

# A6 PETROLEUM INCOME TAX

A6.1

## IMPLEMENTATION OF ELECTRONIC INVOICE

### Existing Legislation

Presently, there is no requirement for persons under the scope of Petroleum (Income Tax) Act 1967 to issue electronic invoice (e-invoice).

### Proposed Legislation

It is proposed that persons under the scope of Petroleum (Income Tax) Act 1967 shall issue e-Invoice for each transaction in respect of any goods sold or services performed from petroleum operations in that year of assessment. The conditions and specifications under which an e-invoice is to be issued shall be as determined by the Director General of Inland Revenue (DGIR) under the guidelines issued.

The provisions of the Personal Data Protection Act 2010 shall not apply to any personal data processed for e-invoice issued or transmitted to the DGIR.

The Director General of Customs and Excise (or to the public officers under his direction and control) are given access to e-invoice issued or transmitted as is necessary or expedient for the exercise of his function.

Failure to issue e-invoice would result in a fine of not less than RM200 and not exceeding RM20,000 or to imprisonment for a term not exceeding 6 months or both, upon conviction.

### Reference

Section 2, new Section 34B, new Section 57B and Section 71 of the Petroleum (Income Tax) Act 1967.

### Effective Date

1 January 2024 onwards.

### Likely Tax Effects and Implications

Entities that are carrying on petroleum operations in Malaysia are also in scope for the e-invoice initiative, slated to be implemented in phases starting from 1 August 2024.

A6.2

## REDEFINITION OF SECONDARY RECOVERY

### Existing Legislation

Presently, the definition of “secondary recovery” in Section 2 of the Petroleum (Income Tax) Act 1967 means a project which has as its object the production of quantities of hydrocarbons by the application of external energy to the underground reservoir for the purpose of additional and accelerated recovery of those hydrocarbons which is carried out subsequent to the earlier recovery process.

Under secondary recovery method, a chargeable person is eligible for accelerated capital allowance on qualifying plant expenditure (initial allowance 40%, annual allowance 20%) and qualifying building expenditure (initial allowance 20%, annual allowance 3%).

## Proposed Legislation

It is proposed that the definition of “secondary recovery” is redefined as a method or process which has as its object the production of quantities of hydrocarbons by the application of external energy to the underground reservoir which is carried out:

1. subsequent to the earlier recovery process for the purposes of additional and accelerated recovery of those hydrocarbons; or
2. for the initial recovery or extraction of those hydrocarbons.

## Reference

Section 2 of the Petroleum (Income Tax) Act 1967.

## Effective Date

From the year of assessment 2024.

## Likely Tax Effects and Implications

This proposal will allow accelerated capital allowances to be claimed on qualifying capital expenditure and qualifying building expenditure for secondary recovery methods, even without going through primary recovery methods.

A6.3

## INTERPRETATION AND DETERMINATION OF INCOME FOR CONTIGUOUS PETROLEUM AGREEMENT AREAS

### Existing Legislation

Presently, a partnership that carries on petroleum operations under two or more petroleum agreements that are contiguous, the petroleum operations in those areas of operation are treated to be carried out under one petroleum agreement. There is no requirement for approval to be obtained from the DGIR but this is generally obtained in practice for administrative purposes.

### Proposed Legislation

It is proposed that areas under petroleum agreements shall be treated as contiguous under subsection 2(4)(a)(i) of the Petroleum (Income Tax) Act 1967 if all the members of the partnership are the same original parties to those petroleum agreements and approved by the DGIR. It is also proposed that contiguity will remain as long as the partnership is succeeded in accordance with subsection 2(3) of the Petroleum (Income Tax) Act 1967.

Additionally, it is proposed that subsection 4(3) be amended to clarify that, other than in the case of contiguous petroleum agreements under subsection 2(4) of the Petroleum (Income Tax) Act 1967, the chargeable income from petroleum operations of any person other than Petroliaam Nasional Berhad (PETRONAS) or Malaysia-Thailand Joint Authority (MTJA) shall be ascertained by reference to each petroleum agreement separately.

### Reference

Subsections 2(4)(a)(i) and 4(3) of the Petroleum (Income Tax) Act 1967.

### Effective Date

From the year of assessment 2024.

### Likely Tax Effects and Implications

To qualify as contiguous, the original parties in a partnership under a petroleum agreement must be the same and approval must be obtained from the DGIR. The chargeable income of contiguous petroleum agreements is not required to be ascertained by reference to each petroleum agreement separately.

**Existing Legislation**

Presently, a chargeable person shall be charged to tax in accordance with Petroleum (Income Tax) Act 1967 for each year of assessment in respect of that income derived from petroleum operations.

**Proposed Legislation**

For the purposes of the imposition of Domestic Top-up Tax or Multinational Top-up Tax and the implementation of the Global Anti-Base Erosion Model Rules (GloBE Rules), Part XI of the Income Tax Act 1967 shall also apply to a chargeable person who is a Constituent Entity that is a member of a Multinational Enterprise Group that has annual consolidated revenue of EUR750 million or more in at least two of the four consecutive financial years immediately preceding the tested financial year.

**Reference**

Section 3 of the Petroleum (Income Tax) Act 1967.

**Effective Date**

Financial year beginning on 1 January 2025 and subsequent financial years.

**Likely Tax Effects and Implications**

Multinational Enterprise Groups in scope for the GloBE Rules would need to take into account its entities carrying on petroleum operations in Malaysia, in calculating the Domestic Top-up Tax and Multinational Top-up Tax.

**Existing Legislation**

Presently, there is no tax incentive for CCUS and Hydrogen Sulphide Projects under Petroleum (Income Tax) Act 1967.

**Proposed Legislation**

To remain relevant with the current upstream oil and gas industry, the Petroleum (Income Tax) Act 1967 Review Committee comprising the Ministry of Finance, Inland Revenue Board of Malaysia and PETRONAS is reviewing and drafting tax incentives for CCUS and Hydrogen Sulphide projects.

**Reference**

Paragraph 155 of the 2024 Budget Speech.

**Effective Date**

To be determined.

**Likely Tax Effects and Implications**

This proposal aims to support Malaysia's National Energy Transition Roadmap (NETR), outlining Malaysia's efforts towards achieving a sustainable and inclusive energy system. It also will increase the interest of foreign investors.