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MCO 3.0: 10 Key Tax Questions Answered

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The Inland Revenue Board (IRB) has announced administrative concessions to taxpayers through its updated circular issued on 3.6.2021 in light of the recently announced Movement Control Order or better known with the acronym MCO 3.0. In this alert, we address 10 key tax questions arising from the recent circular.

1. Are the IRB offices open during the MCO 3.0?

Unlike the previous MCO whereby all IRB offices are closed during MCO period, several IRB offices will operate during MCO 3.0 in order to facilitate the receipt of tax payments namely:

- The IRB's Payment Centre Counter (Kuala Lumpur, Kota Kinabalu and Kuching) operates from 8.00 am to 12.00pm on weekdays.

The services provided are cash and cheque payments for withholding tax, real property gains tax remission, tax compound, and other tax related payments. Payments for income tax and other taxes can also be made by debit and credit cards.

- The stamp duty counters at the IRB branches will operate from 8.00 am to 12.00 pm with prior appointments.

The IRB Hasil Care Line and Hasil Live Chat will continue to operate on working days between 9.00am to 4.00pm and 9.00am to 5.00pm respectively. The MyTax (ezHasil) will operate for 24 hours. Further details on services provided by the IRB throughout the MCO 3.0 period can be found at:

http://phl.hasil.gov.my/pdf/pdfam/faq_pkp3_2.pdf

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2. What is the extended filing period for tax returns?

The filing of income tax return form for companies, limited liability partnerships, unit trusts, property trusts, co-operative societies, trust bodies, real estate investment trusts / property trust funds and business trusts for the years of 2020 and 2021 remains the same as stated in the IRB's income tax return form guide, which is available at:

http://phl.hasil.gov.my/pdf/pdfam/ProgramMemfailBN_2021_Pin.1_2.pdf

However, a one-month extension is given until 31 July 2021 for taxpayers carrying on business involving individuals, resident individuals (knowledge/expert workers), non-resident individuals, non-resident individuals (knowledge/expert workers), partnerships, associations, deceased person's estate and Hindu joint families. The ordinary filing date would have been 30 June 2021.

Additionally, the filing date of CP500 and CP204 amendments which are due in 30.6.2021 are extended to 31.7.2021.

Unlike the previous MCO, the filing dates of other tax forms will only be extended based on the merits of the case. For instance, the submission of statement of monetary and non-monetary incentive payment to an agent, dealer or distributor (Form CP58), the application for extension of time must be submitted via letter or e-mail to the relevant IRB Branch which handles the case. This is also the case for country-by-country reporting, whereby an application must be submitted in writing to the IRB's Department of International Taxation.

Where the submission of tax estimate submission (CP204) and notification of change of accounting period (CP204B) is due on 30.6.2021, the due date is extended until 1.7.2021. The CP204B must be submitted via post or courier.

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3. Is the timeline for tax payments extended as well?

No extension of time will be given for tax estimate payments (Form CP204) as well as all other tax instalments relating to audit and investigation which are due in June 2021. Further, no extension is given to submit monthly tax deduction data and to make monthly tax deduction payment for taxes deducted from employee's remuneration which are due on 15 June 2021. Taxpayers are required to make the necessary payments via online services at e- PCB, e-DataPCB and e-CP39.

Additionally, no deferment is given for compound payment which should be paid in June 2021. However, the IRB has stated that it is prepared to consider the rescheduling of tax instalment payments on a case to case basis provided that taxpayers support the application for deferment with relevant documents such as financial cash flow statements.

4. Regarding withholding tax payments, is there any special arrangement as before?

The IRB has yet to announce if a similar extension will be given as before to withholding tax payments due during the MCO 3.0 period. Accordingly, taxpayers are advised to file their withholding tax forms and remit the necessary payment within the time prescribed under the Income Tax Act 1967.

5. What would be the status of tax audits and investigations during the MCO?

Unlike the previous MCO, the IRB has not granted an automatic extension of time for taxpayers to submit documents and respond to IRB's queries in relation to tax audits and investigations.

Instead, taxpayers will have to apply for an extension of time via letter or email to the IRB branch which handles the audits and investigations. The application

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for an extension of time will be considered by the IRB on the merits of the case.

In light of the lockdown and the Ministry of Health's advice for the public to stay home, one would have thought that the IRB should have just granted an automatic extension of time.

6. What are the tax relief provided in the *Pemerksa Plus* stimulus package?

Owners of business premises who offer at least 30% rental discounts to tenants which are SMEs or non-SMEs until 31 December 2021 will be granted special deduction from their income tax. Further, sales tax exemption for completely-knocked down (CKD) and imported complete-built up (CBU) is extended until 31 December 2021.

Additionally, the exemptions from tourism tax and service tax on accommodations provided by hotel operators announced as part of the *Pemerksa* programme on 17 March 2021, will continue until 31 December 2021.

It was also mentioned that the IRB may consider appeals for the postponement of penalties to the year 2022 as well as the rescheduling of tax instalment payments for affected taxpayers and businesses.

7. How about the filing of appeals to the Special Commissioners of Income Tax (SCIT)?

There is no positive assurance from the IRB that the submission of notices of appeal to the SCIT (i.e. Form Q) due between during the MCO 3.0 period is automatically extended. Taxpayers are required to submit the application for extension of time (i.e. Form N) to their IRB branch and state that the delay for the filing of Form Q was due to the implementation of MCO 3.0. The appeal will be considered by the IRB based on the merits of the case.

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In light of the uncertainty that the Form N will be automatically accepted, taxpayers are advised to file the Form Q within the prescribed time via e-mail or fax.

8. What happens to the tax appeals before the courts?

All tax matters including tax appeals fixed before the Special Commissioners of Income Tax (SCIT) between 1 June 2021 and 14 June 2021 are adjourned. The SCIT will fix new dates and advise the parties concerned the soonest. Similarly, all customs appeals before the Customs Appeal Tribunal are also adjourned.

Most tax appeals before the superior courts including judicial review proceedings are also adjourned during MCO 3.0. In very urgent cases, they may be heard via online hearing. Case managements are still taking place online by way of e-review where parties including the court official need not be physically present in court.

9. What is the position in respect of stamping of documents and payment of stamp duty?

Stamping of documents is made via the Stamp Assessment And Payments Systems (STAMPS), a system which allows online application and payment for stamp duty. STAMPS can be used by legal firms, companies, partnerships and businesses registered with the Companies Commission of Malaysia.

For taxpayers registered on STAMPS, they may print the stamp certificate after the payment is successful and attach the certificate to the physical document. Businesses may verify the stamp certificate by downloading the “*Semakan Ketulenan Sijil*” smartphone application or online at:

<https://stamps.hasil.gov.my/stamps/>

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Taxpayers who are unable to register as STAMPS users will have to stamp their documents manually at the IRB's Stamp Offices nationwide from 8am to 12pm with a prior appointment.

However, in cases where the document cannot be stamped on time, appeal on penalty imposed for late stamping will be based on merits of the case.

10. Are similar extensions granted to real property gains tax (RPGT) matters?

The filing of RPGT returns due in June 2021 is extended to 31.7.2021. However, the IRB's announcement is silent on matters pertaining to RPGT payments including those pursuant to a notice of assessment or RPGT retention sum by the acquirer. In this regard, one should assume that the usual time frame for such payments shall continue although the IRB has given an assurance that any penalty imposed (which we assume to include late filing payment) will be considered on the merits of the case.

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