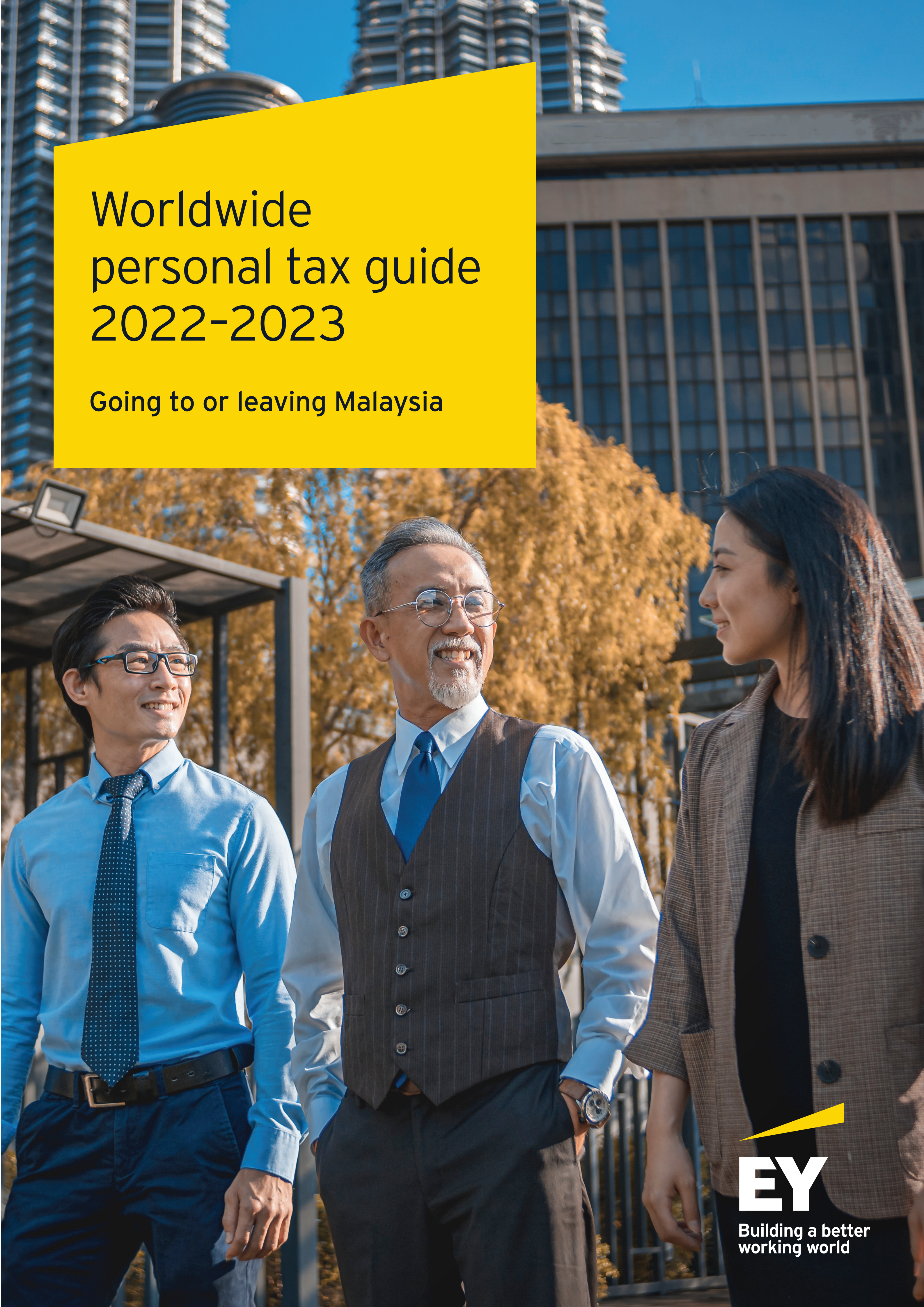
Worldwide personal tax guide 2022-2023

Going to or leaving Malaysia



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Local information	
Tax authority	The Malaysian Inland Revenue Board (MIRB)
Website	MyTax (hasil.gov.my)
Tax year	1 January to 31 December
Tax return due date	30 April (or 30 June if individual has business income)
Is joint filing possible	Yes
Are tax return extensions possible	No

2023 income tax rates for residents

Taxable income band MYR	Tax rate
0 to 5,000	0%
5,001 to 20,000	1%
20,001 to 35,000	3%
35,001 to 50,000	6%
50,001 to 70,000	11%
70,001 to 100,000	19%
100,001 to 400,000	25%
400,001 to 600,000	26%
600,001 to 2,000.000	28%
2,000,001+	30%

Non-residents are subject to withholding taxes on certain types of income. Other income is taxed at a rate of 30%.

Contract payments to non-resident contractors who perform services in Malaysia are subject to a total withholding tax of 13% (10% for tax payable by the non-resident contractor and 3% for tax payable by the contractor's employees). The withholding taxes paid by the non-resident contractor and contractor's employees are refundable upon application after filing of the necessary tax returns and settlement of the actual income taxes payable.

Income derived in Malaysia by a non-resident public entertainer is subject to a final withholding tax at a rate of 15%.

Film production actors or actresses and production crew conducting film shoots in Malaysia are subject to special income tax rate of 0% to 10%.

If a Malaysian or foreign national "knowledge worker" resides in the Iskandar Development Region and is employed in certain qualifying activities by a designated company and if their employment commences on or after 24 October 2009 but not later than 31 December 2022, the worker may apply to be subject to tax at a reduced rate of 15%. The individual must not have derived any employment income in Malaysia for at least three years before the date of the application.

Malaysian professionals returning from abroad to work in Malaysia would be taxed at a rate of 15% for the first five consecutive years following the professional's return to Malaysia under the Returning Expert Programme (REP). An application must be submitted to Talent Corporation Malaysia Berhad from 1 January 2021 to 31 December 2023 *(application period is proposed to be extended to 31 December 2027 per the Budget 2024 announcement).*

Preferential tax treatment at a flat rate of 15% is also available for up to five non-citizens who are employed by a company and hold key positions or C-suite positions for five consecutive years. The company must be granted a relocation tax incentive under the Pelan Jana Semula Ekonomi Negara (PENJANA) initiative, while the employees must be receiving monthly salary of not less than MYR25,000 and qualify as Malaysian tax residents for the years throughout the preferential tax treatment period. Applications can be submitted to the Malaysian Investment and Development Authority from 7 November 2020 until 31 December 2024.

Further, the Malaysian government has offered a tax incentive to investors in the electrical and electronics sector to reposition their operations to Malaysia where a preferential tax treatment at a flat rate of 15% will be given to non-citizen taxpayers holding C-suite positions until year 2024.

Separately, non-citizen resident employees in a company that carries on a business with respect to a qualifying activity under an incentive scheme is subject to tax at a rate of not more than 20% from the 2021 year of assessment if certain conditions are met. Qualifying activities include any high-technology activity in the manufacturing and services sector and any other activities that would benefit Malaysia's economy.

Per the Budget 2024 announcement, the income tax rate of 15% will be available for a period of 3 consecutive years of assessment and limited to 3 non-citizen individuals holding key-C-Suite positions with a monthly salary of at least MYR35,000 appointed by a new company approved with Global Services Hub tax incentive. An application by the new company's Global Services Hub must be received by the Malaysian Investment Development Authority from 14 October 2023 until 31 December 2027.

Employment income received by women who return to the workforce after being unemployed for at least two years as of 27 October 2017 may be exempted from tax for up to 12 consecutive months. An application for the tax exemption can be submitted to Talent Corporation Malaysia Berhad from 1 January 2018 to 31 December 2023 *(application period is proposed to be extended to 31 December 2027 per the Budget 2024 announcement).*

Who is liable?

Malaysian tax residents are subject to tax on Malaysian-source income and foreign-source income remitted into Malaysia. However, for the period from 1 January 2022 to 31 December 2026, conditional tax exemptions apply to foreign income received by a tax resident in Malaysia excluding any source of income from a partnership business in Malaysia.

Non-residents are subject to Malaysian tax on Malaysian-source income only.

Residence status for tax purposes

Individuals are considered resident in any of the following circumstances:

- They are physically present in Malaysia for 182 days or more during the calendar year
- They are physically present in Malaysia for less than 182 days during the calendar year but are physically present in Malaysia for at least 182 consecutive days in the second half of the immediate preceding calendar year or in the first half of the immediate following calendar year. Periods of temporary absence are considered part of a period of consecutive presence if the absence is related to the individual's service in Malaysia, personal illness, illness of an immediate family member or social visits not exceeding 14 days
- They are present in Malaysia during the calendar year for at least 90 days and have been resident or present in Malaysia for at least 90 days in any three of the four preceding years
- They have been resident for the three preceding calendar years and will be resident in the following calendar year. This is the only case in which an individual may qualify as a resident even though he or she is not physically present in Malaysia during a particular calendar year

For the purposes of determining residence, presence during part of a day is counted as a whole day.

Income subject to tax

Employment income - Gross income from employment includes wages, salary, remuneration, leave pay, fees, commissions, bonuses, gratuities, perquisites or allowances (in money or otherwise) arising from employment.

An individual employed in Malaysia is subject to tax on income arising from Malaysia, regardless of where the employment contract is signed or the remuneration is paid. Gross income also includes income for any period of leave attributable to employment in Malaysia and income for any period during which the employee performs duties outside Malaysia incidental to the employment in Malaysia.

Education allowances provided by employers to their employees' children are taxable for income tax purposes.

Employee benefits and amenities not convertible into money are included in employment income. The cost of leave passages for an employee and the employee's immediate family are also taxable, but the following items are exempt:

- Leave passage within Malaysia, up to three times in a calendar year
- One leave passage in a calendar year from Malaysia to any place outside Malaysia, up to a maximum of MYR3,000

Certain allowances, perquisites and benefits-in-kind are exempt from tax, including, among others, the following:

- Petrol/traveling allowances with respect to travel for official duties, up to MYR6,000 a year
- Meal allowances
- Parking
- Telephone, including mobile phone (effective from 1 July 2020, expanded to include mobile phones, notebooks or tablets, up to MYR5,000)
- Allowances or subsidies for childcare, up to MYR2,400 a year *(increased to MYR3,000 per year per the Budget 2024 announcement)*
- Medical benefits (including maternity expenses and traditional medicines such as Ayurvedic medicine and acupuncture) and dental benefits

The above list is not exhaustive and some other tax-exempt benefits may apply if certain circumstances exist or if certain conditions are met.

The cost of moving expenses and approved pension contributions are not taxable to an employee.

Short term visitors to Malaysia enjoy a tax exemption on income derived from employment in Malaysia if their employment does not exceed any of the following periods:

- A period totaling 60 days in a calendar year
- A continuous period or periods totaling 60 days spanning two calendar years
- A continuous period spanning two calendar years, plus other periods in either of the calendar years, totaling 60 days

Non-citizen individuals working in Operational Headquarters (OHQs), Regional Offices, International Procurement Centres (IPCs) and Regional Distribution Centres (RDCs) are taxed only on that portion of income attributable to the number of days that they were in Malaysia until the expiration of the incentive (generally 10 years) granted by the Malaysian Investment Development Authority. The incentive is granted to the company and begins with the year of assessment stipulated in the approval letter issued by the Malaysian Investment Development Authority.

Effective from 1 May 2015, the new Principal Hub incentive scheme has been implemented to replace these OHQ, IPC and RDC incentives. This scheme allows multinational companies to enjoy several benefits including hiring expatriates based on their business requirements.

Self-employment and business income - All profits accruing in Malaysia are subject to tax. Remittances of foreign-source income into Malaysia by tax residents of Malaysia were not subject to Malaysian income tax until 31 December 2021. For the period from 1 January 2022 to 31 December 2026, a conditional tax exemption applies to foreign income received by a person resident in Malaysia, excluding any source of income from partnership business in Malaysia.

Income from any business source is subject to tax. A business includes a profession, a vocation or a trade, as well as any associated manufacture, venture or concern.

From the 2019 assessment year, individuals may only carry forward business losses for a period of 10 consecutive years of assessment commencing immediately from the year losses arise.

Investment income - Interest income received by individuals from monies deposited in approved institutions is exempt from tax.

Withdrawals of contributions from an approved Private Retirement Scheme (PRS) by an individual before the age of 55 (other than by reason of death or permanent departure from Malaysia or for the purpose of health care or housing) are taxed at a flat rate of 8%.

Other interest, dividends, royalties and rental income are aggregated with other income and taxed at the rates set forth in Rates. As a result of the introduction of the single-tier tax system, dividends received by individuals are exempt from tax, effective from the 2008 year of assessment.

Certain types of income derived in Malaysia by nonresidents are subject to final withholding tax at the following rates.

Income tax rates by type of income.

Type of income	Rate
Use of movable property	10%
Technical advice, assistance or services	10%
Installation services on the supply of plant, machinery and similar assets	10%
Personal services associated with the use of intangible property	10%
Royalties for the use or conveyance of intangible property	10%
Interest	15%

Directors' fees - Directors' fees are considered employment income; therefore, fees derived from Malaysia are taxable. Fees are deemed to be derived from Malaysia if the company is resident in Malaysia for the year of assessment. If the fees are derived from a country other than Malaysia, they are not taxed.

Employer-provided stock options - Tax legislation governs the taxation of employer-provided stock options. Under the tax legislation, employer-provided stock options are subject to tax as employment income. The taxable income is calculated based on the difference between the fair market value of the underlying stock at the exercise date or exercisable date, whichever is lower, and the option price. This amount is recognised at the time the option is exercised and is taxed as current-year income.

Capital gains and losses

For individuals, apart from gains received from the disposal of real property or shares in real property companies (RPC) in Malaysia, currently gains that are capital in nature arising from the sale of capital assets and investments, such as shares, are not liable to tax in Malaysia.

Gains derived from the disposal of real property located in Malaysia and gains derived from the sale of shares in closely controlled companies with substantial real property interests are subject to real property gains tax (RPGT).

Effective from 1 January 2022, capital gains derived from disposals of chargeable assets by individuals who are Malaysian citizens and permanent residents are subject to RPGT at the following rates:

- 30% for a holding period up to three years
- 20% for a holding period exceeding three years and up to four years
- 15% for a holding period exceeding four years and up to five years
- 0% for a holding period exceeding five years

Effective from 1 January 2022, Malaysian citizens or permanent residents who dispose of chargeable assets are not subject to RPGT when the disposal takes place after a holding period exceeding five years.

Malaysian citizens and permanent residents are entitled to elect a one-time RPGT exemption on the disposal of a private residence.

Effective from 1 January 2019, individuals who are not Malaysian citizens are subject to RPGT at a rate of 30% for a holding period up to five years and 10% for a holding period exceeding five years.

For companies, it was proposed in the 2024 Budget announcement that from 1 March 2024, CGT will be imposed on the net gains from disposal of unlisted shares by companies at 10%. An option to be taxed on 2% of the gross sales value is available for shares acquired before 1 March 2024. Subject to conditions, CGT exemption will be given for disposal of shares relating to Initial Public Offering approved by Bursa Malaysia, restructuring of shares within the same group and venture capital companies. As there are ongoing developments around this area, it is recommended that you seek professional tax advice if this is relevant to you.

Other taxes

Malaysia does not impose estate, gift or net worth taxes.

Per the Budget 2024 announcement, the Malaysian government plans to introduce a new High Value Goods Tax (HVGT) at rate from 5% to 10%. The proposed effective date of the HVGT is 1 May 2024.

Social security

Employer and employee contributions to the Social Security Organisation (SOCSO) of Malaysia are compulsory for Malaysian citizens only. Various rates are specified for these contributions. Effective from 1 January 2019, employers that hire foreign workers (excluding domestic servants) are required to register their employees with SOCSO and contribute to the Employment Injury Scheme. The employer incurs a 1.25% charge calculated on the worker's salary and other compensation, capped at MYR 49.40 for wages exceeding MYR5,000 (increased to MYR6,000 per the Budget 2024 announcement)

The contributions for a month are due by the 15th day of the following calendar month.

The Employment Injury Scheme provides protection to an employee against an accident or an occupational disease arising out of and in the course of their employment as well as accidents that occur when commuting to and from work.

Employees who are Malaysian citizens are required to contribute to the Employees' Provident Fund (EPF). The EPF is a statutory savings scheme to provide for employees' old-age retirement in Malaysia.

Under the Employees' Provident Fund Act 1951, all employers and employees are required to make monthly contributions to the EPF. The statutory contribution rate is 23% or 24% of monthly wages. Employers pay at a rate of 12% if the employee's monthly wages are above MYR5,000 per month or 13% if the employee's monthly wages are below MYR5,000 per month. Employees contribute at a rate of 11% of monthly wages. For employees aged 60 years and above, employers are required to contribute at a rate of 4% of the employee's monthly wages while no contribution is required from the employee.

Employers may increase their contributions up to 19% without restrictions by the Malaysian tax authorities, and still deduct the amounts for corporate tax purposes. Employees' contributions are deducted at source. No ceiling applies to the amount of wages subject to EPF contributions. Non-Malaysian citizens and non-Malaysian permanent residents are not required to contribute to the EPF but may elect to contribute to take advantage of the available tax relief.

Self-employed persons may elect to contribute to the EPF. The individual may make voluntary contributions at a fixed monthly rate of any amount up to MYR 5,000.

EPF contributions and interest credited are not subject to Malaysian tax on withdrawal. The contributions may be withdrawn by an employee on reaching 55 years of age or at an earlier time if the employee leaves Malaysia permanently with no intention of returning. Contributions may also be withdrawn on the death of an employee or if he or she is physically or mentally incapacitated and is prevented from further employment. Employees may make partial withdrawals to purchase a house or to finance medical treatment or education, or when they attain 50 years of age.

Tax filing and payment procedures

The year of assessment in Malaysia is the calendar year. The base year for assessing tax is the calendar year coinciding with the year of assessment. An individual carrying on a business in Malaysia is assessed tax on the business income for the calendar year coinciding with the year of assessment, regardless of the accounting period adopted by the business.

A self-assessment system of taxation for individuals is in effect in Malaysia. Under the self-assessment system, an individual must submit his or her tax return to the tax authorities and settle any balance of tax payable by 30 April in the year following the year of assessment if he or she has employment and/or passive income only or by 30 June in the year following the year of assessment if he or she has business income. A notice of assessment is deemed served on the submission of the tax return to the tax authorities. An appeal must be filed within 30 days from the date of the deemed notice of assessment (that is, within 30 days of the date of submission of the tax return).

To broaden the income tax base, the implementation of the tax identification number (TIN) has commenced from year 2022 where a TIN shall be issued to:

- Any person who is assessable and chargeable to tax;
- Any person who is required under the Malaysian tax legislation to furnish tax return; or
- Any person who is a citizen and aged 18 years old and above.

An individual arriving in Malaysia who is subject to tax in the following year of assessment must notify the tax authorities of chargeability within one month after arrival.

Non-residents who are subject to final withholding taxes do not need to file tax returns unless required to do so by the tax authorities.

For employees, tax payment is made through mandatory monthly withholdings under the Monthly Tax Deduction Scheme (MTDS). All employers must deduct tax from cash remuneration, which includes wages, salaries, overtime payments, commissions, tips, allowances, bonuses and gratuities, based on tax tables provided by the tax authorities. Effective from 1 January 2015, benefits-in-kind (BIK) and the value of living accommodation (VOLA) are subject to the MTDS. The date for payment of the taxes withheld to the tax authorities is extended from the 10th day to the 15th day of the following calendar month. Employers must withhold tax at a rate of 30% from wages, BIK and VOLA paid to non-resident employees.

Effective from 2014, taxpayers have the option to treat the amount of the monthly tax deduction as the final tax paid. If they exercise this option, they are not required to submit their annual income tax returns. However, this applies only if certain conditions are fulfilled.

Married persons are taxed as separate individuals. Each spouse is assessed on his or her own income and is given tax relief through his or her own tax deductions and allowances. An individual may elect to have his or her income aggregated with the income of the spouse and to be jointly assessed in the spouse's name. This election enables the individual to utilize all allowances if his or her own income is insufficient to make full use of the available deductions and allowances.

For taxpayers who derive other income (e.g. rental or business income but excluding employment income), the tax authorities may issue a bi-monthly instalment scheme (Form CP500) based on their best judgment. The instalment is payable in six bi-monthly instalments and payments are to be remitted within 30 days of each due date, penalties will be imposed for any late payments.

Taxpayers are given options to apply to revise the instalment payment no later than 30 June and/or 31 October of the relevant year by submitting the Form CP502 to the tax authorities. If successful, a revised notice of instalment payments (Form CP503) will be issued. However, should the actual tax liability (determined upon filing of tax return) exceed the revised amount and the difference between the two amounts is greater than 30% of the actual tax liability, a penalty of 10% of the difference will be imposed.

Tax treaties

Malaysia has entered into double tax treaties with 77 countries, two of which are not yet in force at the time of writing.

Under the treaties, a foreign tax credit is available for the lesser of Malaysian tax payable on the foreign income or the amount of foreign taxes paid. For non-treaty countries, the foreign tax credit available is limited to one-half of the foreign tax paid.

Under most of Malaysia's tax treaties, an individual who performs work in Malaysia for varying periods of up to 183 days is exempt from Malaysian income tax if the services performed are for, or on behalf of, a non resident person and if the remuneration paid for the services is not directly deductible from the income of a permanent establishment in Malaysia. This income tax exemption is not granted automatically by virtue of meeting the tax treaties conditions. The individual is required to submit the annual tax return together with the relevant supporting documents to claim this income tax exemption.

Agreements with some countries provide for reduced withholding taxes under certain conditions.

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