

# 马来西亚税收居民身份认定规则

## 一、个人

马来西亚个人税收居民身份须根据税法第7章和第7(1B)节的规定基于纳税评估年度予以认定。非居民个人指除了马来西亚税收居民之外的个人。个人的税收居民身份决定了其是否须承担马来西亚个人所得税的纳税义务。以下为马来西亚税收居民个人和非居民个人的主要区别。

### 居民身份的判定

一般来说，税收居民身份主要根据个人一个纳税评估年度内在马来西亚境内居住的天数(即是否居住182天及以上)来判定，而不是根据其国籍或公民身份来确定。

若个人在马来西亚永久性居住，即符合上述马来西亚税收居民的定义，而无需来做进一步判定。需要注意的是，马来西亚公民并不等同于马来西亚税收居民，仍须根据上述税收居民的定义予以进一步认定。

若个人在马来西亚境内停留不足一天，仍按照一天计算。

### 决定税收居民身份的情形

税法第7章规定了在一个纳税评估年度内认定个人为马来西亚税收居民的4种情形：

- 1) 一个基本年度内，个人在马来西亚境内居住超过182天；

- 2) 一个基本年度内，个人在马来西亚境内居住不足 182 天；
- 3) 一个基本年度内，个人在马来西亚境内居住超过 90 天；
- 4) 一个基本年度内，个人未在马来西亚境内居住或在马来西亚境内居住不足 90 天。

### 双重税收居民身份以及避免重复征税的协定

马来西亚与一些税收管辖区签订了避免重复征税的协定，通过与协定伙伴重新划分双边收入的征税权利以避免双重征税的问题。

在一个纳税基本年度内是一国税收居民的个人，也可能是另一国的税收居民。当个人同时是两个协定缔约国的税收居民时，避免双重征税协定中通常包含关于税收居民判定的加比规则，从而使该个人一般仅被认定为一个税收管辖区的税收居民。

马来西亚避免双重征税协定中关于税收居民的相关条款阐述了居民身份的判定标准以及消除双重税收居民身份的规定。消除双重税收居民身份的规定是指使该个人一般仅被认定为一个税收管辖区的税收居民。在确定纳税义务时，应参照避免双重征税协定的相关规定。然而，马来西亚税收居民身份也适用于执行国内法，以便马来西亚税务机关评估马来西亚税收居民个人的相关应税收入。

相关税法规定：

- 1) 1967 年颁布的所得税法第 7 章 (ITA 1967)
- 2) 1967 年颁布的所得税法第 7 (1B) 节
- 3) “个人税收居民身份认定”，2011 年第 6 号公共条例

## 二、实体

根据马来西亚税法，实体一般包括：

1) 非公司实体（非公司形式），包括合作社、俱乐部、协会、信托或“印度联合家庭”，但不包括合伙企业。

2) “非居民”指所得税法第 8 章和第 61 (3) 节规定的马来西亚税收居民以外的实体。

3) “印度联合家庭”指根据现行印度法律中印度联合家庭或共同继承相关的实体。

4) “人”包括公司、实体组织或者单个公司。

5) “税收居民”指所得税法第 8 章和第 61 (3) 节规定的马来西亚税收居民实体。

6) “公司”指根据马来西亚境外法律设立，有独立法人身份的实体。公司的税收居民身份根据客观事实认定，是确定公司所适用的税务处理和相关税务影响的主要标准之一。对于来源于马来西亚境内的收入或利润，马来西亚税收居民与非居民承担相同的纳税义务。

公司和实体组织的税收居民身份认定

符合规定条件的公司和实体组织视为马来西亚税收居民。所得税法第 8 章规定了公司和实体组织（除信托外）的税收居民身份的认定条件，第 61（3）节则规定了信托税收居民身份的认定条件。

#### 1. 印度联合家庭的税收居民身份

根据所得税法第 8（1）（a）节的规定，若经理或为马来西亚税收居民，印度联合家庭也视为马来西亚税收居民。以此类推，若经理或为非居民，则该印度联合家庭也视为非居民。

#### 2. 开展商业活动的公司或实体

根据所得税法第 8（1）（b）节的规定，对于公司或开展贸易或商业活动的实体（非印度联合家庭），在一个纳税评估年度内，若对其全部或部分经营活动的管理和控制马来西亚境内执行，则视为马来西亚税收居民实体。

#### 3. 其他公司或实体

根据所得税法第 8（1）（c）节的规定，若在一个纳税评估年度内，其他公司或实体（不包括印度联合家庭）的董事或其他管理机构（如管理委员会或董事会等）对其事务的管理和控制马来西亚境内实施，则该公司或实体为马来西亚税收居民。对于投资控股公司，上述对事务的管理和控制包括重大投资管理和决策。

#### 4. 外国公司设立在马来西亚境内的子公司或分公司

外国企业一般通过设立子公司或分公司来拓展马来西亚境内的商业活动。外国企业子公司的税收居民身份认定规则参见所得税法第 8 (1) (b) 节和 8 (1) (c) 节。外国企业在马来西亚境内设立的分公司一般视为非居民，除非对其全部或部分经营活动的管理和控制马来西亚境内执行。

#### 对于上述“管理和控制”的定义

1. “管理和控制”指对公司的经营管理作出决策的权力，是判定公司税收居民身份的关键因素。“管理和控制”的执行地通常为召开董事会对公司的业务或事务作出决策时的地点，与公司的成立地无关。对公司的管理和控制取决于经营活动如何被管理。即使董事会在马来西亚境内仅召开一次关于公司管理和控制的会议，而其他所有会议都在马来西亚境外举行，该公司也被视为马来西亚税收居民。
2. 公司开展商业活动或实际运营的地点不一定是实施上述“管理和控制”的地点。如果公司在马来西亚境内有经营活动，但对该经营活动（如生产、销售等活动）的控制却在境外实施、且股东大会或董事会也在境外召开，同时其所有重要事务的执行和控制均在境外，则该公司不被视为马来西亚税收居民。
3. 在马来西亚境内任命董事或董事会不是其税收居民身份的决定性因素。若实施上述“控制”权力的董事

位于公司的海外总部，则该公司不视为马来西亚税收居民。

4. 董事的权力决定了其有权对公司进行管理，即董事依据公司章程赋予的权力来管理公司；而股东通过使用股东大会的投票权来行使相关权力，不参与公司的实际经营，因此不属于上述“管理和控制”的范畴。
5. 董事自身的税收居民身份与公司的税收居民身份无关。

#### 信托的税收居民身份

根据税法第 61（3）节的规定，仅当信托的受托人在某一纳税评估年度为马来西亚税收居民时，该信托视为该纳税评估年度的马来西亚税收居民。但是，符合以下条件的信托不视为马来西亚税收居民：

1. 信托由外国个人或实体在境外注册成立；
2. 信托一个纳税评估年度内的全部收入均来自境外；
3. 信托的管理位于马来西亚境外；
4. 信托中至少一半的受托人不是马来西亚税收居民。

#### 税收居民身份的延续

根据税法第 8（2）节的规定，公司一旦被马来西亚税务局认定为马来西亚税收居民，除非能提供非居民的佐证，否则仍自认定之日起将持续被视为马来西亚税收居民。

#### 双重税收居民身份以及避免双重征税的协定

马来西亚与一些税收管辖区签订了避免重复征税的协定，通过与协定伙伴重新划分双边收入的征税权利以避免双重征税的问题。

在一个纳税基本年度内是一国税收居民的个人，也可能是另一国的税收居民。当个人同时是两个协定缔约国的税收居民时，避免双重征税协定中通常包含关于税收居民判定的加比规则，从而使该个人一般仅被认定为一个税收管辖区的税收居民。

马来西亚避免双重征税协定中关于税收居民的相关条款阐述了居民身份的判定标准以及消除双重税收居民身份的规定。消除双重税收居民身份的规定是指使该个人一般仅被认定为一个税收管辖区的税收居民。在确定纳税义务时，应参照避免双重征税协定的相关规定。然而，马来西亚税收居民身份也适用于执行国内法，以便马来西亚税务机关评估马来西亚税收居民个人的相关应税收入。

#### 公司税收居民身份的证明文件

对于经营和管理控制在马来西亚境外实施但董事会在马来西亚境内召开的公司，下列文件可用于判定公司的税收居民身份：

- 1) 用以确定公司注册地或载有税收居民身份说明的公司章程及备忘录文件；

- 2) 若上述文件中的条款明确公司管理和控制所在地，则客观事实是否与之相符；
- 3) 公司文件的抬头；
- 4) 记载董事会举行地点及有关公司管理和控制决议的董事会会议记录；
- 5) 记载股东大会举行地点及会议内容的股东大会会议记录。

#### 相关的税法规定

- 1) 1967 年颁布的所得税法第 8 章
- 2) 1967 年颁布的所得税法第 61 (3) 节
- 3) “个人税收居民身份认定”，2011 年第 6 号公共条例。

### 三、不视为税收居民的实体

合伙企业的纳税义务由合伙人承担，因此不视为马来西亚税收居民。

### 四、联系方式

Malaysia Competent Authority:

Department of International Taxation

Headquarters of Inland Revenue Board of Malaysia

Level 12, Hasil Tower, Persiaran Rimba Permai

Cyber 8, 63000 Cyberjaya, Selangor,

**MALAYSIA.**

联系电话: (+603) 83138888 分机 21200/ 21202/ 21209



传真: (+603) 8313 7848/ (+603) 8313 7849

电子邮件: [eoimalaysia@hasil.gov.my](mailto:eoimalaysia@hasil.gov.my)

# 马来西亚纳税人识别号编码规则

## 一、纳税人识别号介绍

### 马来西亚所得税编号 (ITN 号码)

马来西亚税务局向在税务局注册的每个纳税人分配唯一的编号，该编号即“Nombor Cukai Pendapatan”或所得税编号。该号码发放给须向税务局申报应税收入的个人或实体。根据纳税人的身份和类别，每一所得税编号都是唯一的。如，个人的号码不同于公司的号码。对于马来西亚税务机关管理的不同税种可以使用同一号码。

申请注册 ITN 号码的纳税人可以根据其所属纳税人类别，通过线上或线下渠道填写登记表完成登记。登记表可以在税务局的官方网页上找到并打印（仅适用于不能进行在线登记的纳税人），或者纳税人可以直接通过税务局位于马来西亚各地的分支机构进行登记。税务局鼓励纳税人通过“e-Daftar”系统进行在线登记。

申请时纳税人须填写登记表并随附相关证明文件。登记表可以由本人亲自递交，或者通过邮寄、传真、电子邮件的方式发送给税务局的分支机构。

登记表包括如下类型：

	类别	登记表类型	证明文件
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1	个人(马来西亚税收居民) (可以线上申请)	CP 600	a. 身份证(新版身份证/现役军人证明/警察证/护照)复印件 b. 营业执照(对于有营业收入的个人)
2	个人(非居民)		a. 护照复印件 b. 营业执照(对于有营业收入的个人)
3	公司	CP 600C	
	私人有限公司 (可以线上申请)		a. 表 9-私人有限公司登记执照 b. 表 49-董事、经理及秘书的个人简历和变动申报表
	有限责任公司		a. 表 8-公司登记执照 b. 表 49-董事、经理及秘书的个人简

			历和变动申报表
	非居民企业		<ul style="list-style-type: none"> <li>a. 表 83-外国公司 登记执照</li> <li>b. 表 79-外国公司 董事简历及其变 动详情申报表</li> </ul>
4	合作社	CP 600CS	<ul style="list-style-type: none"> <li>a. 马来西亚公司委 员会注册表复印 件（注册证明）</li> <li>b. 合作委员会成员 名单</li> </ul>
5	合伙企业	CP 600D	<ul style="list-style-type: none"> <li>a. 马来西亚公司委 员会合伙企业注 册表复印件</li> <li>b. 合伙人名单</li> </ul>
6	雇主 (可以线上申请)	CP 600E	
7	协会	CP 600F	<ul style="list-style-type: none"> <li>a. 注册证明复印件</li> <li>b. 全体委员的名 称、身份证号码 和住所</li> <li>c. 表 8 的复印件</li> </ul>

8	非居民公开演出者	CP 600FA	a. 主办单位/赞助商的介绍信 b. 盖章合同/协议 c. 其他相关文件
9	有限合伙企业	CP 600PT	a. 马来西亚公司委员会有限合伙企业注册表复印件 b. 有限合伙协议复印件
10	信托机构	CP 600TA	信托协议复印件
11	单位信托/财产信托	CP 600TC	
12	商业信托	CP 600TN	
13	房地产投资信托/财产信托基金	CP 600TR	
14	已故人士遗产	CP57	a. 遗嘱认证书复印件 b. 遗产管理委托书
15	Labuan 直辖区实体 (Labuan Entity)	CP 600LE	a. 表 7-经 LFSA 认证的营业执照复印件 b. 备忘录及公司章程复印件

			c. 董事及秘书的简历及变化申报表
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所得税、石油所得税、不动产增值税和印花税等直接税由税务局管理；货物和劳务税以及消费税等间接税由马来西亚皇家海关局 (RMCD) 管理。根据马来西亚政府与外国政府之间的税收协定，马来西亚税务局是信息交换的主管部门，因此在马来西亚境内应使用马来西亚税务局发放的 ITN 号码。

ITN 号码对于纳税人来说是唯一的。ITN 号码的状态可能会发生变化，即定期提交申报表的纳税人为“活跃”状态，无纳税申报义务的纳税人为“非活跃”状态。

#### 是否自动为所有税收居民发放纳税人识别号

个人	否	实体	否
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#### 个人

个人不会自动获得纳税人识别号。纳税人识别号在经个人申请、向税务机关进行税务登记或应雇主要求进行登记时发放。

#### 实体

实体不会自动获得纳税人识别号。纳税人识别号只在实体申请时或向税务机关进行税务登记时发放。

## 二、纳税人识别号编码规则

ITN 号码由最多 12 或 13 位字母或数字组成，是税号类型和所得税编号的组合。

### 个人 ITN 号码示例

税号类型 (2 个字母 (SG 或 OG)) + 空格 + 所得税号码  
(最多 11 位数字)

示例: SG 10234567090 或 OG 25845632021

最后 1 位数字一般是 0 或 1, 代表丈夫或妻子。旧版登记系统中, 配偶双方使用同样的税号; 在税号末尾添加数字“1”作为妻子的代码, 代表其为配偶代码。

新的纳税人自我评定系统自 2004 年开始启用, 上述配偶代码不再使用, 所有新的税号注册申请都采取同样的处理方式。妻子的税号末尾增加数字“0”以区别丈夫的税号。

### 实体 ITN 号码示例

税号类型 (最多 2 个字母) + 空格 + 所得税号码 (最多 10 位数字)

示例: TF 1023456709 或 C 2584563202

2001 年纳税人自我评定系统启用后, 实体的 ITN 号码结构未发生变化。

### 较早版本的 ITN 号码

较早版本的 ITN 号码少于 13 个字符。

较早版本 ITN 示例:

SG 00587682020 or SG 587682020

C 9002512302 or TF 0054356209

	类别	ITN 示例
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1	个人	SG 10234567090 OG 12345678101
3	公司	C 2584563202
	私人有限公司	
	有限责任公司	
	非居民企业	
4	合作社	CS 1234567809
5	合伙企业	D 1234567809
6	雇主	E 9012314501
7	协会	F 1234567809
8	非居民公开演出者	FA 1234567809
9	有限合伙企业	PT 1234567809
10	信托机构	TA 1234567809
11	单位信托/财产信托	TC 1234567809
12	商业信托	TN 1234567809
13	房地产投资信托/财产信托基金	TR 1234567809
14	已故人士遗产	TP 1234567809
15	印度式联合家庭	TJ 1234567810
16	纳闽直辖区实体	LE 1234567801

### 三、如何找到纳税人识别号

纳税人与税务局联系应使用纳税人识别号，在与税务相关的文件或来往信函中一般都能找到纳税人识别号。



#### 四、国内网站信息

更多有关纳税人识别号注册的信息，参见税务局官方网站上的 e-Daftar 页面 <http://www.hasil.gov.my>.

#### 五、联系方式

Malaysia Competent Authority:

Department of International Taxation

Headquarters of Inland Revenue Board of Malaysia

Level 12, Hasil Tower, Persiaran Rimba Permai

Cyber 8, 63000 Cyberjaya, Selangor,

MALAYSIA.

联系电话: (+603) 83138888 分机 21200/ 21202/ 21209

传真: (+603) 8313 7848/ (+603) 8313 7849

电子邮件: [eoimalaysia@hasil.gov.my](mailto:eoimalaysia@hasil.gov.my)

资料来源：

马来西亚税收居民身份认定规则：

<http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/tax-residency/Malaysia-Residency.pdf>

马来西亚纳税人识别号编码规则：

<http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/tax-identification-numbers/Malaysia-TIN.pdf>

## **Malaysia - Information on residency for tax purposes**

### **Section I - Criteria for Individuals to be considered a tax resident**

Resident Individuals is defined as an individual resident in Malaysia for the basis year for a Year of Assessment (YA) as determined under Section 7 and subsection 7(1B) of the Act. Non-resident Individual means an individual other than a resident individual. The resident status of an individual will determine whether such individual is liable to Malaysian income tax. The table below will illustrate the basic distinction between a resident and non-resident individual.

In order for a non-U.S. citizen (alien individual) to be treated as a resident alien, he or she must satisfy either the “green card test” or the substantial presence test. The U.S. residence tests are generally applied on an annual calendar year basis.

#### **Determination of Residence Status**

Generally, residence status for tax purposes is determined based on the number of physical presence (182 days or more) of that individual in Malaysia in a basis period for a year of assessment and not by his nationality or citizenship.

If an individual resides in Malaysia permanently, the question of determining his residence status would not arise. However, citizens of Malaysia are not automatically tax residents. The rules governing the determination of residence status will still apply.

An individual is considered to be physically present in Malaysia for a whole day although he is present in Malaysia for part(s) of a day.

#### **Circumstances Determining Residence Status**

Section 7 of the Act sets down 4 circumstances of which an individual can qualify as a tax resident in Malaysia for the basis year for a year of assessment:

- 1) The individual is in Malaysia for 182 days or more in a basis year.
- 2) The individual is in Malaysia for less than 182 days in a basis year.
- 3) The individual is in Malaysia for 90 days or more in a basis year.
- 4) The individual is not in Malaysia or in Malaysia for a period of less than 90 days in the basis year.

#### **Dual Residence Status And Agreement For The Avoidance Of Double Taxation**

Malaysia has entered into agreements with a number of countries that avoid double taxation by allocating taxing rights over bilateral income flows between the respective treaty partners.

An individual who is a resident in one of the countries for a basis year may also be a

resident of that other country for purposes of a double tax agreement. Where an individual is a resident of both countries, the avoidance of double tax agreements (DTA) generally contain certain tie breaker tests to establish residence solely in one of the countries for purposes of the agreement.

Article dealing with residence in Malaysia's DTA states the test for residence and the tie breaker for dual residence. The tie breaker test provides that a dual resident be treated solely as a resident of the treaty partner country for purposes of the agreement. The terms of the relevant DTA should be referred to when determining tax liability. However, Malaysian resident status is still applicable for purposes of the general application of the domestic law, so that the individual's income remains assessable to Malaysian tax.

### **Relevant tax provisions:**

- 1) Section 7 of the Income Tax Act 1967 (ITA 1967)
- 2) Subsection 7(1B) of the Income Tax Act 1967 (ITA 1967)
- 3) Residence Status of Individuals, Public Ruling No. 6/2011

## **Section II - Criteria for Entities to be considered a tax resident**

In Malaysia, entities may refer to the following:

- 1) "Body of persons" means an unincorporated body of persons (not being a company), including a co-operative society, a club, an association, a trust and a Hindu Joint Family but excluding a partnership.
- 2) "Non-resident" means other than a resident in Malaysia by virtue of section 8 and subsection 61(3) of the ITA 1967.
- 3) "Hindu Joint Family" means what in any system of law prevailing in India is known as a Hindu Joint Family or coparcenary.
- 4) "Person" includes a company, a body of persons and a corporation sole.
- 5) "Resident" means resident in Malaysia by virtue of section 8 and subsection 61(3) of the ITA 1967.
- 6) "Company" means a body corporate and includes any body of persons established with a separate legal entity by or under the laws of a territory outside Malaysia. Residence status is a question of fact and it is one of the main criteria that determines the tax treatment and tax consequences of a company or body of persons. A resident and a non-resident company in Malaysia is taxed in the same manner in respect of any gains or profits accrued in or derived from Malaysia.

## **Determination Of Residence Status Of Companies Or Bodies Of Persons**

### **1. Residence status of a Hindu Joint Family**

Pursuant to paragraph 8(1)(a) of the ITA 1967, a Hindu Joint Family is resident in Malaysia for the basis year for a year of assessment if the manager or karta is resident

for that basis year. As such, if the manager or karta is a non-resident, the Hindu Joint Family is deemed a non-resident in Malaysia.

## 2. Companies or bodies of persons carrying on a business

Pursuant to paragraph 8(1)(b) of the ITA 1967, a company or a body of persons (not being a Hindu Joint Family) carrying on a trade or business is resident in Malaysia for the basis year for a year of assessment if at any time during the basis year the management and control of its business or of any one of its businesses are exercised in Malaysia.

## 3. Any other company or body of persons

Pursuant to paragraph 8(1)(c) of the ITA 1967, any other company or body of persons (not being a Hindu Joint Family) is resident in Malaysia for the basis year for a year of assessment if at any time during the basis year the management and control of its affairs are exercised in Malaysia by its directors or other controlling authority such as a board of management / directors. As for investment holding companies, the management and control of its affairs includes the management and important decisions in respect of investments.

## 4. Residence status of a subsidiary or a branch of a foreign company in Malaysia

Foreign corporations normally extend their business activities to Malaysia by incorporating a subsidiary in Malaysia or registering a branch in Malaysia. The residence status of subsidiaries of foreign corporations would be determined by paragraphs 8(1)(b) and 8(1)(c) of the ITA 1967. Branches of foreign corporations in Malaysia are generally treated as non-residents in Malaysia unless it can be established that the management and control of its affairs or of its businesses or of any one of its businesses is exercised in Malaysia.

### **Defining Management and control**

1. Management and control is the key factor used to ascertain the residence status of a company in Malaysia. The management and control refers to the controlling authority which determines the policies to be followed by the company. The management and control is considered to be exercised where the directors meet to conduct the company's business / affairs irrespective of where the company might be incorporated. The management and control of a business of a company would depend upon how the business is managed. If, at any time during the basis year for a year of assessment at least one meeting of the board of directors is held in Malaysia concerning the management and control of the company, even though all other meetings are held outside Malaysia, then the company is resident in Malaysia for that basis year.

2. The location of the trading activities or the place of physical operations may not necessarily be the place of management and control. A company engaged in trading activities in Malaysia will not be resident in Malaysia if it is found that not only the trading activities, e.g. manufacturing or producing and selling are controlled abroad but also that the meetings of the shareholders and directors, at which all its important affairs are conducted and controlled, are also held abroad.

3. The appointment of a local director or local board of directors in Malaysia does not determine the residence status of a company. If the controlling authority is exercised by the directors who are at the company's head office overseas, then the company is not a resident in Malaysia.

4. Control by the directors determines the management and control of a company. The directors exercise their powers in the management of the company's affairs by virtue of the powers conferred upon them under the Articles of Association. On the other hand, control by the shareholders is not relevant for the determination of the management and control as share-holders exercise their power over the company by virtue of their voting power at formal meetings of shareholders.

5. The residence status of a director does not determine the residence status of a company.

### **Residence status of trust bodies**

Pursuant to subsection 61(3) of the ITA 1967, a trust body is deemed a resident in Malaysia for the basis year for a year of assessment only if any trustee of the trust is a resident in that basis year. However, a trust body will not be regarded as a resident if:

1. the trust was created outside Malaysia by a person or persons who were not citizens;
2. the income of that trust body for that basis year is wholly derived from outside Malaysia;
3. the trust is administered for the whole of that basis year outside Malaysia; and
4. at least one-half of the number of the member trustees are not resident in Malaysia for that basis year.

### **Residence Status To Continue Once Established**

Pursuant to subsection 8(2) of the ITA 1967, when it has been established by the Director General of the Inland Revenue Board Malaysia that a company is resident in Malaysia for a given year of assessment, that company is considered a resident in Malaysia for each subsequent year of assessment until the contrary is proved.

## **Dual Residence Status And Agreements For The Avoidance Of Double Taxation (DTA)**

Malaysia has entered into agreements with a number of countries that avoid double taxation by allocating taxing rights over bilateral income flows between the respective treaty partners.

Dual residence is avoided between Malaysia and countries with which Malaysia has tax treaties. These treaties provide a tie-breaker residence article to determine a single country of residence. The provision of the tie breaker varies from treaty to treaty.

The Article on residence in the DTA states the test for residence and the tie breaker for dual residence. The tie breaker test in an agreement provides that a dual resident be treated solely as a resident of the treaty partner country for purposes of the agreement. The terms of the relevant DTA should be referred to when determining tax liability. However, Malaysian resident status is still applicable for purposes of the general application of the domestic law, so that the income of companies and bodies of persons remain assessable to Malaysian tax.

### **Required Documentation To Determine The Residence Status Of a Company**

When trading and management and control are exercised outside Malaysia but certain directors' meetings are held in Malaysia, the following documentation may assist to determine the company's residence status:

- 1) Articles and Memorandum of Association to ascertain where the company is registered and whether or not there are any provisions regarding residence in the articles;
- 2) if the articles do give a place of management and control, whether the articles are being implemented;
- 3) the company's letter head;
- 4) minutes of directors' meetings that indicates where the meetings were held and what decisions relating to management and control were taken; and
- 5) minutes of general meetings that shows where such meetings have been held and what transpired at these meetings.

### **Relevant tax provisions:**

- 1) Section 8 of the Income Tax Act 1967 (ITA 1967)
- 2) Subsection 61(3) of the Income Tax Act 1967 (ITA 1967)
- 3) Residence Status of Individuals, Public Ruling No. 6/2011

### **Section III - Entity types that are as a rule not considered tax residents**

Partnerships are not considered tax residents because the tax liability is assessed on the income of the members of the partnership.

#### **Section IV - Contact point for further information**

Malaysia Competent Authority:

Department of International Taxation

Headquarters of Inland Revenue Board of Malaysia

Level 12, Hasil Tower, Persiaran Rimba Permai

Cyber 8, 63000 Cyberjaya, Selangor,

MALAYSIA.

Telephone (+603) 83138888 Ext 21200/ 21202/ 21209

Fax : (+603) 8313 7848/ (+603) 8313 7849

Email : [eoimalaysia@hasil.gov.my](mailto:eoimalaysia@hasil.gov.my)



## Malaysia - Information on Tax Identification Numbers

### Section I – TIN Description

#### Malaysian Income Tax Number (ITN)

The Inland Revenue Board of Malaysia (IRBM) assigns a unique number to persons registered with the Board. This unique number is known as “Nombor Cukai Pendapatan” or Income Tax Number. This number is issued to persons who are required to report their income for assessment to the Director General of Inland Revenue. Each number will be unique according to the identity and nature of the tax payer. For example an individual’s number is different from a company’s number. However, the same number will be used for different taxes that are under the supervision of the Board.

The tax payer who wishes to register for ITN can do so by filling up forms online or via paper channels using registration form according to the respective category. The registration form can be printed out from IRBM’s webpage (only for the category that cannot be made via online) or the tax payer can deal directly at IRBM’s branches located throughout Malaysia. However, tax payers are encourage to register online through the “e-Daftar” system.

The registration form should be filled up and accompanied by related supporting documents. Registration form can be hand delivered at IRBM’s branches or by postal/ fax/ emailed to nearest IRBM’s branches.

The forms used for registrations are:

	Category	Registration Form Type	Supporting Documents
1	Individual (Resident) (Online form available)	CP 600	a. Copy of Identification Card (New Identity Card / Army / Police / Passport) AND b. Business Registration Certificate (for individual with business income)
2	Individual (Non-Resident)		a. Copy of Passport AND b. Business Registration Certificate (for individual with business income)

3	Company	CP 600C	
	Pte. Ltd. Company (Online form available)		a. Form 9 – Certificate of incorporation of private company b. Form 49 – Return giving particulars in register of directors, managers and secretaries and changes of particulars
	Limited Company		a. Form 8 – Certificate of incorporation of public company b. Form 49 – Return giving particulars in register of directors, managers and secretaries and changes of particulars
	Non-Resident Company		a. Form 83 – Certificate of Registration of foreign company b. Form 79 – Return by foreign company giving particulars of directors and changes of particulars
4	Cooperative Society	CP 600CS	a. Copy of registration form from Companies Commission of Malaysia (certificate of registration) b. List of cooperative committee members
5	Partnership	CP 600D	a. Copy of partnership registration letter from Companies Commission of Malaysia b. List of partners
6	Employer (Online form available)	CP 600E	-

7	Association	CP 600F	<p>a. Copy of Registration Certificate</p> <p>b. List consist of the committee names, Identification Number and Residence Address.</p> <p>c. Copy of Form 8</p>
8	Non-Resident Public Entertainer	CP 600FA	<p>a. Organiser's/ Sponsor's cover letter</p> <p>b. Stamped Contract/ Agreement</p> <p>c. Other pertaining document(s)</p>
9	Limited Liability Partnership	CP 600PT	<p>a. Copy of Limited Liability Partnership's registration letter from Companies Commission of Malaysia.</p> <p>b. Copy of Limited Liability Partnership Agreement.</p>
10	Trust Body	CP 600TA	Copy of the trust deed
11	Unit Trust/ Property Trust	CP 600TC	
12	Business Trust	CP 600TN	
13	Real Estate Investment Trust/Property Trust Fund	CP 600TR	
14	Deceased Person's Estate	CP57	<p>a. Copy of Grant of Probate</p> <p>b. The appointment letter of administer of estate</p>
15	Labuan Entity	CP 600LE	<p>a. Form 7 – Certified true copy of the Certification of Incorporation by LFSA</p> <p>b. Certified true copy of the Memorandum and Articles of Association</p> <p>c. Return of particulars and changes of Directors &amp; Secretaries</p>

Direct taxes such as Income Tax, Petroleum Income Tax, Real Property Gains Tax and Stamp Duty are under the administration of IRBM. Indirect taxes such as Goods and Services Tax and Excise Tax are under the administration of the Royal Malaysian Customs Department (RMCD). Jurisdictions should use the ITNs of the IRBM as the IRBM is the Competent Authority for Exchange of Information purposes under the tax treaty arrangements between the government of Malaysia and foreign governments.

The ITN is unique to a person and is not assigned to another person. The only change to the ITN is the status of the file. Tax payers who regularly submit returns are active tax payers while Tax payers who have no income to report would be inactive files.

### **Automatic issuance of TINs to all residents for tax purposes:**

#### **Individual: No**

If no, instances where individuals are not being automatically issued a TIN are:

Individuals are not automatically issued with TIN. Tin is only issued either on request, on registration exercise by the tax authority or on employment when their employer request for their registration.

#### **Entities (as defined by the CRS): No**

If no, instances where Entities are not being automatically issued a TIN are:

( Entities are not automatically issued a TIN. Registration on request or by registration exercise by the tax authority )

### **Section II – TIN Structure**

The ITN consist of maximum twelve or thirteen alphanumeric character with a combination of the Type of File Number and the Income Tax Number.

The ITN is stored as twelve or thirteen alphanumeric characters on internal system but is displayed on correspondence as XX XXXXXXXXXXXXX.

#### **Example For Individual File Number:**

Type of File Number (2 alphabets characters (SG or OG)) + space + Income Tax Number

(maximum 11 numeric characters)

Example : SG 10234567090 or OG 25845632021

For individual ITN, the end number can be either 0 or 1 which indicates the husband or wife. The old registration system register the wife with the same file number as the husband; adding number “1” at the end of the file number as the wife code to indicate that it’s a spouse file.

With the new Self Assessment System starting from 2004, the wife code formatting has not been used anymore and all new file registration applications have been treated the same. The wives will have a different file number from the husbands plus code “0” at the end of their new file number.

**Example For Non-Individual File Number:**

Type of File Number(maximum 2 alphabets characters) + space + Income Tax Number  
(maximum 10 numeric characters)  
Example : TF 1023456709 or C 2584563202

The structure of ITN for Non-Individual files has been the same since 2001 since the Self-Assessment System for companies started.

**The earlier version of ITN** is presented differently due to lesser characters in its structure which is lesser than 13 numeric characters. Sometimes these files are presented with leading “0” in front of the Tax File Number and sometimes it is not.

**Example For Earlier Version of ITN:**

SG 00587682020 or SG 587682020  
C 9002512302 or TF 0054356209

	Category	ITN Example
1	Individual	SG 10234567090 OG 12345678101
3	Company	C 2584563202
	Pte. Ltd. Company	
	Limited Company	
	Non-Resident Company	
4	Cooperative Society	CS 1234567809
5	Partnership	D 1234567809
6	Employer	E 9012314501
7	Association	F 1234567809
8	Non-Resident Public Entertainer	FA 1234567809
9	Limited Liability Partnership	PT 1234567809
10	Trust Body	TA 1234567809
11	Unit Trust/ Property Trust	TC 1234567809
12	Business Trust	TN 1234567809
13	Real Estate Investment Trust/ Property Trust Fund	TR 1234567809
14	Deceased Person’s Estate	TP 1234567809
15	Hindu Joint Family	TJ 1234567810
16	Labuan Entity	LE 1234567801

### **Section III – Where to find TINs**

The tax payer should always refer to their TIN when communicating with IRBM. We can find the TIN number in any documents or correspondences which relates to tax matters of the tax payer.

### **Section IV – TIN information on the domestic website**

For more information on TIN registration please visit the e-Daftar page on IRBM's Official website

<http://www.hasil.gov.my>

### **Section V – Contact point for further information**

Malaysia Competent Authority:  
Department of International Taxation  
Headquarters of Inland Revenue Board of Malaysia  
Level 12, Hasil Tower, Persiaran Rimba Permai  
Cyber 8, 63000 Cyberjaya, Selangor,  
MALAYSIA.

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