpayers are required to declare in their tax returns whether transfer pricing documentation has been prepared.

Malaysia also has an APA program governed under the Income Tax (Advance Pricing Arrangement) Rules 2012 and Income Tax (Advance Pricing Arrangement) (Amendment) Rules 2017. The Rules establish the process and expected timeline for the application of unilateral, bilateral and multilateral APAs.

## Country-by-Country Reporting

Country-by-country reporting has been implemented in Malaysia with effect from 1 January 2017.

It applies to MNEs headquartered in Malaysia and surrogates with total consolidated group revenue in the financial year preceding the reporting financial year of at least MYR 3 billion.

The Country-by-Country Report shall be filed no later than 12 months after the last day of the reporting financial year.

An entity which is resident or a permanent establishment in Malaysia which is part of the MNE Group that exceeds the MYR 3 billion threshold would need to notify the Director General in writing on who the reporting entity of the Group would be, on or before the last day of the reporting financial year.

## Master and Local Files reporting

Master File requirements are specified in the current Transfer Pricing Guidelines.

Taxpayers that are required to prepare the Country-by-Country Report shall prepare the Master File.

Local File (local transfer pricing documentation) needs to be prepared where there are transactions with associated persons.

The current timeline for the submission of Master File and Local File to the MIRB is 30 days upon request.

## Common Reporting Standard

In Malaysia, Common Reporting Standard (CRS) obligations are imposed on reporting Malaysian Financial Institutions (MYFIs) through the operation of the Income Tax (Automatic Exchange of Financial Account Information) Rules 2016 and Income Tax (Automatic Exchange of Financial Account Information) (Amendment) Rules 2017.

Under the CRS, MYFIs are required to collect and report, financial account information on non-residents. The MIRB will exchange this information with the participating foreign tax authorities of those non-residents.

For more detailed CRS information, refer to:

[Common Reporting Standard \(CRS\) for the Automatic Exchange of Financial Account Information.](#)

# 3 Indirect Tax

## Indirect Tax

Following the outcome of the 14th Malaysian General Election on 9 May 2018, the new Malaysian government has announced that Goods and Services Tax ("GST") will be abolished and be replaced with a new Sales Tax and Services Tax ("SST").

## Standard Rate

Effective 1 June 2018, the GST standard rate of 6% has been reduced to 0%.

## Further Information

While it was announced that SST is likely to be introduced in Malaysia on 1 September 2018, no further details on the SST rate, taxing base and legislations have been released to date. Pending official announcement by the Government, the GST legislation remain applicable in Malaysia until it is repealed.

# 4 Personal Taxation

## Top Rate

Personal income tax

The maximum income tax rate is 28%, with effect from YA 2016 and applies to chargeable income of MYR 1,000,000 or more. Non-residents are taxed at a flat rate of 28% on gross income from all sources without any deductions of personal reliefs.

## Social Security

There is no general social security framework in Malaysia. However, mandatory contributions are made monthly by both the employer and the employee to the Employees' Provident Fund ('EPF'), which serves as a compulsory savings and retirement plan and the Social Security Contributions (SOCSO).

The SOCSO is a scheme which serves to provide certain benefits to employees in cases of employment injury including occupational diseases and invalidity and for certain other matters in relation to employment. Contributions are capped at the monthly wage of MYR 4,000.

Both the above schemes are only mandatory for Malaysian citizens and Permanent residents.

## International Social Security Agreements

Malaysia has not entered into any totalization agreements with other countries for social security

## Visa Requirements

There are 2 types of work permit (i.e. working visa) issued by the Immigration Department of Malaysia i.e. Employment Pass ('EP') and Professional Visit Pass ('PVP').

The EP is issued to employees contracting to work with a Malaysian employer. An employment contract will be signed between the Malaysian employer and the employee. The PVP is applicable for assignees who render short term professional work in Malaysia.

The Immigration Department of Malaysia issues social visit passes at the port of entry. The duration of the social visit pass is dependent on the Country issuing the passport. Under the social visit pass, the activities of the traveller is restricted to permissible activities only.

## Further Information

For more detailed personal taxation information, refer to:

[KPMG's Thinking Beyond Borders](#)

# 5 Other Taxes

## Property Taxes

Local councils may impose a levy rate (commonly known as 'assessment tax') on residents in respect of services provided by the local council. The amount varies from council to council and is dependent on the value of the property.

Quit rent is a form of tax imposed by the State Government. It is imposed on owners of landed property (as opposed to units in high-rise buildings). The amount of quit rent imposed varies from state to state and will depend on the locality and category of land use.

## Inheritance/Gift tax

There is no inheritance or gift tax in Malaysia.

## Others

Stamp duty is chargeable on certain instruments or documents pursuant to the provisions of the Stamp Act 1949. The rate of duty varies according to the nature of the instruments/documents and transacted values.

Stamp duty of 0.3% (of the price or value, whichever is higher) is payable on the transfer of shares. Stamp duty relief is available in certain circumstances, such as transfers within 90% groups, provided certain conditions are met.

On the transfer of land and buildings, ad valorem stamp duty at rates from 1% to 3% on the transfer consideration or the market value of the property, whichever is higher, is payable. Stamp duty relief is available in certain circumstances, such as transfers within 90% groups, provided certain conditions are met.

# 6 Trade & Customs

## 6.1 Customs

### Customs Duty

Import duty is generally payable on imported goods at the time of clearance from Customs' control. The rates of import duty generally range from 0% to 60% depending on the category of goods imported.

Malaysia is committed to ASEAN and as such, import duties imposed on most manufactured goods of ASEAN origin have been reduced to a range of 0% to 5%.

### Export Duty

Export duty is generally imposed on depletable resources to discourage export of such commodities.

### Excise Duty

Excise duty is imposed on a limited range of locally manufactured goods or goods imported into Malaysia. The rate of tax to be levied varies and would depend on the nature of the goods manufactured or imported. Excise duty is generally levied on alcoholic beverages, tobacco products and motor vehicles.

## 6.2 Free Trade Agreements (FTA)

### In force

Bilateral Agreements	Multilateral agreements
Australia	ASEAN – Australia and New Zealand
Chile	ASEAN - China
India	ASEAN – India
Japan	ASEAN – Japan
New Zealand	ASEAN – Korea
Pakistan	
Turkey	

### In Negotiation

- Malaysia-European Union Free Trade Agreement
- Comprehensive and Progressive Agreement for Trans-Pacific Partnership (Signed on 8 March 2018, pending domestic ratification by the 11 countries respectively)
- Trade Preferential System-Organization of Islamic Conference
- Developing Eight (D-8) Preferential Tariff Agreement

Source: Ministry of International Trade and Industry

# 7 Tax Authority

## Tax Authority

Malaysian Inland Revenue Board (MIRB) and Royal Malaysian Customs

Link to MIRB & [Royal Malaysian Customs](#)

## Tax Audit Activity

Audit cases can be selected based on a number of factors, such as:

- Risk analysis criteria
- Information received from a third party
- Industry type
- A specific issue concerning a certain group of taxpayers
- Location

There are two types of audit – a desk audit which is carried out at the MIRB’s office, and a field audit which is carried out at the taxpayer’s business premises.

A typical tax audit commences with a letter of notification of an audit, which will indicate the records that should be made available for audit, the years of assessment to be audited, and the names of the relevant audit officers. This is followed by an examination of the relevant documents. The MIRB will issue an audit findings report, which will contain details of any proposed tax adjustments and the rationale for those adjustments. If the taxpayer disagrees with the adjustments, an official objection must be submitted. If there are no objections to the adjustments made, the MIRB will issue a notice of additional assessment.

The timeframe for settlement of a tax audit should be three months from the commencement of the audit, but it can take longer to reach a resolution in more complex cases.

## Appeals

A taxpayer can appeal against an assessment as a result of a tax audit. The appeal must be made within 30 days after the service of the notice of additional assessment.

## Tax Governance

The Monitoring Deliberate Tax Defaulters Programme has been introduced by the MIRB to strengthen and enhance the effectiveness of existing tax audit activities. This programme is designed to monitor taxpayers identified as non-compliant in accordance with the existing rules and income tax laws, and also seeks to encourage voluntary tax compliance through education and monitoring activity.

## Current Topics for Focus by Tax Authorities

Key focus areas for the MIRB in tax audits conducted in recent years have included transfer pricing, withholding tax and tax incentives.

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