



Response from KPMG Tax for Top Questions from Standard Chartered Bank's webinar 3 April 2021 "Protect your TAX Interest"

IMPORTANT NOTICE

RESPONSE FROM KPMG TAX FOR TOP QUESTIONS FROM STANDARD CHARTERED PRIORITY BANKING "PROTECT YOUR TAX INTEREST" WEBINAR: 3 APRIL, 2021

IMPORTANT NOTICE: Standard Chartered Bank Berhad and Standard Chartered Saadiq Berhad is not a tax advisor or tax specialist. The responses provided are from KPMG Tax Services Sdn Bhd and provided in general without knowledge of client specific circumstances. This should not be construed as final tax advice. The tax treatment should always determine based on facts and evidences available and professional advice is strongly encouraged and recommended when in doubts. Although KPMG Tax Services Sdn Bhd endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. KPMG Tax Services Sdn Bhd will have no obligation to update the information contained herein and will not be liable for any failure to update such information. Readers should consult their independent tax consultant for further clarification with specific details. Some of the questions have been rephrase, reword and combine for clarity purposes.

1. Should we have any concern for declaring that we have any overseas bank account in our income tax return? What is Inland Revenue Board's (IRB) modus operandi and your view on this?

There is no requirement nor a category for taxpayer to declare their overseas bank account in the Malaysia individual tax return. The taxability of the source of funds will depend on whether it is a Malaysian source or is it a foreign source.

Under the Automatic Exchange of Information (entered by Malaysia with other participating countries) the IRB may obtain information of Malaysian taxpayers having foreign bank accounts and may require the taxpayer to explain the source of the funds.

2. Is it necessary to report share dividends when we submit tax returns, both for companies and individuals? Or don't need to submit and just keep a record?

Malaysia adopts the single-tier system, where dividends paid by a resident company would be tax exempt in the hands of its shareholders and taxpayer are not required to declare those dividends in the tax return.

It is always a good practice to maintain proper records such as dividend voucher in the event of a tax audit.

3. Do you foresee the capital gains on unit trusts (including money market funds) for companies and individuals being taxed beginning July this year?

Currently, there is no guidelines or act be issued in relation to tax on capital gains on unit trusts and decision to introduce ultimately lies with the government.



4. As a retiree and individual (not a company), my understanding is that interests from bank deposits and capital gains from funds and shares/stocks are not taxable. Is this accurate? Are there limits or terms and conditions?

Income in respect of interest received by individual residents in Malaysia from money deposited with a bank licensed under the Financial Services Act 2013 or under Islamic Financial Services Act 2013 is tax exempted.

Taxation of gains arising from realization of funds and shares/stocks would depend on whether the sales of funds or shares is seen as a capital transaction or a trading transaction (i.e. involve actively in buying and selling shares, etc)

Nonetheless, the facts and circumstances of each case ought to be looked into before a conclusion can be made on the taxability of the funds.

5. How does the IRB target individuals and companies? What is a typical profile? Do companies and individuals that have been audited before, can get audited again?

For companies, the IRB may rely on the following basis in selecting for tax audit:

- Selection based on risk assessment
- Information received from third party
- Selection based on specific industries
- Selection based on specific issues for a certain group of taxpayers
- Selection based on location, etc.

For individuals, the IRB may rely on the following basis in selecting for tax audit:

- Owning many properties
- Owning many luxury cars (purchased by cash instead of by financing)
- Own various businesses
- Frequently buy and sell properties
- Annual income of more than RM1 million

Companies or individuals may still be subject to an audit even if they have been audited before. In practice, the year of assessment being looked into by the IRB may be different.

6. If being targeted by IRB, what will be the best solutions?

- Ensure all the relevant supporting documents are readily available to justify the claim of expenses and ensure all income has been declared.
- Cooperate with the IRB to show that you are in good faith and not involved in any wilful default or tax evasion activities
- Be honest and act with integrity to the IRB officer
- Appoint a tax agent to represent your good self

7. Question on Business Promotion expenses. Assuming a sales incentive program whereby, for purchases of over a certain amount of goods, a free packaged holiday is given as an incentive to the customer. Assuming with proper documentation. Is this expense deductible, tax wise?

Generally, business promotion expenses (such as free packaged holiday to customers as an incentive for achieving certain sales threshold) is tax deductible if the expenses were incurred



wholly and exclusively in the production of gross income pursuant to Section 33(1) of the Income Tax Act.

However, do take note that business promotion activity can be viewed as an entertainment in nature if supporting documents are not complete. It is always a best practice to maintain proper supporting documents to substantiate your basis to the IRB in the event of a tax audit.

8. Are cash deposit interest taxable? From when?

Income in respect of interest received by individual residents in Malaysia from money deposited with a bank licensed under the Banking and Financial Institutions Act 1989 or under Islamic Banking Act 1983 is tax exempted (with effect from YA 2008).

For companies, interest income is generally taxable under paragraph 4(a) or 4(c) of the ITA, depending on the business activity of the company.

9. Does huge amount of banking transaction draws IRB attention to be targeted for audit? What level of high net worth will be targeted at individual & company level?

For companies, the IRB may rely on the following basis in selecting for tax audit:

- Selection based on risk assessment
- Information received from third party
- Selection based on specific industries
- Selection based on specific issued for a certain group of taxpayers
- Selection based on location, etc.

For individuals, the IRB may rely on the following basis in selecting for tax audit:

- Owning many properties
- Owning many luxury cars (purchased by cash instead of by financing)
- Own various businesses
- Frequently buy and sell properties
- Annual income of more than RM1 million

10. Are inheritance in the form of cash & house taxable?

No. Malaysia has yet to implement inheritance tax.

11. A tax deduction of up to RM300,000 be given on costs for renovating and refurbishing business premises according economic stimulus package announced by government. Is this a one-off deduction or capital allowances deduction as usual? Will IRB justify based on auditor certification? Or do (make) their own judgement?

The tax deduction (not capital allowance) is a one-off deduction of maximum RM300,000 for renovation and refurbishment of business premise incurred by the person from 1 March 2020 to 31 December 2021 used for the purpose of its business. All claims of any amount would be required to be certified by an external auditor.

12. How many years to keep tax related record?

How many years of documents history we need to keep? Since we do many transactions (investment, savings, etc etc) and it is difficult to report NWA?

Under the law, records are to be retained for at least 7 years.



- 13. I receive a pension from an overseas employer where I was living and working before returning to Malaysia. Am I correct to say this is non-taxable even if received this payment while I am now residing fully in Malaysia?**
 Pension received from employment exercised overseas is not liable to tax in Malaysia as the income is not derived from the exercising of employment in Malaysia and is considered as foreign source income.
- 14. For SMEs investment holding companies, the tax rate for SMEs at 17% is not applicable with new tax in directive issued in 2019/2020? Will this matter be reconsidered as the differential of 7% is high for SMEs during bad times like now with the impact of the pandemic?**
 Based on Practice Note 4/2020, the preferential tax rate of 17% is not applicable for investment holding companies which are not listed on Bursa Malaysia.
- At the moment, there is no indication that the Director General would make any amendments to the current Practice Note 4/2020.
- 15. If I take a bank loan to finance the purchase a property should the bank interest be captured in the NWA even though the cost of the property and loan balance have been captured in the NWA?**
 The mortgage interest should be captured in the NWA under personal and private expenditure.
- 16. If I reached retirement age and company gave me a gratuity. However, I was re-employ under contract term. Do I have to declare the gratuity income?**
 Subject to Paragraph 25, Schedule 6 of the ITA and Public Ruling No.9/2016 - Gratuity, gratuity is exempted in certain circumstances.
- 17. When we perform the test year on year basis, how many years back we should start?**
 Generally, the period of review by the IRB is up to 5 years from the latest Year of Assessment in which you have filed your tax returns.
- 18. Will a person be under IRB watchlist if the person uses cash to buy a new car rather than getting hire purchase loan?**
 Yes, it may attract IRB's attention if taxpayer frequently purchasing luxury assets using cash.
- 19. Would like to know about the possibility of inheritance tax soon?**
 Currently, there are no guidelines or act be issued in relation to inheritance tax and the decision to introduce ultimately lies with the government.
- 20. What other items can be tax deducted besides the standard donation medical bills, OKU and individual tax relief?**
 The full list of tax relief for Malaysian tax resident individual can be found in the following websites.
http://www.hasil.gov.my/bt_goindex.php?bt_kump=5&bt_skum=1&bt_posi=3&bt_unit=1&bt_sequ=1



- 21. If I'm an employee and have my own sole proprietorship, can I park my income from both sources under the sole proprietorship when filing my tax?**
 For a Malaysian tax resident who carried on business is required to submit Form B to declare statutory income from business (i.e. sole proprietorship) under item B1 and statutory income from employment under item B6 in the Form B.
- 22. If an individual is an employee at the same time working as a part time insurance agent. Is this individual to submit form B or form BE?**
 It depends, If the individual is playing an active role in regard to the insurance work and wish to claim business expenses against the commission income, the individual may consider filing Form B.

 If the insurance commission is purely a passive income and no business expenses is intended to be claim by the individual, the individual may consider to file Form BE (to avoid any challenges by the IRB).
- 23. I bought a laptop, but the seller issued a handwritten receipt on a receipt book with its company stamp. Is this acceptable by LHDN?**
 The receipt is acceptable so long it is genuinely issued by the seller containing relevant information of the purchase such as the seller's company details, description and amount of transaction etc.
- 24. Disposal of property overseas property, do I need to declare to LHDN?**
 No, foreign property is not within the taxing jurisdiction of Malaysia.
- 25. Are all employees required to submit CP22A when they've resigned, or it is just for those who have submitted Monthly tax deduction (Pcb)?**
 According to the information obtained from the IRB website, employers are required to submit CP22A for resigning employees unless:
- The employee has been subjected to MTD (while in employment)
 - The employee's monthly remuneration is below the minimum amount of income that is subject to MTD (provided that the employee will continue working or not retiring from any employment in Malaysia)
- 26. If there is no income, is there a need to submit / file tax return annually?**
 Assuming if you been filing your individual tax return annually, you are required to file your tax return event though for a particular year you may have no income. In the event of a retirement (and do not generate any more taxable income), you may inform the IRB and upon confirmation, ceased filing your tax return.
- 27. How can I protect myself against the IRB if I inherited a large amount of money?**
 There is no inheritance tax in Malaysia. For NWA purpose, it is advisable to maintain relevant supporting documents to substantiate the inherited funds.
- 28. Under which category do we declare freelance income (biz activity not registered with SSM) earned in the Form BE? Is there any issue if we do not have any supporting document (eg: Invoice). What type of documents to maintain?**
 Individual having freelance income from a business activity should file their tax return via the Form B (under category B1 - Statutory income from businesses).



Proper documentations such as fee quote correspondence, invoice, bank statement, bank-in slip, receipts (for expenses) etc should be maintained to substantiate your freelance income and related expenses.

29. Does the cost of a nursing home for my aged parents qualifies for deductions under "Medical treatment, special needs and carer expenses for parents?"

Yes. In order to claim the tax relief, a valid receipt should be obtained from the nursing home.

30. How to avoid being targeted & any possible advance preparation?

There is no avoiding being selected by the IRB for a tax audit. It is always a best practice to maintain proper records of your financial documents, expenses claim etc to support your reported income and expenses claimed.

31. What will be the financial liabilities?

If it is discovered following an audit finding that there has been an understatement or omission of income, a penalty equal to the amount of tax undercharged (100%) may be imposed under subsection 113(2) or paragraph 44B(7)(b) of the ITA accordingly. However, the DGIR in exercising his discretionary powers under subsection 124(3) of the Act may impose a lower penalty of 45% (or lower) on the tax undercharged.

For a tax investigation, the tax penalty will commence from 45% and will increased up to 100% depending on how fast the case is concluded.

32. How to minimize the financial impact of tax audit to protect the interest?

It is advisable to appoint a tax consultant / representative to represent the taxpayer in the event if he/she was being selected for tax audit. The role of tax consultant / representative will act as a mediator between the IRB and ensure that proper explanation / documents are furnished to the IRB. Besides, tax consultant could assist the taxpayer to expedite the closure of tax audit / investigation case and avoid lengthy audit process.

However, in the event if a tax payer aware that he / she has not complied with the Income Tax Act, 1967 and the tax payer was yet to be selected for tax audit / investigation, he /she is advised to voluntary disclose his / her mistake to the IRB to enjoy a lower penalty rate.

33. Is the financial consequences negotiable?

A taxpayer may appeal to the IRB for a lower imposition of tax penalty (depending on the circumstances of the case).

34. If I dispose off overseas shares (bought many years ago) and transfer the funds back to Malaysia. Will the fund be taxable?

Generally, foreign source dividend income repatriated back to Malaysia is tax exempted.

35. What about large gains on say, Bitcoin? Would that attract capital gains tax? And how do you define "long term investment"?

There is no capital gain tax in Malaysia (except for Real Property Gain Tax). However, the IRB had issued guidelines on the taxation of E-Commerce 2019 to include digital currency as part of its scope of charge. It would mean that profits made by active traders of digital currency i.e. BitCoin may view as revenue gain and thus deemed as taxable income.



There is no definition of long-term investment, a series of test known as the “Badges of Trade” is usually applied to determine whether an activity is that of trade or investment.

36. As an individual taxpayer, do we need to declare dividend from shares gain from Amanah Saham Malaysia, Tabung Haji etc?

Dividends received from a unit trust approved by the Minister of Finance such as Amanah Saham Bumiputra and interest received from money deposited with the Lembaga Tabung Haji established under the Tabung Haji Act 1995 is exempted from tax and need not be declared in the tax return. It is always a good practice to maintain proper records of your investments.

37. For (unrealised) capital gains from the Prulink investment linked insurance policy, do I have to declare in 2020 MyTax? Is life insurance or investment linked insurance with cash value required to be included in NWA?

There is no capital gain tax in Malaysia (except for Real Property Gain Tax). Therefore, there is no need to declare in your tax return (realised or unrealised). For NWA purposes, life insurance or investment linked insurance will be required to be included in your NWA (under investments).

38. I am recently retired, non-resident for the past 30 years. Are the returns on my Unit Trust investments with SCB liable for Malaysian tax?

Generally, income of unit trust investments is assessed and charged to tax separately from the income of unit holders, which means that whatever interests and monetary gains you make from unit trusts will not be subject to personal income tax charges.

The above only apply in the event the unit trust is held as a long term investment and not being actively traded.

39. Are gains and/or dividend made from unit trusts taxable?

Generally, income of unit trust investments is assessed and charged to tax separately from the income of unit holders, which means that whatever interests and monetary gains you make from unit trusts will not be subject to personal income tax charges.

The above only apply in the event the unit trust is held as a long-term investment and not being actively traded.

40. Gains from property taxable for both RPGT & income tax?

Gains from disposal of property is either tax under Real Property Gain Tax or Income Tax (mutually exclusive).

41. As my majority income are Singapore companies' dividend, from my knowledge if this is tier 1 tax exempted dividend it is not taxable in Malaysia, is this right? Do I need to declare in e-filing? But if there is a tax audit, what documents needed to show to them?

Foreign source dividend income is tax exempted in Malaysia. In the event of a tax audit, and the foreign dividends is repatriated back to Malaysia, taxpayer may need to support with the dividend warrant voucher, bank statement on receipt and e-dividend notification (if any).



42. If i invest share at overseas countries like US, Hong Kong, are my realized and unrealized capital gain subject to any Malaysian tax?

There is no capital gain tax in Malaysia (except for Real Property Gain Tax) and foreign source income is tax exempted in Malaysia. For NWA purposes, if the funds invested overseas are not derived from a Malaysia source, there is no need to include it in the NWA.

43. Can we have a sample copy of the NWA template?

It is our usual practice that we do not share the template. However, for further discussion on the NWA template, you may reach out to your Priority Relationship Manager to be in touch with KPMG Tax Services Sdn. Bhd. representative.