

# e-tax news

## FREQUENTLY ASKED QUESTIONS UPDATED ON EXTENDED MOVEMENT CONTROL ORDER

The Inland Revenue Board (“IRB”) has updated the Frequently Asked Questions (“FAQ”) on 10 April 2020 in conjunction with the extended Movement Control Order (“MCO”) to 28 April 2020. We have summarised below some of the main highlights of these updates which include both tax and non-tax measures with our own commentary as a guidance to businesses.

### 1. Main Highlights: Extension of tax related and non-tax related statutory deadlines

- Extension of deadline for filing of tax returns and payment of tax

Companies, co-operative society, limited liability partnership and trust with financial year ended on 31 December 2019 is given an extension of time for two (2) months up to 30 September 2020 for submission of their tax return and payment of tax.

- A summary of common tax payments and non-tax related payments

Type of payment	Existing deadline	Extended deadline	Reference
Monthly tax instalment payment for company	Tax estimate payments due on 15 April 2020 and 15 May 2020	31 May 2020	D 2 of updated FAQ dated 10 April 2020
Monthly Tax Deduction (“MTD”) / CP38 for: - March salary - April salary	15 April 2020 15 May 2020	31 May 2020	D 25 of updated FAQ dated 10 April 2020
Compound payment for STD	Compound due on 18 March 2020 to 28 April 2020	31 May 2020	D 26 of updated FAQ dated 10 April 2020

<p>CP500 tax instalment for individual:</p> <ul style="list-style-type: none"> <li>- Deferment of first and second instalments</li> </ul>	30 March 2020 / 30 May 2020	No payment is required on the deferred instalment. Any balance of tax is paid upon submission of tax return	D 11 and D 16 of updated FAQ dated 10 April 2020
Payment of withholding tax	Withholding tax due on 18 March 2020 to 28 April 2020	29 April 2020 to 31 May 2020	D 23 of updated FAQ dated 10 April 2020
<p>Service tax returns:</p> <ul style="list-style-type: none"> <li>- SST 02 / SST 02A for February 2020</li> <li>- SST 02 / SST 02A for March 2020</li> </ul>	<p>31 March 2020</p> <p>30 April 2020</p>	<p>13 May 2020</p> <p>13 May 2020</p>	Announcement made by Customs on 14 April 2020
<p>SOCSO payment:</p> <ul style="list-style-type: none"> <li>- March salary</li> <li>- April salary</li> </ul>	<p>15 April 2020</p> <p>15 May 2020</p>	<p>No extension</p> <p>31 May 2020</p>	<p>-</p> <p>Announcement made by SOCSO on 3 April 2020</p>
EPF for March salary	15 April 2020	30 April 2020	EPF Media Desk dated 14 April 2018
Payment of real property gains tax on notice of assessment or payment by acquirer on consideration retention	Between 18 March 2020 to 31 May 2020	31 May 2020	E 1 of updated FAQ dated 10 April 2020

**Editor's Comment:**

The IRB has given the concession to allow extension of two (2) months for the submission of tax return and payment of tax due for companies, co-operative society, limited liability partnership and trust with financial years ended 31 July 2019 to 31 December 2019. With the above concession, businesses that are affected by MCO may take advantage of the extended deadline to settle their balance of tax payable for the year of assessment ("YA") in order to ease their cash flow position. However, businesses expected to have a tax refund from over-payment of their tax instalment for the YA 2019 may expedite the submission of their tax return in order to facilitate an early refund from the IRB despite the extended deadline.

**2. Extension of submission deadline for other tax related documents**

Type of document	Submission deadline	Extended deadline	Reference on FAQ updated by IRB on 10 April 2020
<ul style="list-style-type: none"> <li>➤ Submission of documents for audits and investigations</li> <li>➤ Reply to the IRB's letters</li> </ul>	Between 18 March 2020 to 15 May 2020	31 May 2020	A 2 A 3
<ul style="list-style-type: none"> <li>➤ Submission of Monthly Tax Deduction ("MTD") for:               <ul style="list-style-type: none"> <li>- March salary</li> <li>- April salary</li> </ul> </li> </ul>	15 April 2020 15 May 2020	31 May 2020	D 25
<ul style="list-style-type: none"> <li>➤ Submission of real property gains tax return</li> </ul>	Due date falls between 18 March 2020 to 31 May 2020	31 May 2020	E 1
<ul style="list-style-type: none"> <li>➤ Submission of estimate of tax payable (Form CP204) for companies with financial year ending on 30 April 2021 due on 31 March 2020</li> <li>➤ Submission of revision of estimate of tax payable (Form CP204A) for companies with financial year ending on 30 September 2020 (6<sup>th</sup> month revision) and 30 June 2020</li> </ul>			D 1 D 1

<p>(9<sup>th</sup> month revision) due on 31 March 2020</p> <ul style="list-style-type: none"> <li>➤ Submission of revision of estimate of tax payable (Form CP204A) in the 4<sup>th</sup> month of basis period for third instalment falls in the month of April 2020 (<i>applicable for companies with financial year ending on 31 December 2020</i>)</li> <li>➤ Submission of notification for change of financial year end (Form CP204B)</li> <li>➤ Submission of Form Q for appeal to the Special Commissioners of Income Tax <i>(Form N to be submitted to the IRB for application for extension of time for submission of Form Q due to MCO)</i></li> <li>➤ Submission of statement of monetary and non-monetary incentive for payment to agent, dealer and distributor (Form CP58)</li> </ul>	<p>Between 18 March 2020 to 28 April 2020</p>	<p>31 May 2020</p>	<p>D 3</p> <p>C 9</p> <p>C 3</p> <p>C 2</p>
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#### Editor's Comment:

The updated FAQ has further extended the submission deadline for the revision of monthly tax instalment (Form CP204A) for companies with financial years ending on 30 September 2020 (6<sup>th</sup> month) and 30 June 2020 (9<sup>th</sup> month) from 30 April 2020 to 31 May 2020. Companies falls within these financial years end may take advantage of the extended deadline to revisit the projected financial position and make a revision to the monthly tax instalment to ease their cash flow position.

In addition, a revision to the extended deadline from 30 April 2020 to 31 May 2020 is given for companies with financial year ending on 31 December 2020 to make an early revision to the monthly tax instalment in the fourth (4<sup>th</sup>) of basis period.

Lastly, as the extended MCO ended on 28 April 2020, companies with financial year ending on 31 May 2021 is required to submit its estimate of tax payable (Form CP 204) latest by 30 April 2020. But companies with financial year ending on 30 April 2021 where the submission of estimate of tax payable (Form CP204) due on 31 March 2020 is given an extension of time to submit its tax estimate latest by 31 May 2020.

### 3. **Deferment of monthly tax instalments for Small and Medium Enterprises (“SME”)**

In the updated FAQ dated 10 April 2020, additional information has been disclosed by the IRB on the deferment of payment of monthly tax instalment for three (3) months by SME starting from 1 April 2020. The IRB has clarified in the updated FAQ that the IRB will determine the status of SME based on the records in the IRB’s database for tax return submitted by companies for the YA 2018. The IRB will notify SME who are entitled for deferment of monthly tax instalment by e-mail registered with the IRB.

The criteria for determination of SME are as follows:

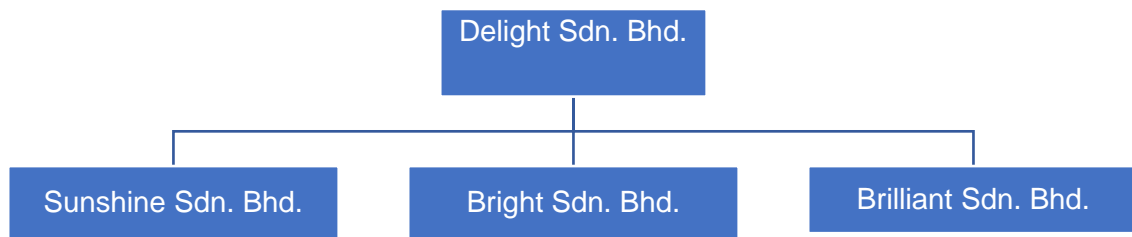
- Have a paid-up capital of less than or equal to Ringgit Two Million Five Hundred Thousand (RM2.5million) ordinary shares at the beginning of the basis period for a year of assessment; and
- Have a gross business income of Ringgit Fifty Million (RM50) and below.

The IRB has further clarified that the following provision under Paragraph 2B of Schedule 1 of the Income Tax Act (“ITA”), 1967 does not apply for the purpose of ascertaining the SME status of a company for the purpose of deferment of monthly tax instalment:

- 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.

For your understanding, the following is an example to illustrate how to determine the SME status based on the tax return submitted to the IRB for the YA 2018 for deferment of instalment payments:



Name of company	Shareholding	Paid-up ordinary share capital at the beginning of basis period for YA 2018	Gross income from business sources for YA 2018	PKF's Commentary based on updated FAQ
Delight Sdn Bhd	Owns 100% shareholding in all 3 subsidiaries	RM0.3million	RM10million	<b>SME</b> as paid up share capital is RM2.5million and below and gross income from business is RM50 million and below even though on group basis, Delight Sdn Bhd holds 100% shareholding in Sunshine Sdn Bhd with a paid-up ordinary share capital of RM3 million which is more than RM2.5million.
Bright Sdn Bhd	100% subsidiary of Delight Sdn Bhd	RM1.5million	RM45million	
Sunshine Sdn Bhd	100% subsidiary of Delight Sdn Bhd	RM3million	RM30million	<b>Non-SME</b> as the paid-up ordinary share capital is more than RM2.5million even though the gross income from business is less than RM50million.
Brilliant Sdn Bhd	100% subsidiary of Delight Sdn Bhd	RM2million	RM60million	<b>Non-SME</b> as the gross income from business is more than RM50million even though the paid-up ordinary share capital is less than RM2.5million.

If a company failed to meet the criteria as SME set by the IRB in the YA 2018 tax return submitted to the IRB, may now make an appeal to the IRB if they found that they are eligible for the deferment of monthly tax instalment for three (3) months based on the current situation of businesses that are adversely impacted by the MCO. However, the application is subject to the IRB's approval. An e-mail notification will be given if the appeal is successful.

#### Editor's Comment

The removal of the requirement under Paragraph 2B of Schedule 1 of the ITA, 1967 on determination of SME status on group of companies may benefit more companies to qualify as SME for deferment of tax instalment. The benefits for deferment of monthly tax instalment for three (3) months or revision of tax estimate have been elaborated in our April e-tax news edition.

#### 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.
- Submission of appeal to IRB for deferment of instalment for three (3) months for disqualified company based on financial position for YA 2018 tax return.
- To assist in the application of Employment Retention Program ("ERP") or Wage Subsidy Program ("WSP") scheme under "Bantuan Prihatin Nasional".
- 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.
- To assist company on cash flow monitoring, diagnostic, forward planning, proposing injection of funding and corporate restructuring.
- To assist in application for company to continue operation during the MCO period with Ministry of International Trade and Industry.
- To assist on SME loan and "Special Grant Prihatin" application.

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