

e-tax news

“PRIHATIN RAKYAT” ECONOMIC STIMULUS PACKAGE FOR TAX AND NON-TAX INITIATIVES

Our prime minister has unveiled the first Economic Stimulus Package on 27 February 2020 to cushion the impact of COVID-19 and to ensure Malaysian economy remains on strong foundations. The main tax initiatives have been previously analysed in our special March e-tax news publication.

The recently announced “Prihatin Rakyat” Economic Stimulus Package by the Government of Malaysia was valued at RM250billion and an additional “Prihatin Rakyat” Economic Stimulus Package was subsequently announced on 6 April 2020 to further help businesses in the Small and Medium Enterprises (“SME”) sector. Both the “Prihatin Rakyat” Economic Stimulus Packages provide tax and non-tax initiatives to deal with the impact of the COVID-19 pandemic. Among the objectives to be achieved are preservation of jobs, safeguarding the people’s welfare, to support businesses including SME sector and to strengthen national economy.

We have summarised below some of the main highlights of these announcements which include both tax and non-tax measures with our own commentary as a guidance to businesses in order to maximise the benefits from the initiatives announced by the Government.

Part A: Tax Related Measures

1. Extension of time during Movement Control Order period

Certain statutory deadlines under the Income Tax Act, 1967 have been extended due to the Movement Control Order (“MCO”) which we summarised below:-

a) Extension of time for filing of tax returns

An extension of time is granted for filing of income tax returns as follows:

Type of Submission	Existing e-Filing Deadline	New e-Filing Deadline
Employer – Statement of Remuneration for Year 2019		
- Form E	31 March 2020	31 May 2020
Individual, Partnership, Association and Hindu Joint Family – Tax Return for Year of Assessment 2019		
- Form BE	30 April 2020	30 June 2020

- Form B - Form P	30 June 2020	31 August 2020
- Form BT - Form M - Form MT - Form TF - Form TP - Form TJ	30 April 2020 (with no business income) 30 June 2020 (with business income)	30 June 2020 (with no business income) 31 August 2020 (with business income)
Companies, Corporations, Limited Liability Partnership (“LLP”), Trust Bodies – Tax Return for Year of Assessment 2019 (for the financial year end from 31 July 2019 till 30 November 2019)		
- Form C - Form CS - Form PT - Form TA - Form TC - Form TR - Form TN	within seven (7) months from the date following the close of the accounting period.	2 months grace period from the statutory due date of submission

Editor’s Comment:

Under the existing concession, the Inland Revenue Board (“IRB”) has extended the statutory filing deadlines for e-filing cases for a further one (1) month. Due to the MCO, the IRB has announced a two (2) months extension for those income tax returns which the due dates fall between 31 March 2020 to 30 June 2020 and the extended dates also apply to the payment of any tax due. Please note that the above extension of deadline does not apply to e-filing cases for companies with financial year ended on 31 December 2019 of which the filing deadline remains on 31 July 2020 with a concession of one (1) month extension deadline to 31 August 2020.

Businesses that affected by this MCO can take advantage of this extended deadlines on the settlement of their tax due in order to ease their cash flow position which has been seriously affected by this MCO. However, those businesses expecting a tax refund from their over payment of tax may wish to expedite the completion of their income tax returns for early submission to the IRB regardless of the above extension of time in order to obtain the tax refund of the overpayment promptly. Businesses are advised to revisit their financial position for the financial year 2019 in order to adopt the right approach that will ease their financial position.

b) Extension of due date for submission of tax estimate forms / documents to the IRB

The due date for submission of the following tax estimate forms / documents have been extended to 30 April 2020 as follows: -

Type of form / document	Existing Filing Deadline	New Filing Deadline
CP204 for tax estimate	18 March 2020 up to 14 April 2020	30 April 2020
CP204A for the 6th (Sept year-end) and 9th month (June year-end) revision	31 March 2020	
CP204B for notification of change of basis period	18 March 2020 up to 14 April 2020	
Submission of revised tax estimate in the 3 rd month instalment in 2020	15 April 2020 <i>(for company's basis period from 1.1.2020 to 31.12.2020)</i>	
Submission of tax audit / investigation documents or replied to IRB's letters	18 March 2020 up to 29 April 2020	
Submission of data for monthly tax deduction for March 2020 ("PCB")	15 April 2020	
Submission of Notice of Appeal to the Special Commissioners of Income Tax ("SCIT") ["Form Q"]	18 March 2020 up to 14 April 2020 <i>(required to file Form N to apply for extension of time for appeal by stated the reason due to implementation of MCO)</i>	

Editor's Comment:

The IRB has extended the submission deadlines for 6th month tax estimate revision for financial year ended 30 September 2020 and 9th month tax estimate revision for financial year ended 30 June 2020 for another one (1) month from 31 March 2020 to 30 April 2020. As such, companies with the above financial years may wish to relook at their financial position or projection by incorporating the impact of MCO into their projected results and a revision of the tax estimate is made to the IRB accordingly in order to ease their cash flow position for the next few months.

However, it is important to note that the revision made of the tax estimate must be a close estimation of the final tax payable in order to avoid a 10% underestimation penalty charges resulting from the 30% difference between the actual tax payable and the revised estimate tax for that YA.

c) Extension for payment

The due date for payment has been summarised as follows: -

Type of payment	Penalty for late payment	Existing Payment Deadline	New Payment Deadline
CP204 tax payments	10%	15 April 2020	30 April 2020
PCB / CP38 payment for March 2020 remuneration	Upon conviction, RM200 to RM20,000, or six (6) imprisonment or both	15 April 2020	
Compound payment for PCB	Not applicable	18 March 2020 up to 14 April 2020	
1 st instalment for CP500	10%	31 March 2020	
2 nd instalment for CP500	10%	31 May 2020	30 June 2020
Withholding tax payment	10% on withholding tax	18 March 2020 up to 14 April 2020	15 April 2020 until 30 April 2020

Editor's Comment:

The IRB has clarified that tax penalty for late payment of tax (all types of income taxes) which should be paid during the period between 18 March 2020 to 14 April 2020 will not be imposed if the payment is made by taxpayer on or before 30 April 2020.

2. Deferment of monthly tax instalments for Small and Medium Enterprises

A deferment of payment of monthly tax instalment for three (3) months is given to SME starting from 1 April 2020.

With effective from year of assessment ("YA") 2020, SME is defined as:

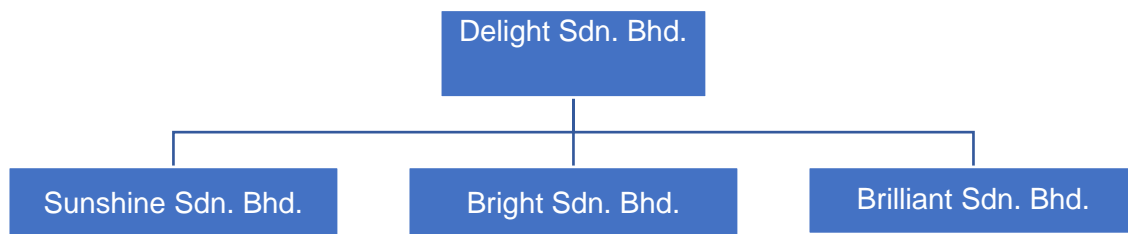
- a company resident and incorporated in Malaysia which has a paid-up capital in respect of ordinary shares of two million five hundred thousand ringgit (RM2.5million) and less at the beginning of the basis period; and
- gross income from source or sources consisting of a business not exceeding fifty million ringgit (RM50million) for the basis period for that year of assessment.

On top of the above, additional conditions as below must be be complied in order to be eligible as SME:

- not more than fifty percent (50%) in respect of ordinary shares of the SME company is directly or indirectly owned by a related company;
- not more than fifty percent (50%) in respect of ordinary shares of the related company is directly or indirectly owned by the SME company; or
- not more than fifty percent (50%) in respect of ordinary shares of the SME company and the related company is directly or indirectly owned by another company.

“Related company” means a company which has a paid-up capital in respect of ordinary shares of more than two million and five hundred thousand ringgit (RM2.5million) at the beginning of the basis period for a year of assessment.

The following is an example to illustrate how to determine the SME status at the beginning of the basis period for YA 2020:



Name of company	Shareholding	Paid-up ordinary share capital at the beginning of basis period	Gross income from business sources
Delight Sdn. Bhd.	Owns 100% shareholding in all 3 subsidiaries	RM0.3million	RM50million and below for each Company
Sunshine Sdn. Bhd.	-	RM3million	
Bright Sdn. Bhd.	-	RM1.5million	
Brilliant Sdn. Bhd.	-	RM2million	

Based on the above group structure, all the companies in the group does not qualified to be a SME as Sunshine Sdn Bhd’s paid-up share capital is three million ringgit (RM3million) which is more than two million five hundred thousand ringgit (RM2.5million) at the beginning of the basis period for YA 2020.

As per the clarification provided by the IRB, the above deferment is given automatically without any prior approval from the IRB based on the record in the IRB’s database. The IRB has further clarified that no payment is required for the deferred instalment and any balance of tax liability is to be paid upon submission of tax return to the IRB.

Now, SME and Non-SME companies with the following financial years end are given the following options to ease their cash flow position:

Financial year end	Option 1 Deferment of monthly tax instalment for SME	Option 2 Extended deadline for revision of monthly tax instalment for SME and Non-SME	PKF's Commentary for SME
30 June 2020	April 2020 to June 2020	Extended deadline for 9 th month revision to 30 April 2020	<p>If the SME decided to defer its monthly tax instalments for April 2020 to June 2020, the SME is still required to pay the final 12th instalment due on 15 July 2020. However, if the SME can accurately estimate its final tax liability for YA 2020 by preparing a provisional tax computation that the final tax is less than the total tax instalment paid as at 31 March 2020, the SME may choose to make a 9th month revision before 30 April 2020 provided that the SME has not made the 9th month revision in the month of March 2020. Otherwise, a separate appeal is required to be made to the IRB which is subject to their approval.</p> <p>It is advisable that the revised estimate in the 9th month revision should be accurately estimated to avoid the under-estimation penalty if the actual tax liability is more than 30% of the revised tax estimate.</p>
30 September 2020	April 2020 to June 2020	Extended deadline for 6 th month revision to 30 April 2020	<p>A SME may opt for the deferment of its monthly tax instalment for three (3) months for April 2020 to June 2020 and thereafter to proceed to make a 9th month revision before 30 June 2020.</p> <p>It is advisable that the revised estimate in the 9th</p>

			month revision should be accurately estimated to avoid the under-estimation penalty if the actual tax liability is more than 30% of the revised tax estimate.
31 December 2020	April 2020 to June 2020	<p>Earlier revision in the 4th month before 30 April 2020</p> <p>No extended deadline given for 6th and 9th month revision due on 30 June 2020 and 30 September 2020 respectively</p>	<p>SME that have made a 4th month revision may revisit its financial position in the 6th month (June 2020) or / and 9th month (September 2020), and to make an accurate revision of its tax estimate in order to avoid the under-estimation penalty if the actual tax liability is more than 30% of the revised tax estimate.</p> <p>For SME that did not made a 4th month revision may opt to defer the monthly tax instalment for April 2020 to June 2020 and made an accurate revision of its tax estimate in the 6th month (June 2020) and/or 9th month (September 2020).</p>

Editor's Comment

As per the clarification provided by the IRB, the deferment of monthly tax instalment for SME is given automatically based on the IRB's database record. For your information, the latest IRB's database record is updated up to either YA 2018 or YA 2019 depending on the financial year end of the SME. As the deferment of monthly tax instalment for SME is related to YA 2020 and the latest IRB's database may not have the updated SME status for YA 2020, therefore the SME wish to enjoy the deferment of monthly tax instalment is required to examine its SME status based on the illustration given above at the beginning of basis period.

Non-SME companies with financial years ending on 30 April 2020 and 31 May 2020 where the 9th month revision have been lapsed may make a special appeal to the IRB if the cash flow position of these non-SME companies are affected by the MCO and having difficulty in fulfilling their remaining monthly tax instalments. For non-SME that falls outside the April 2020 and May 2020 years end are still eligible for the 6th and / or 9th month revision depending on their financial year end, and do inform us if our assistance is required for submitting the revised monthly tax instalment to the IRB.

3. Exemption from withholding tax on withdrawal from Private Retirement Scheme

Private Retirement Scheme (“PRS”) contributors can now withdraw a maximum amount of one thousand five hundred ringgit (RM1,500) from their Account B for a period of nine (9) months from April 2020 without withholding tax penalty.

Under the current tax legislation, where an individual withdraws funds from a private retirement scheme (i.e. Account B) prior to the age of 55 years old, the withdrawal will be subject to withholding tax a rate of eight percent (8%).

However, no withholding tax will be imposed if the withdrawal is for the following reasons by the PRS contributors:

- permanent disability;
- serious disease;
- mental disability,
- death;
- leaving Malaysia permanently; or
- withdrawal for healthcare or housing where such withdrawals is in compliance with criteria as set out by the Securities Commission.

Editor’s Comment

The lifting of the withholding tax on the PRS withdrawal may relieve Malaysian that are affected by the COVID-19 pandemic on their employment income or business, may now have an additional option for withdrawal from the PRS scheme without payment of tax to support their livelihood.

4. Tax deduction incentives for donation to COVID-19 Fund

The Government welcomes the generosity of the “Rakyat”, both individual and the corporate sector, in contributing and donating towards addressing the COVID-19 outbreak. The IRB has issued a media release on 26 March 2020 to announce that the tax deduction incentives will be given to those who made the contributions and donations in cash or in-kind that will be used to contain the spread of COVID-19 and to help the people affected by the outbreak as follows:-

Name of Fund	Type of contributions and donations	Transaction records / supporting documents used as reference when filing the Income Tax Return Form (ITRF) and for review by the IRB
COVID-19 Fund ("Ministry of Health")	Equipment or items	<ul style="list-style-type: none"> • original approval letter by the Ministry of Finance ("MOF")*; • official receipt or letter of acceptance from the recipient body; and • letter of acknowledgment of service value or project cost value from the relevant government agencies
	Cash	<ul style="list-style-type: none"> • official government receipts ("Kew.38"); • cash transfer slip via ATM; • cheque deposit machine slip; • deposit slip through bank counter; • online payment slip; • transfer slip via Interbank Giro ("IBG Transfer");
COVID-19 Fund ("National Disaster Management, Prime Minister's Department")	Cash	<ul style="list-style-type: none"> • Real Time Electronic Transfer Funds and Securities System ("RENTAS") receipt; and • telegraphic ("TT") receipt with advice of credit
Approved institution / organisation under Section 44(6) of the Act	Cash	<ul style="list-style-type: none"> • official receipts

(*) For donations in the form of equipment or items to contain the spread of COVID-19 outbreak, donors would need to obtain a receipt with an official stamp from the recipient according to the format to be issued by the MOF before submitting the application for tax deduction to the MOF.

Currently, cash donations made to the Government, a State Government and a local authority will be allowed for tax deduction against the aggregate income with no restriction for both company and individual whereas cash donations made to approved institution / organisation and contribution in kind to project of national interest approved by the MOF will be allowed for tax deduction against the aggregate income restricted to 10% for company and 7% for individual.

Editor's Comment

A full tax deduction will be given by the IRB for donation made to COVID 19 fund provided that the relevant supporting documents as highlighted above are maintained by the donor. In order to recoup the full tax deduction, businesses must ensure that there is sufficient aggregate income of the donor entity to be set off against the approved donation. In the event that there is insufficient aggregate income in the donor entity, part of the donation that cannot be set off against the aggregate income will result in a permanent loss to the donor entity.

Therefore, in the context of a group of companies, it is important to ascertain the financial position of the donor entity/entities or to share the donation between a few companies to ensure a full tax deduction can be claimed accordingly.

5. Additional deduction on reduction of rental to SME

Based on the additional “Prihatin Rakyat” Economic Stimulus Package announced on 6 April 2020 by the Government of Malaysia which aimed especially at SME in a bid to soften the impact of the COVID-19 during the MCO period. It was proposed that private owners of building and business space who derived rental income from letting out their properties used by SME as business premise is given additional tax deduction on the amount of rental reduced during the period from April 2020 to June 2020. This additional tax deduction can be enjoyed by the properties’ owners on the following conditions:

- the reduction is at least thirty percent (30%) of the rental; and
- the reduced rental should apply during the MCO period and three (3) months after the expiry of MCO period.

The additional deduction on rental is given in arriving at the adjusted income of the properties’ owners.

Editor’s Comment

The above incentive will only be eligible to waiver of rental to SME companies in accordance to the definition of SME under the Income Tax Act, 1967. Please refer to item 2 above on the definition of SME. It would be interesting to see whether the scope of the incentive will cover: 1) rental of land use for businesses, 2) rental space/store in a restaurant/public place and 3) other rentals of space. We hope that the IRB will expedite the issuance of the relevant clarification in order to ensure the above initiative achieving its intention as rental cost is one of the main costs of doing business besides labour costs.

Part B: Non-Tax Related Measures

6. Employees Retention Initiatives

The Government has introduced the Employment Retention Programme (“ERP”) and Wage Subsidy Programme (“WSP”) to help employers to retain their employees without having to retrench them in the current challenging period. The comparison between both programmes are as follows:-

Details	Employment Retention Programme (“ERP”)	Wage Subsidy Programme (“WSP”)
Definition and objective	Financial assistance for employees who have mutually agreed with their employers to take no-pay leave (“NPL”) due to economic impact of COVID-19 crisis.	Financial assistance for employers who have affected by COVID-19 crisis to help them to continue the business operation and retain their employees.

Effective date	1 March 2020	1 April 2020
Who benefits	Employee	Employer
Amount and period of assistance	RM600 per month per employee for one (1) to six (6) months depending on the NPL notice issued by employers	Category 1: RM1,200 per month per employee for 3 months for company with 75 employees and below. Note: Condition on 50% decrease in income or sales is not applicable.
		Category 2: RM800 per month per employee for 3 months for company with 76 to 200 employees.
		Category 3: RM600 per month per employee for 3 months for company with more than 200 employees (limited to 200 employees).
Eligibility and conditions for application	<ul style="list-style-type: none"> • Employees in the private sector including part-time workers who have registered and are contributing to the Employment Insurance Scheme (“EIS”). • Employees with monthly salaries of RM4,000 and below. • Employees who are on NPL from 1 March 2020 onwards based on mutual agreement with their employers. • The NPL lasts between 1 to 6 months. • Minimum of 30 days NPL. • not applicable for <ul style="list-style-type: none"> ➢ the same employee who has received the WSP financial assistance in the same month ➢ employee who has been terminated ➢ self-employed (with no employer) including freelancers ➢ foreign workers and expatriates 	<ul style="list-style-type: none"> • Employers experiencing a fall in income or sales of 50% or more by comparing the income or sales amount in January 2020 with the following months (not applicable for category 1). • Employers and employees who have registered or contributed to SOCSO. • Employers who have registered with the Companies Commission of Malaysia (“CCM”) or local authorities before 1 January 2020. • Employers have commenced its operation before 1 January 2020. • Employees with monthly salaries of RM4,000 and below. • Employers are required to retain their employees at least for a period of 6 months, that is 3 months during WSP period and 3 months after that. • not applicable for <ul style="list-style-type: none"> ➢ the same employee who has received the ERP financial assistance in the same month ➢ employee who has been terminated ➢ employees from public sector, statutory bodies and local authorities ➢ self-employed (with no employer) including freelancers ➢ foreign workers and expatriates

Editor's Comment

Both the ERP and WSP initiatives by the Government will help to reduce the burden of employers who are affected by the COVID-19 crisis to help them to retain their employees. The affected employers may explore both the above initiatives based on the above comparison made in order to ease their cash flow position during this period. If there is a need for such assistance to apply for the above initiatives, please contact us accordingly.

7. Restructuring by the Employees Provident Fund

The Employees Provident Fund (“EPF”) is introducing the Employer Advisory Services (“EAS”) beginning on 15 April 2020 to provide customised advisory support for employers, specifically with regards to the employer’s portion of EPF contribution during MCO.

The EAS is intended to assist employers to remain solvent amidst the COVID-19 pandemic so that the employers could continue providing and retaining jobs, supporting workers apart from alleviating some of the cash flow challenges faced by employers. More importantly, this program is to help employers fulfil their obligation of paying for their portion of the EPF contributions.

Through the EAS, the EPF will assess the specific conditions of affected companies and offer customised plans on the EPF contribution schedule provided under the EPF Act 1991.

Editor's Comment

Subject to the provision of Section 52 of EPF Act 1991, every employee and employer of a person is an employee within the meaning of this Act shall be liable to pay monthly contributions on the amount of wages at the rate respectively set out in Third Schedule under Section 43 and 44A of this Act which employer must make a monthly payment on or before 15th of the month.

Hopefully EAS measures will include restructuring of contribution schedules and deferment or staggering payment of EPF contribution as many businesses are facing with cash flow problem during MCO.

8. Exemption of Human Resources Development Levy

Under Human Resources Development (“HRD”) levy exemption, Human Resources Development Fund (“HRDF”) registered employers from the 63 sub-sectors are exempted from paying the mandatory HRD levy under the

Pembangunan Sumber Manusia Berhad (“PSMB”) Act 2001 (Act 612) for six (6) months which will come into effect from 15 April 2020 to 15 September 2020.

The terms and conditions to the levy exemption are summarised below:

- Only employers under the 63 sub-sectors under Manufacturing, Service, Mining and Quarrying Sectors are qualified for this exemption.
- Exemption period from paying levy for is for (6) six months effective from April 2020 to September 2020.
- Employers are required to commence payment of the September 2020 levy contribution on or before 15 October 2020.
- Automatic exemption, no registration required.
- This exemption does not qualify for levy arrears repayment.
- Even though employers are exempted from paying levy for 6 months, employers are encouraged to apply for training grant and continue sending their employees for training and utilizing the available levy in their own account.

Editor’s Comment

Failure to comply with the HRD levy will be subject to the following penalties:

- Fined not exceeding Ringgit Malaysia Twenty Thousand (RM20,000) or to imprisonment for a term not exceeding two (2) years or both (on conviction)
- Yearly interest of ten percent (10%) in respect of each day of default or delay in payment

With the HRD Levy exemption, it will facilitate the HRDF registered employers from the 63 sub-sectors to ease their cash flow position especially those SMEs.

9. Grant and loan provided to Micro SME

The following special grant and loan have been provided under the additional “Prihatin Rakyat” Economic Stimulus Package for Micro SME:

Description	RM
Interest free Micro Loan	10,000
Special Grant	3,000

The Micro SME is required to be registered with the IRB in order to enjoy the special grant and the Government will obtain the list of qualified Micro SME from the Local Authorities and Companies Commission of Malaysia.

Editor's Comment

One of the conditions for the special grant for Micro SME is the requirement to register with the IRB. We wish to highlight that the registration with the IRB for the special grant may give rise to the following tax issues to the Micro SME:-

- Once the Micro SME has registered with the IRB, the said entity must continue with the submission of its income tax return to the IRB. The Micro SME must maintain complete and sufficient supporting documentation to ensure an accurate income tax return can be prepared and submitted to the IRB.
- For those Micro SMEs that have not submitted their income tax return to the IRB in the previous years, the registration with the IRB may trigger tax audit of the prior years. Please be informed that the time barred for issuing additional assessment is five (5) years after the expiry of the year of assessment to recover under-declaration of taxes from tax audit. Moreover, there may be possible fine and penalty.

10. Other statutory deadlines

Based on the announcement made by The Royal Malaysian Customs Department and Social Security Organization, certain statutory deadlines have been extended due to the MCO which we summarised below:-

a) Extension of time for filing of Sales and Service Tax (SST) return

Type of return	Existing Deadline	New Deadline
SST return filing for January and February 2020 period	31 March 2020	30 April 2020

b) Extension of time for statutory payment

Type of payment	Existing Payment Deadline	New Payment Deadline
SOCSO for March salary	15 April 2020	No extension
SOCSO for April salary	15 May 2020	31 May 2020
EIS for March salary	15 April 2020	No extension
EPF for March salary	15 April 2020	No extension
SST for January and February 2020 period	31 March 2020	30 April 2020

How PKF can help you?

- To compute provisional tax computation in order to assess the estimated tax payable for revision of tax estimate and to avoid potential underestimation penalty.
- Submission of revision of tax estimate to the IRB.
- To assist in the application of ERP or WSP scheme.
- To assist in the appeal for any deferment tax payment or revision of tax estimate not provided under the existing announcement made by the Government.

Contact us:

PKF Tax Services Sdn Bhd
Level 33, Menara 1MK
Kompleks 1 Mont' Kiara
No.1, Jalan Kiara, Mont' Kiara
50480 Kuala Lumpur

Tel : +6 03 6203 1888
Fax : +6 03 6143 2213
Email : pkftax@pkfmalaysia.com
Website : www.pkfmalaysia.com

PKF Penang Office
Lot 416,
Jalan Dato' Keramat
10460 Penang
Malaysia

Tel : +6 04 218 9653
Fax : +6 04 218 9653
Email : pkftax@pkfmalaysia.com
Website : www.pkfmalaysia.com

Our services	Name	Mobile number
Corporate Tax Compliance	Weddy Kang	012-362 4273
	Catherine Goh	017-682 6551
	Helen Cheong	018-379 8281
	Nurul Ashikin	013-343 6299
	Lee Khim Khim	012-553 7709
Individual, Expatriate Tax & Work Permit	Owen Tan	016-209 1150
Tax Audit / Investigation & Strategic Tax Planning	Lim Ai Chen	016-365 3332
	Amalina Ali	013-696 1746
Transfer Pricing & Tax Advisory	Owen Tan	016-209 1150
	Phang Siew Ming	012-346 1239
GST / SST Compliance & Advisory	Fan Kah Seong	012-928 8925
	Lim Ai Chen	016-365 3332
	Pang Kang Hong	016-232 9434
Outsourcing & Payroll	Lim Ai Chen	016-365 3332
	Lim Chen Chiaw	012-303 6898
	Amalina Ali	013-696 1746
	Azdiana Kadir	012-953 0722

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