

**TECHNICAL**

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**Direct Taxation**

**ADDITIONAL GUIDANCE: CONCESSION ON MONTHLY TAX DEDUCTION (MTD) FOR FOREIGN EMPLOYEES**

What is the concession<sup>1</sup>

Employers having foreign employees who have yet to qualify as tax residents under S.7 of the Income Tax Act (ITA) 1967 are granted concession by the Inland Revenue Board of Malaysia (LHDNM) to apply the tax resident scale rate on the MTD subject to the foreign employee having an employment contract with the duration of employment of more than 182 days.

What is LHDNM's additional guidance<sup>2</sup>

The concession with the stipulated condition is still in force. However, employers are not mandatorily subject to the said concession and could determine the MTD based on the "non-resident" rate if there is a risk consideration such as the possibility of the foreign employee returning to his country before fulfilling the tax resident status. Employers should not be compelled by foreign employees to apply the concession because employers are still responsible to comply with the employer obligations under S.83 and S.107 of the ITA 1967 and the Income Tax Rules (Deduction from Remuneration) 1994.

Who does the concession apply to<sup>3</sup>

The concession applies to all employers across all sectors.

References:

1. [LHDNM's letter dated 3 August 2017](#)
2. [LHDNM's letter dated 11 September 2020](#)
3. [LHDNM's email dated 7 December 2020](#)

Members may read the above [LHNDM's letters and email](#) (in Bahasa Malaysia only) in full at the Institute's website – Members Only section under updates.

You may write to the Institute at [technical@ctim.org.my](mailto:technical@ctim.org.my) in respect of any suggestions, concern or comments you may have on the above so that we may raise them to the LHDNM.

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