

## **ABOUT PAYMENT OF TAX**

Under formal assessment, tax shall be paid within 30 days from the date of the Notice of Assessment notwithstanding any appeal or disagreement with the tax assessed.

Under self assessment system, tax shall be paid on or before the stipulated due date.

In certain circumstances an extension of time may be allowed, for example, where the taxpayer is away from the country. There are cases where payment is required to be made within 7 days from date of the notice of assessment. For example, where a person has a non-resident employer and is likely to leave Malaysia at short notice.

### **a) TAX PAYMENT - Installment Scheme for Company/Cooperative Society/Trust Body/Trust Unit**

#### **SAS Estimate of Tax Payable**

Under the Self Assessment System, every company/co-operative society/trust body/unit trust is required to furnish an estimate of its tax payable for a year of assessment. This has to be done not later than 30 days before the beginning of the basis period.

In respect of a company/co-operative society/trust body/unit trust that has just commenced operation, the estimate of tax payable for the current year may be furnish within 3 months from the date of commencement of operation.

The estimate of the tax payable for the current year of assessment should not be less than the estimate of tax to be paid for the immediate preceding year of assessment.

#### **SAS - Payment By Installment**

The estimated tax payable has to be paid in equal monthly installments beginning from the second month of the basis period for a year of assessment.

#### **Example**

Number of months in basis period = 12 months  
Estimated tax payable = RM12,000  
Therefore, monthly installment = RM12,000  
= RM12,000/12 months = RM1,000

Each installment is payable by the 10th of the month. Similarly, for new tax payers, installment payments must commence in the sixth month of the basis period for the year of assessment i.e. payable in the sixth month after the tax payer commence operation.

All payments of tax to the IRBM must be made using the Remittance Slip (CP 207). Tax payer is required to indicate the Year of Assessment that the payment is made for on the remittance slip.

Late Payment Penalty :

Any installment not paid by the due date will be increased by 10 % on the amount unpaid.

## SAS - Revision of an Estimate

A company/co-operative society/trust body/unit trust is allowed to revise its original estimate, in the sixth or ninth month or both months of the basis period for a year of assessment.a) If the tax payer revised its estimated tax payable and the amount exceeds the installment payments that have been made during the year, the difference has to be paid in the remaining installments in equal proportions.

### Example

Initial Estimate	= RM12,000
Revised Estimate	= RM19,000
Installment paid for the year	= RM1,000 X 5 = RM5,000
Remaining installment	= (RM19,000-RM5,000)/7 months = RM 2000 for 7 months

b) If the installment payments that have been made during the year exceed the revised estimated tax payable, the tax payer may discontinue the balance of installment payments.

The balance of the tax payable for the year must be settled within 7 months after the closing of accounts.

### Example

Tax payable (computed in Return Form)	= RM100,000
Installment paid	= RM70,000
Balance of tax payable	= RM30,000

The balance of the tax payable for the year of RM30,000.00 must be paid within 7 months after the closing of accounts.

## Late Payment Penalty

If the tax payable is not paid by the due date, the amount unpaid will be increased by 10% without any notice being served. If this amount is still not paid upon expiration of 60 days from the due date any unpaid balance will be increased by another 5%.

### Example

Date of closing of accounts	=30 September 2005
Due date	=31 April 2006

10% penalty will be imposed on 1st. May 2006  
5% penalty will be imposed on 1st. July 2006

## Penalty For Understatement For The Estimated Tax Payable

If the difference between the actual tax payable and the revised estimated tax payable or the estimated tax payable (if no revised estimate is furnished) is more than 30% of the actual tax payable, a 10% increase in tax will be imposed on that difference in excess of the 30%.

## Method Of Payment

Each installment payment should be attached with a remittance slip (CP 207).

## Types Of Forms

- CP 204 = Estimation of Tax Payable (Prescribed Form) - For more information please click [CP 204](#)
- CP 204A = Revised Estimate of Tax Payable
- CP 204B = Change of Accounting Date
- CP 205 = Notice Of Installment Payment
- CP 206 = Amended Notice Of Installment Payment
- CP 207 = Remittance Slip
- CP 211 = Exemption Notice For Installment Payment
- CP 212 = Reminder For Late/ Failure To Furnish Estimate Of Tax Payable
- CP 213 = Compound Letter
- CP 214 = Letter Of Offer To Compound
- CP 215 = Notice For Late/ Failure To Make Installment Payment
- CP 216 = Appeal To Make Estimate Lower Than Minimum Estimate
- CP 217 = Appeal On Notice of Installment Payment (CP205)
- CP 218 = Cancellation Of Notice Of Installment Payment
- CP 219 = Revised Tax Estimate

## **b) TAX PAYMENT - INSTALLMENT SCHEME FOR PERSONS WITH BUSINESS INCOME**

### Introduction

- Section 107B Income Tax Act 1967 provides for compulsory payment of tax by installments covering all taxpayers other than individual taxpayers who are already paying under the deduction scheme for employees.
- All taxpayers under this scheme will be issued with a Notice of Installment Payment [Form CP500] at the beginning of each year.

### Method of Installment Payments

- Persons with business income included under this scheme are required to pay 6 bi-monthly installment in the months of March, May, July, September, November of the relevant year and January of the following year.
- Each installment payment must be accompanied by a Remittance Slip (CP501).
- The due date for each payment is the 1st day of the relevant month. An increase of 10% on that installment payment will be imposed upon failure to pay the tax installment within 30 days of the stated date.
- Under formal assessment, if there is any difference to be settled upon the issue of notice of assessment, the said difference is required to be settled within 30 days from the date of issue of the notice of assessment.

- Under Self Assessment System, if there is any difference to be settled, the said difference is required to be settled on or before 30th June of the following year.

### Request for Variation Of Installment Payments

- Application for variation of the Notice of Installment payment must be submitted not later than 30th June of the relevant year.
- Request for variation will only be granted in respect of the amount of each installment and not changes in due dates.
- If a request for variation of installment payments has been approved, and where actual tax payable exceeds total installment payments and the difference is more than 30% of the actual tax payable, then an increase of 10% of the difference will be imposed without further notice being served.

#### EXAMPLE :

(a) Actual tax payable as per notice of assessment	RM 87,700
(b) Amount of installment payments approved	RM 12,500
(c) Amount of actual tax payable exceeds amount of installments (a) - (b)	RM 75,200
(d) 30% of actual tax payable [30% x (a)]	RM 26,310
(e) Difference (c) - (d)	RM 48,890
(f) Increase (10% x (e))	RM 4,889

## **c) TAX PAYMENT - DEDUCTION SCHEME FOR EMPLOYEES**

### Introduction

Effective from 1 January 1995, a new system of tax recovery known as Schedular Tax Deduction (STD) was introduced. Employers are required to make deductions from their employees remuneration every month in accordance with a Schedule as prescribed by the Income Tax (Deduction from Remuneration) Rules 1994 ["The Rules"]. Every employer shall pay to the Director General, not later than the 10th day of every calendar month, the total amount of tax deducted or that should have been deducted by him from remuneration of employees during the preceding calendar month. Such payments must be remitted together with Form CP 39 or a return setting out the names, identity card numbers or if none, passport numbers, and tax reference numbers of those employees from whose remuneration he has or should have made deductions.



### Employers' Responsibilities

Under the Rules, an employer is required to:

Make the appropriate monthly tax deductions from the remuneration of employees (Refer to Rule 3);

Complete the **Statement of Tax Deductions by Employer (Form CP 39)**; and

Submit Form CP 39 together with the amount deducted or that should have been deducted to the Inland Revenue by the 10th day of the following month. (Refer to Rule 10(1)). Penalties may be imposed in the event of failure (Rule 17).

Within thirty days after the end of each calendar year, give to every employee from whose remuneration deductions in respect of tax have been made, a statement stating the total remuneration for the calendar

year in question and the total amount of deductions made during that year. [Refer to Rule 10(3)].

Not later than the 10th day after the cessation of payment of remuneration, inform the Director General accordingly and furnish in respect of the employee the following particulars:

- a) the name, identity card number or if none, the passport number and the last known address of the employee;
- b) the tax reference number of the employee;
- c) the date of cessation of the payment of remuneration;
- d) the total amount of tax deducted during the deduction period in which the payment of remuneration ceased; and
- e) the total amount of remuneration paid or payable to the employee from the 1st January of the year of cessation up to and including the date of cessation of the payment of remuneration. (Refer to Rule 13).

Note: A new employer is required to register itself at the nearest IRB branch before effecting any STD payments.

#### **How To Use The Schedule of Schedular Tax Deduction**

The Schedule is available at all branch offices of the Inland Revenue Board. This is the Schedule with reference to which deductions from employees' remuneration are made.

- Categories of Employees
- Calculation of Tax Deduction To Be Made
- Deductions From Lump Sum Payments (Bonus, Arrears, Etc.)
- Deductions From Payments of Compensation For Loss of Employment

#### **Statement of Tax Deduction by Employer (Form CP 39)**

Form CP 39 must be used when remitting the tax deductions to the Inland Revenue.

To facilitate posting of the tax deductions to the relevant accounts, it is imperative that all particulars are correctly stated in Form CP 39.

Information Regarding Employer

Employer's reference number; Employer's full name and address; The month to which the payment relates.

Information Regarding Employees

Income tax reference number; Full name as it appears on his identity card (or passport in the case of a foreigner); Old and new identity card number, or passport number in the case of a foreigner; Country of origin for foreign nationals

For the purpose of forwarding the above information, the use of electronic media such as diskette, cartridge or tape is encouraged. For this purpose Inland Revenue Board has developed its own STD software which is available free of charge. Kindly contact STD Unit, Collection Branch Kuala Lumpur for further information. If there are tax deduction under Schedular Tax Deduction and also under Direction To Employer To Deduct Tax (CP 38), only one cheque / bank draft / money order for the aggregate amount needs to be issued.

The cheque / bank draft / money order shall be crossed and made payable to DIRECTOR GENERAL OF INLAND REVENUE. On the reverse side of the cheque / bank draft / money order, the following must be stated clearly:

Employer's reference number;Employer's full name;Employer's full address.

### Offences & Penalties

Failure to comply with any of the Rules will render an employer liable to prosecution and, if convicted, be liable to a fine not exceeding RM1,000 or imprisonment for a term not exceeding 6 months or to both. (Refer to Rule 17)."**FAILURE TO COMPLY**" includes:

- Not remitting the appropriate tax deductions to the Inland Revenue;
- Not remitting the tax deductions by the 10th day of the following month;
- Not deducting and remitting the correct amount;

The tax deductions do not belong to the employer and therefore, under no circumstances may an employer delay remitting the tax deductions to the Inland Revenue. Remittances together with the Statement of Tax Deduction by Employer (Form CP 39) must be received by IRB on or before the 10th day of the following month.



### Statement Of Tax Deductions Under Income Tax (Deduction From Remuneration) Rules 1994 - Form CP159

Form CP 159 is issued together with Form E. This Form is used for reporting the remuneration paid and the tax deduction made in each particular month of a calendar year.

Form CP 159 is divided into five columns as follows:

<b>Column (i)</b>	The total gross remuneration paid to all employees in each month is to be stated in this column.
<b>Column (ii)</b>	The total gross remuneration paid to employees who are subject to tax deductions is to be reported in this column. Remuneration of those employees for whom deductions are not applicable should not be included.
<b>Column (iii)</b>	The total amount of tax that has been deducted in accordance with the deduction table is to be reported here. This amount is the total of the respective deduction for each employee.
<b>Column (iv)</b>	The total amount of tax that has been deducted and remitted to the Inland Revenue is to be reported in this column.
<b>Column (v)</b>	The receipt numbers in respect of deductions remitted to Inland Revenue is to be stated in this column.

The following must also be noted:

The business address to be shown is the street address and not the Post Box address.

The date on which the financial year ends is the date on which the annual accounts are closed. It must be noted that the Form CP 159 requires information for the calendar year ended 31st December.

The income tax reference number refers to the assessment file number.

Form CP 159 is to be completed and returned to the Inland Revenue together with Form E (Employer's Return) at the beginning of the year.

## **d) TAX PAYMENT - INCREASE IN TAX DUE TO LATE PAYMENT**

### **Increase In Tax**

- Under formal assessment, tax shall be paid within 30 days from the date of the Notice of Assessment notwithstanding any appeal or disagreement with the tax assessed.
- Under self assessment system, tax shall be paid on or before the stipulated due date.
- Under formal assessment, an increase of 10% tax will be imposed upon failure to pay the tax within 30 days from the date of Notice of Assessment issued.
- Under self assessment system, an increase of 10% tax will be imposed upon failure to pay the tax on or before the stipulated due date.
- If tax is not paid for the next 60 days from the date of imposition of 10% increase in tax, a further increase of 5% will be imposed on the outstanding tax after the expiration of the 60 days.

### **Increase In Tax Under Installment Scheme**

If an installment payment is not made within 30 days from the due date an increase in tax of 10% on that installment will be imposed.

Where an approval is given to vary the amount of the installment and where the actual tax payable exceeds the total installments paid, an increase of 10% will be imposed on the difference which exceeds 30% of the actual tax payable.

Example Encik Ali received Installment Payment Notice (CP 500) on February 2004 for the installment for the Year of Assessment 2004 as follows:

Month	Due Date	RM	Date Payment Received
March 2004	01/03/2004	40,000	26/04/2004 (Late)
May 2004	01/05/2004	40,000	03/06/2004
July 2004	01/07/2004	40,000	29/08/2004 (Late)
Sept 2004	01/09/2004	40,000	20/09/2004
Nov 2004	01/11/2004	40,000	30/11/2004
Jan 2005	01/01/2005	40,000	06/01/2005

After January 2005, LHDNM will issue Increase on Tax Notice as follows:

	<b>AMOUNT (RM)</b>
For March 2004 RM40,000 X 10%	RM 4,000
For July 2004 RM40,000 X 10%	RM 4,000
	RM 8,000

### Installment Payment Slip

- Tax payer is required to use Installment Payment Slip (CP501) when making payment.
- CP 501 will be sent together with CP500 which is printed with Payment Code Number, Reference Number, and Year of Assessment.
- These printed information is important to avoid any mistake done when filling up the information on payment at LHDNM payment counter or at the bank.

## **e) TAX PAYMENT - PAYMENT COUNTERS**

### Payment Through Bank

Payment by cash, cheque, debit account or telegraphic transfer may be made at any branch of **Bumiputra-Commerce Bank Berhad (BCBB)**. This facility is available for companies and individual taxpayers.

Type of tax that can be made at **BCBB** are Income Tax (Instalment Scheme and non-Instalment Scheme) and Real Property Gains Tax (RPGT).

An Income Tax Payment Slip [available at the **BCBB** branch] must be completed when making payment at the bank. A copy of the slip should be retained as proof of payment. The IRB will not issue official receipts for payments made at the bank.

### Collection Branch Payment Counter

Payment by cash, cheque, bank draft, postal order or money order may be made at the Collection Branch counter at:

**Kuching Branch** 3rd Floor, Wisma Ting Pek Khiing No. 1, Jalan Padungan 93100 KUCHING

**Kota Kinabalu Branch** 1st Floor, Blok D&E Employees's Provident Fund Building Jalan Karamuning 88600 KOTA KINABALU

**Kuala Lumpur Branch** Ground Floor, Block 8A Government Office Complex Jalan Duta 50600 KUALA LUMPUR

### Instructions For Payment

All cheques / bank draft / postal order / money order must be crossed and paid to **DIRECTOR GENERAL OF INLAND REVENUE**, and if mailed, addressed to relevant Collection Branch. **CASH SHOULD NOT BE SENT THROUGH THE POST**. The relevant income tax reference number, identity card number, full name, current address and the relevant year of assessment must be written on reverse side of the cheque / bank draft / postal order / money order. The type of tax payable (whether Income Tax or Real Property Gains Tax) must be clearly indicated. Cash payment at payment counters must be accompanied by Remittance Form (CP 153). Official receipts will be issued for payments made at the payment counter or through the post



## **f) TAX PAYMENT - WITHHOLDING TAX (WHT)**

### **Withholding Tax Deduction**

The Income Tax Act, 1967 provides that where a person (referred herein as "payer") is liable to make payment as listed below (other than income of non-resident public entertainers) to a non-resident person (NR payee), he shall deduct withholding tax at the prescribed rate from such payment and (whether such tax has been deducted or not) pay that tax to the Director General of Inland Revenue **within one month** after such payment has been paid or credited to the NR payee.

All withholding tax payments (other than for non-resident public entertainers) must be made with the relevant payment forms, duly completed, together with copy of invoices issued by the NR payee and copy of payment documents as proof of date of payment /crediting to the NR payee

Type Of Income Subject To Withholding Tax:Withholding Tax On Non-Resident Persons :

<b>Payment Type</b>	<b>Income Tax Act 1967</b>	<b>Withholding Tax Rate</b>	<b>Payment Form Used</b>
Contract Payment	Section 107A (1) (a) & 107A (1) (b)	10% & 3%	CP 37A
Faedah	Section 109	15%	CP 37
Royalti	Section 109	10%	CP 37
Special classes of income: Technical fees, Payment for service, Rent/payment for use of moveable property	Section 109B	10%	CP 37D
Income of non-resident public entertainers	Section 109A	15%	Payment memo issued by Assessment Branch
Real Estate Investment Trust (REIT)			
(i) Other than a resident company			
(ii) Non Resident company.		15%	
(iii) Foreign investment institution	Section 109D		CP37E
		27%	
		20%	

For WHT under Section 107A/ 109/ 109B, please ensure that the WHT Forms CP 37A/ CP 37/ CP 37D are completed accurately furnishing the Malaysian tax reference number for the payer, payee as well as the payee's country of origin.

If the payer does not have the reference number of the payee, the payer may request for such number from the:

#### **Director**

Non Resident Branch  
Customer Services Unit  
15th Floor, Block 8A  
Government Office Complex  
Jalan Duta, 50600 Kuala Lumpur,

stating the full name, address of the payee and the nature of payment.

For urgent payment (where the income tax reference number of the payee is not known), the payer may send the Forms CP 37A/ CP 37/ CP 37D together with the payment, copy of invoice and remittance slip (telegraphic transfer) directly to:

**Director**

Collection Branch  
Withholding Tax Unit  
13th Floor, Block 8A  
Government Office Complex  
Jalan Duta, 50600 Kuala Lumpur

Withholding tax on resident individuals

Payment type	Income Tax Act 1967	Withholding Tax Rate	PaymentForm Used
Interest (other than exempt interest) paid by approved financial institutions	Section 109C	5%	CP 37C



**Enforcement For Compliance**

(Other than for withholding tax on non-resident public entertainers and resident individuals) The following constitutes non-compliance:

1. The payer fails to pay withholding tax at the prescribed rate (whether deducted or not).
2. The payer pays withholding tax late (not within the period of one month after Date of payment / crediting to the NR payee).
3. The payer fails to pay increase in tax imposed on him for late payment of withholding tax or for failure to pay withholding tax.

**Enforcement :**

Where the payer fails to pay withholding or pays withholding tax late (not within the period of one month after the date of payment / crediting to the NR payee), he is imposed an increase in tax **of a sum equal to ten percent of the amount which he fails to pay.**

Example:	RM
Royalty paid to NR payee on 03/08/2006	200,000
Withholding tax received by LHDN on 10/09/2006 later than (02/09/2006)	20,000
Increase in tax imposed on payer (20,000 @ 10 %)	2,000

Effective from 02/09/2006

Where the payer fails to pay withholding tax and / or increase in tax imposed on him:  
No deduction is given for the payment made to a NR payee against business income in the income tax computation of the payer, and  
Civil suit action on the payer to recover withholding tax and / or increase in tax not paid which remains a debt due to the Government



### **Contract Payments To Non-Resident Contractors (NR payee)**

Contract payments made to non-resident contractors in respect of services under a contract are subject to withholding tax of:

1. 10 % on the service portion of the contract payments on account of tax payable by the NR payee; and
2. 3 % on the service portion of the contract payments on account of tax payable by employees of the NR payee
3. **"Services under a contract"** means any work or professional services performed or rendered in Malaysia in connection with or in relation to any undertaking, project or scheme carried on in Malaysia
4. The payer must, within one month after the date of payment / crediting the contract payment, remit the withholding tax (whether deducted or not) to the Inland Revenue Board, Malaysia. See **"Withholding Tax Deduction"**

### **Interest Paid To Non-Resident Persons (NR payee)**

Interest paid to a NR payee is subject to withholding tax at 15% (or any other rate as prescribed under the Double Taxation Agreement between Malaysia and the country where the NR payee is tax resident). This is a final tax.

Interest is deemed derived from Malaysia if:

1. Responsibility for payment lies with the Government or a State Government or
2. Responsibility for payment lies with a resident of Malaysia; or
3. Interest is charged as an outgoing or expense against any income accruing in or derived from Malaysia.

Interest not subject to withholding tax:

1. Interest paid to a NR payee on an approved loan
2. Interest paid to a NR payee by a licensed bank or licensed finance company in Malaysia other than:
  - Such interest accruing to a place of business in Malaysia of the NR payee
  - Interest on funds required for maintaining net working funds prescribed by Bank Negara.
  - Interest paid to a non-resident individual in respect of securities or bonds issued by the Government.
  - Interest paid to a non-resident individual in respect of bonds, other than convertible loan stock, issued by public companies listed on the Kuala Lumpur Stock Exchange.
  - Interest paid to a non-resident individual in respect of bonds, other than convertible loan stock, issued by a company rated by Rating Agency Malaysia Bhd. or Malaysian Rating Corporation Bhd.
  - Interest paid to a non-resident individual in respect of Bon Simpanan Malaysia issued by the Central Bank of Malaysia.
  - Interest from a Labuan Offshore company

The payer must, within one month after the date of payment / crediting the interest, remit the withholding tax (whether deducted or not) to the Inland Revenue Board, Malaysia. See "Withholding Tax Deduction" Penalties for non compliance: See "Enforcement For Compliance"

### **Royalty Paid To Non-Resident Persons (NR payee)**

Royalty is defined as :Any sums paid as consideration for the use of, or the right to use:-

- Copyrights, artistic or scientific works, patents, designs or models, plans, secret processes or formulae, trademarks or tapes for radio or television broadcasting, motion picture films, films or video tapes or other means of reproduction where such films or tapes have been or are to be used or reproduced in Malaysia or other like property or rights.
- Know-how or information concerning technical, industrial, commercial or scientific knowledge, experience or skill .
- Income derived from the alienation of any property, know-how or information mentioned in above paragraph of this definition.

The gross amount of royalty paid to a NR payee is subject to withholding tax at 10% (or any other rate as prescribed under the Double Taxation Agreement between Malaysia and the country where the NR payee is tax resident). This is a final tax. Royalty deemed derived from Malaysia if:

1. Responsibility for payment lies with the Government or a State Government; or
2. Responsibility for payment lies with a resident of Malaysia; or
3. The royalty is charged as an outgoing or expense against any income accruing in or derived from Malaysia.

The payer must, within one month after the date of payment / crediting the royalty, remit the withholding tax (whether deducted or not) to the Inland Revenue Board, Malaysia. See "Withholding Tax Deduction"



#### Royalty Paid To Non-Resident Persons (NR payee)

**Royalty is defined as :** Any sums paid as consideration for the use of, or the right to use:-

- Copyrights, artistic or scientific works, patents, designs or models, plans, secret processes or formulae, trademarks or tapes for radio or television broadcasting, motion picture films, films or video tapes or other means of reproduction where such films or tapes have been or are to be used or reproduced in Malaysia or other like property or rights.
- Know-how or information concerning technical, industrial, commercial or scientific knowledge, experience or skill .
- Income derived from the alienation of any property, know-how or information mentioned in above paragraph of this definition. The **gross amount** of royalty paid to a NR payee is subject to withholding tax at 10% (or any other rate as prescribed under the Double Taxation Agreement between Malaysia and the country where the NR payee is tax resident). This is a **final tax. Royalty deemed derived from Malaysia if:**
  1. Responsibility for payment lies with the Government or a State Government; or
  2. Responsibility for payment lies with a resident of Malaysia; or
  3. The royalty is charged as an outgoing or expense against any income accruing in or derived from Malaysia.

The payer must, within one month after the date of payment / crediting the royalty, remit the withholding tax (whether deducted or not) to the Inland Revenue Board, Malaysia. See "**Withholding Tax Deduction**"



#### Special Classes Of Income Paid To Non-Resident Persons

Special classes of income include:

1. payments for services rendered by the NR payee or his employee in connection with the use of property or rights belonging to or the installation or operation of any plant, machinery or apparatus purchased from the NR payee.
2. payments for technical advice, assistance or services rendered in connection with technical management or administration of any scientific, industrial or commercial undertaking, venture,

- project or scheme or
3. rents or other payments (made under any agreement or arrangement) for the use of any moveable property.

Provided that in respect of paragraph (1) and (2), this section shall apply to the amount attributable to services which are performed in Malaysia.

**Payment deemed derived from Malaysia if:**

1. Responsibility for payment lies with the Government or a State Government; or
2. Responsibility for payment lies with a resident of Malaysia.
3. Payment is charged as an outgoing or expense in the accounts of a business carried on in Malaysia. The gross amount of "Special Classes Of Income" paid for the above services rendered by a NR payee is subject to withholding tax at 10% (or any other rate as prescribed in the Double Taxation Agreement between Malaysia and the country in which the NR payee is tax resident). This a final tax.

The payer must, within one month after the date of payment / crediting of the payment to the NR payee, remit the withholding tax (whether deducted or not) to the Inland Revenue Board, Malaysia . See **"Withholding Tax Deduction"**

#### **Interest Paid To Resident Individuals**

Interest (other than exempt interest) paid to resident individuals **by approved financial institutions** is subject to withholding tax at 5%.

According to present practice, the payer is required to remit the withholding tax (whether deducted or not) for six-monthly periods to the Inland Revenue Board within one month after the expiry of each six-monthly periods together with the external auditor's report. In default, the amount of tax that should have been deducted will be a debt due to the Government and recoverable from the payer. This tax is a **Final Tax**. Taxpayers need not declare such interest in their annual tax returns. **Approved financial institutions:**

1. A bank or finance company licensed under the Banking and Financial Institution Act 1989 (BAFIA) or the
2. Islamic Banking Act 1983 (IBA).
3. A registered cooperative society
4. Bank Simpanan Nasional (BSN)
5. Bank Pertanian Malaysia
6. Lembaga Tabung Haji
7. Malaysia Building Society Bhd.
8. Borneo Housing Mortgage Finance Bhd.
9. Any other institution that may be approved by the Minister of Finance

**Interest for resident individuals exempt from withholding tax include:**

1. Interest or bonus from any saving accounts or deposit under the "Save as You Earn Scheme" with Bank Simpanan Nasional
2. Interest from saving deposits of up to RM100,000 with an approved financial institution.
3. Bonus from saving accounts with Lembaga Tabung Haji
4. Interest from fixed deposit accounts (including negotiable certificates of deposits) of up to RM100,000 for a period not exceeding twelve months with an approved financial institution
5. Interest from fixed deposit accounts (including negotiable certificates of deposits) without limit of amount for a period of twelve months or more with an approved financial institutions.
6. Gains or profits on deposits of up to RM100,000 in any saving account under the "Interest-Free Banking Scheme (IFBS)" with a bank or finance company licensed under the BAFIA or IBA.
7. Gains or profits from any investment account of up to RM100,000 for a period not exceeding twelve months with a bank or finance company licensed under the BAFIA or IBA.
8. Gains or profits from any investment account without limit of amount for a period of twelve months

or more under the "Interest-Free Banking Scheme" with a bank or finance company licensed under the BAFIA or IBA

### **Non-Resident Public Entertainers**

"Public Entertainer" means a stage, radio or television artiste, a musician, athlete or an individual exercising any profession, vocation or employment of a similar nature.

Remuneration or other income in respect of services performed or rendered in Malaysia by a Non-resident public entertainer is subject to withholding tax at 15 % on the gross payment. The present practice continues whereby the sponsor of the non-resident public entertainer is required to pay withholding tax at 15 % before an entry permit for the non-resident public entertainer can be obtained from the Immigration Authority

### **Double Taxation Agreements And Protocols**

Malaysia has concluded about 47 effective Double Taxation Agreements with other countries. For information on the varying rates of withholding tax on interest, royalty and technical fees, see "Assessment of Tax" "DTA". For refund of withholding tax overpaid by the payer due to the DTA reduced rates, the payee must forward the application for refund to the Director, Non Resident Branch together with the following details:

- Reason for the refund.
  1. Tax resident certificate of the payee from the tax authority of the country where the payee is tax resident.
  2. Evidences to prove that the conditions stipulated in the DTA are met.

Proof of payment of withholding tax. Note: Amendment on the Act under Section 107A and Section 15A, Income Tax Act 1967 put into force on the 21st September 2002

1. Starting on the 21st September 2002, the applicable withholding tax rate under sub-Section 107A (1)(a) is ten percent (10%) compared to previous rate of fifth teen percent (15%). For withholding tax rate under sub-Section 107A (1) (b) is three percent (3%) compared to previous rate of five percent (5%).

2. Starting on the 21st September 2002, any payment for technical services/consultancy/installation of plant & machinery which is performed outside Malaysia (off-shore), are not subject to withholding tax on condition the "payer" and "payee" need to furnish documents as evidence, which convince the Inland Revenue Board. However this provision does not apply for special classes of income under Section 4A (iii), Income Tax Act 1967.

## **g) TAX PAYMENT - REFUND OF TAX OVERPAID**

### **Introduction**

Section 111 of the Act provides that where tax has been paid, by deduction or otherwise, in excess of the amount payable, the excess is refundable.

An application for refund shall be in writing and the letter stating full name, income tax reference number (and the identity card number in the case of individuals), and latest address must be sent to the relevant Collection Branch. For companies, the bank account number must be stated. For foreign nationals, the overseas address, passport number and bank address and account number must be given.

A refund will only be made after the required verifications have been completed.

All tax refund cheques will be issued by the Accountant-General's Department.

#### Procedure For Refund of Tax Overpaid

Letter of **confirmation** by employer that the relevant deduction have been made in the relevant year(s). Use of **Form PCB 2(II)** is encouraged.

The following information must be shown:

The relevant year Employee's name identity card number Income tax reference number Employee's number

**Deductions made** in respect of the employee in the relevant year:

Month STD deduction Receipt number Date of receipt Signature of the employer Name of the employer Designation Chop/ Seal of the Company/Employer

**Copy of EA/EC form(s) for the relevant year(s)**

**Copy of the monthly salary slip**

### **h) TAX PAYMENT - RECOVERY BY CIVIL SUIT**

If tax outstanding is still not paid after the increases mentioned above have been imposed, court action (Civil Suit) will be instituted.

If tax, court costs and interest (where judgement has been obtained) are not paid then one of the following actions will be taken:

- i. Application for Order for Execution from the court for seizure and public auction of property; or ii. Application for Judgement Debtor Summons from the court (if not complied with, an application for imprisonment will be made); or iii. Petition for bankruptcy (against individuals); or iv. Application for winding-up (companies).