



Asean Mobility Spotlight

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EY

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working world

Executive summary

Over the past two years, the COVID-19 pandemic has transformed the way we work, creating a catalyst for business and employees to embrace remote working with the use of technology, leading to a reduction cross-border business travels and assignments. While businesses have begun working towards returning to office and cross-border travels, they have largely been restricted with fluctuations in the daily case in various jurisdictions and have emergence of new, mutated species of the virus to the office. Cross-border travel policies and regulations set out by respective governments have been regularly disrupted, and these in turn require businesses to react and work through the disruptions and new changes in regulations.

As a consequence of travel restrictions, allowing remote working has been a strategy and a necessity applied by businesses to ensure the continuity in the operations, particularly as many individuals were and continue to be stranded during the pandemic, either not being able to leave their home country or enter the country of employment. This creates potential cross-border taxation issues for both the employee and the business as a result of employees working in their home countries.

In response to the disruptions caused by the pandemic, governments have introduced various support measures, through cash aids and tax reliefs aimed at supporting businesses heavily disrupted by the pandemic, while also supporting the recovery of businesses. In addition, tax concessions have also been granted by the governments to individuals working remotely in their home country due to travel restrictions. The tax concessions provided by the governments were largely guided by the Organization for Economic Co-operation and Development (OECD), which provides guidelines on the application of the tax concessions available for the stranded employees.

In this edition of the Asean Mobility Spotlight, we highlight the measures introduced by governments in the Asean region to support businesses and employees through the pandemic as well as provide guidance to the required year-end reporting obligations applicable for selected Asean jurisdictions.

Indonesia



COVID-19 support measures for mobile employees

The government has granted tax exemption from April 2020 until December 2021 for employees working in specific sectors whose gross income from salary and wages does not exceed IDR200 million for the year. The particular sectors are agriculture, nursery, plantation, forest exploitation, fish cultivation, mining, specific industry, specific service, construction, particular trading, transportation, hotel, apartment, catering, insurance, education services, tourist industry, among others.

Year-end reporting reminders

There is no extension for the annual individual tax filing so far. The annual tax return should be filed by 31 March of the following year. Any tax payable should be settled before the tax return is filed.

Notable points for mobile employees working in Indonesia:

- ▶ The Indonesia tax residency status will cease if the employee leaves Indonesia permanently or passes away. For expatriates, leaving Indonesia permanently is usually indicated by cancelling their work and stay permit. For those who return to their home country, their Indonesia tax residency status may not change if their work permit and stay permit are valid.
- ▶ If the compensation is still paid or borne by an Indonesian entity, the income could still be considered Indonesian-sourced income. It will be subject to employee withholding tax in Indonesia, even though the employee is working in his home country (or another foreign country). This results in potential double

taxation if the foreign tax credit is not allowable in the overseas jurisdiction.

Notable points for Indonesian citizen individuals:

- ▶ If Indonesian citizen individuals return to Indonesia and continue working for an overseas entity, compensation paid by an overseas entity will be liable for Indonesia tax if they are considered Indonesian tax residents. Any tax paid overseas can be claimed as foreign tax credit with certain limitations.
- ▶ If the individuals are still working overseas and are qualified as non-resident taxpayers in Indonesia, they need to obtain a certificate of tax non-resident from the Indonesia tax authorities to be taxed on Indonesian sourced income only. This certificate should be obtained before they submit the non-resident tax return.



Malaysia

COVID-19 support measures for mobile employees

Since the implementation of the Movement Control Order (MCO), which came into effect on 18 March 2020 to date, the Malaysian Inland Revenue Board (MIRB) has introduced various support measures, such as conditional tax concessions, to address situations arising from the COVID-19 pandemic that impact facets of global mobility due to restricted travel impact.

► Tax concession for cross-border employment income situations due to COVID-19 travel restrictions

Where the individual is a cross-border commuter employed overseas that can no longer commute across countries due to COVID-19 travel restrictions and has a temporary work arrangement to exercise the overseas employment in Malaysia, the employment income is deemed not to be derived from Malaysia nor subject to tax in Malaysia provided all conditions to this scenario are met.

Where a non-resident individual was either present in Malaysia due to a company assignment or vacation before being stranded in Malaysia due to COVID-19 travel restrictions, the exercise of employment in Malaysia during the temporary presence is not considered to be exercised in Malaysia. Hence, income derived from the temporary exercise of employment in Malaysia is not subject to tax in Malaysia, provided all conditions of these scenarios are met.

Where a non-resident individual was offered employment in Malaysia during MCO but had to initially exercise said employment overseas because they are unable to enter Malaysia to commence the employment, the period of an employment exercised overseas will not be considered exercised in Malaysia, and hence, not subject to tax in Malaysia.

If any of the qualifying conditions for the abovementioned scenarios is not met, the tax concessions will not apply. Instead, domestic tax

legislation in Malaysia will be used to determine the taxability of the employment income derived from work performed in Malaysia. Under such circumstances, an individual may consider exploring options to mitigate double taxation exposure, such as tax treaty exemption subject to further conditions, supporting documents, and a filing of a Malaysian tax return.

► Tax residence status impacted by COVID-19 travel restrictions

The absence of an individual from Malaysia due to COVID-19 travel restrictions will not affect the tax residence status. The period of temporary absence in Malaysia shall be taken to form part of their period of presence in Malaysia.

Similarly, for an individual who is a non-resident in Malaysia, their period of temporary presence in Malaysia due to COVID-19 travel restrictions shall not form part of their presence in Malaysia.

► Discontinuation of tax concession granted due to COVID-19 travel restrictions

In line with the easing of global travel restrictions, the MIRB has announced on 28 December 2021 that the abovementioned tax concession treatments will be discontinued after 31 December 2021. Impacted taxpayers should take note as domestic tax legislation in Malaysia will apply after 31 December 2021.

Year-end reporting reminders

As the tax filing season approaches for the year of assessment 2021, the key statutory deadlines for employers to take note of include the issuance of the Statement of Remuneration from Employment (Form EA) to the employees by 28 February 2022 and the submission of the Return of Employer (Form E) by 31 March 2022.

Non-business and business individuals are reminded to file the income tax return by 30 April 2022 and 30 June 2022 respectively.



Philippines

COVID-19 support measures for mobile employees

As many countries were forced to close borders to contain the spread of COVID-19, many individuals could not return to their home country or place of employment. Thus, they were forced to work remotely outside of their countries of employment resulting in cross-border tax issues.

To address these, the Bureau of Internal Revenue (BIR) issued Revenue Memorandum Circular (RMC) 83-2020 on 17 August 2020 to provide guidance on the Philippine tax consequences, if any, to foreign nationals stranded in the country due to travel restrictions related to the pandemic and thus, find themselves working remotely from the Philippines. Under the RMC, compensation received by foreign nationals and Filipinos who are unable to return to their country of employment due to a travel ban imposed by the Philippines and the government of employment may not be considered as earned from Philippine sources, thus, exempt from Philippine tax. However, since a claim for tax exemption is construed against the taxpayer, the impacted individual must submit certain documents to the BIR to prove that his continued stay in the Philippines is not intentional but primarily due to the travel restrictions imposed by his country of employment and the lockdowns in the Philippines.

Year-end reporting reminders

The BIR has not announced any changes to the deadlines for submitting annual employer reports. Thus, the deadline for filing the

Annual Information Return of Income Taxes Withheld on Compensation and Final Withholding Taxes (BIR Form Nos. 1604-C and 1604-F) includes the submission of the Annual Alphabetical List of Employees is on 31 January following the close of the taxable year. Furthermore, the following reports are required to be filed as follows:

- ▶ BIR Form No. 2316 - Certificate of Compensation Payment/Tax Withheld for Compensation Payment with or without Tax Withheld (for employees): due on 31 January
- ▶ Certified List of Employees Qualified for Substituted Filing of ITR with copies of Form 2316: due on or before 28 February
- ▶ BIR Form No. 2306 - Certificate of Final Tax Withheld at Source (for payees): due on or before 31 January

The updated version of the Alphalist Data Entry and Validation Module (Version 7.0), together with its Updated File Structures, Standard File Naming Convention and Job Aids, are now available for use and can be downloaded from www.bir.gov.ph (RMC No. 07-2021, 8 January 2021).

The BIR, in its RMC No. 117-2021 (24 November 2021) clarified its requirements in relation to the submission of soft copies of the Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) and Certificate of Compensation Payment/Tax Withheld for Compensation Payment With or Without Tax Withheld (BIR Form No. 2316) using the Digital Versatile Disk-Recordable (DVD-R).



Singapore

COVID-19 support measures for mobile employees

With Singapore now embarking on the endemic COVID-19 road map, the Inland Revenue Authority of Singapore (IRAS) and CPF Board have reviewed their support measures in 2021 and reduced the extent of support measures offered following the gradual reopening of borders.

- ▶ **Tax support measures for Singaporean or Singapore Permanent Resident (SPR) employees exercising overseas employment and working remotely in Singapore for their overseas employer**

At the height of the COVID-19 in 2020 with travel restrictions and border closures, the IRAS and the CPF Board have allowed for the days in which Singaporean and SPR employees spent working remotely in Singapore for their overseas employer, not to be considered as “employment days” in Singapore. Hence, these employees are not subject to tax and CPF contributions are not required for the period from the date of return to Singapore in 2020 up to 30 June 2021, provided that certain conditions are met.

From 1 July 2021, if the employees are still working remotely in Singapore, income attributable to the period spent working in Singapore will be taxable and reportable by the overseas employer. Similarly, CPF contributions are mandatory and payable by both the employees and their overseas employers, including employees under an arrangement whereby the continuation of the remote working is agreed with the overseas employer. However, the authorities may be willing to consider extending the exemption beyond 30 June 2021 for any affected employees who continue to be

stranded in Singapore due to COVID-19 travel

restrictions on a case-by-case basis based on their specific circumstances. A written request to the authorities is required in this regard.

- ▶ **Tax residency for Singaporean or SPR employees working remotely in Singapore for their overseas employer**

An employee who qualifies for tax residency under the 183-day test in a calendar year will not have his/her tax residency status impacted even if he/she qualifies for the COVID-19 tax exemption from 1 January 2021 to 30 June 2021. This period will be included in the 183-day count for tax residency purposes.

- ▶ **Tax measures for non-resident foreigners who are on assignment in Singapore and are unable to leave Singapore after the end of the Singapore assignment due to COVID-19**

The tax exemption of up to S\$75/\$50 on benefits (i.e., accommodation, food, transport, and daily necessities) provided to employees whose work has been impacted by the COVID-19 pandemic have lapsed on 1 January 2021. The full value of these benefits provided on or after 1 January 2021 will be subject to tax.

- ▶ **Tax exemption of employment benefits for accommodation, food, transport and daily necessities**

The tax exemption of up to S\$75/\$50 on the above benefits provided to employees whose work has been impacted by COVID-19 have lapsed on 1 January 2021. The full value of these benefits provided on or after 1 January 2021 will be subject to tax.



Singapore (cont.)

Year-end reporting reminders

Employers will need to take note of these changes in the upcoming filing of Form IR8A/IR8E (Return of Employee's Remuneration) for the calendar year 2021, which is due on 1 March 2022.

Employers who have Singaporean/SPR employees working remotely in Singapore for overseas companies due to the COVID-19 situation should review their mobility policy/employment terms in line with the updated COVID-19 measures to ensure that their documentations for the affected employees are sufficient to meet the conditions to qualify for the tax and CPF exemptions, where applicable.

With the updates pertaining to an employee's period of stay in Singapore beyond 30 June 2021, there may be double taxation exposure if the employee is liable for taxes in Singapore and an overseas jurisdiction. The company and the employee will need to be made aware of the exposure and explore other alternatives to mitigate such double taxation.

Lastly, for any new benefit plans rolled out in 2021 to support employees in the current climate, employers should ensure that the tax and CPF treatment of these benefits have been reviewed and compliance obligations are met.



Thailand

COVID-19 support measures for mobile employees

In mid-2021, increasing COVID-19 cases and deaths have led Thailand to implement lockdown measures. The restrictions impacted economic activities and the authorities have announced measures to support the individuals and businesses during the COVID-19 outbreak as follows:

- ▶ **Tax deductions for individual personal income tax on donations made to resolve COVID-19 pandemic**

Tax deductions equal to the actual amount of donations made via the e-donation system to the Office of the Permanent Secretary, Prime Minister's Office to support the fight against the COVID-19 pandemic.

In addition, to promote donations, the actual amount of donations made to the Government Hospitals and Schools and Siriraj Foundation, and Chulabhorn Foundation, taxpayers will be eligible for a tax deduction, equal to twice times of the donations. However, the total donation may not exceed 10% of net assessable income when combined with other donation expenses.

- ▶ **"Shop Dee Mee Kuen" (Domestic purchase of goods and services)**

Purchase of goods and services from 1 January 2022 to 15 February 2022 from VAT registration seller, OTOP registration seller, in Thailand only, including purchase of book or e-book, actual amount paid but capped at THB30,000 is eligible for deduction for personal income tax calculation purpose for the tax year 2022.

Except: fuel, alcoholic beverages, tobacco, car, motorbike, boat, magazine, newspaper, accommodation service, tour package, and air ticket

Year-end reporting reminders

The individual taxpayer is liable to file the Annual Personal Income Tax return and make the outstanding tax payment to the Revenue Department within the end of March following the taxable year. As of December 2021, there is no extension deadline of tax filing for the tax year 2021 announced by the Revenue Department. The tax filing deadline will be unchanged on 31 March 2022.



Vietnam

COVID-19 support measures for mobile employees

The Vietnam government has granted support measures to businesses and individuals in order to help them deal with the effects of COVID-19 in 2021. These measures, however, are likely targeted more at businesses and local employees than mobile employees, including one-off financial support, postponing social securities contributions, reducing social securities contribution and so on.

As a result of the absence of specific support measures for mobile employees, there will be double taxation exposures or additional administrative burden associated with tax filing/compliance that both the employer and employee should be fully aware of.

Year-end reporting reminders

Companies are required to file the employer's final return by 31 March 2022; whereas individuals must file their final returns by 30 April 2022 for 2021 year-end reporting, without any extension so far.

Any outstanding tax liabilities arising from the finalization should also be settled by the filing due date.

Notable points for mobile employees working in Vietnam:

- ▶ The Vietnam tax residency status will be based on number of physical days presenting in Vietnam (e.g., from 183 days in a tax year) or a permanent residential place in Vietnam (e.g., leased term from 183 days in a tax year). In case the employee spends less than 183 days but has a lease house with term of more than 182 days in a tax year, a Tax Residency Certificate in another country could help determine their Vietnam residency status.
- ▶ If the employees have commenced their Vietnam assignment date but not physically relocated to Vietnam and they are still paid from the home country, there may be double taxation exposure as they may be liable for taxes in both Vietnam and the home country. Same implication will apply if the employees remain in Vietnam and cannot relocate to new location when new assignment starts. The company and the employees will need to be made aware of the exposure and explore other alternatives to mitigate such double taxation.

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