



HSS ADVISORY SDN BHD
(722956-M)

EMPLOYER'S RESPONSIBILITIES UNDER INCOME TAX ACT 1967

-

FORM E & EA

Prepared by: HSS Advisory Sdn Bhd



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Abbreviation:

IRBM = Inland Revenue Board Malaysia

ITA = Income Tax Act 1967

BIK = Benefit In Kind



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WHAT IS TAX IDENTIFICATION NUMBER (TIN)?



- Tax Identification number (TIN) is an INCOME TAX NUMBER as per existing records with the Inland Revenue Board of Malaysia.

Read more:

https://phl.hasil.gov.my/pdf/pdfam/FAQ_TIN_2.pdf



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KENYATAAN MEDIA

LEMBAGA HASIL DALAM NEGERI MALAYSIA

Untuk Siaran Segera

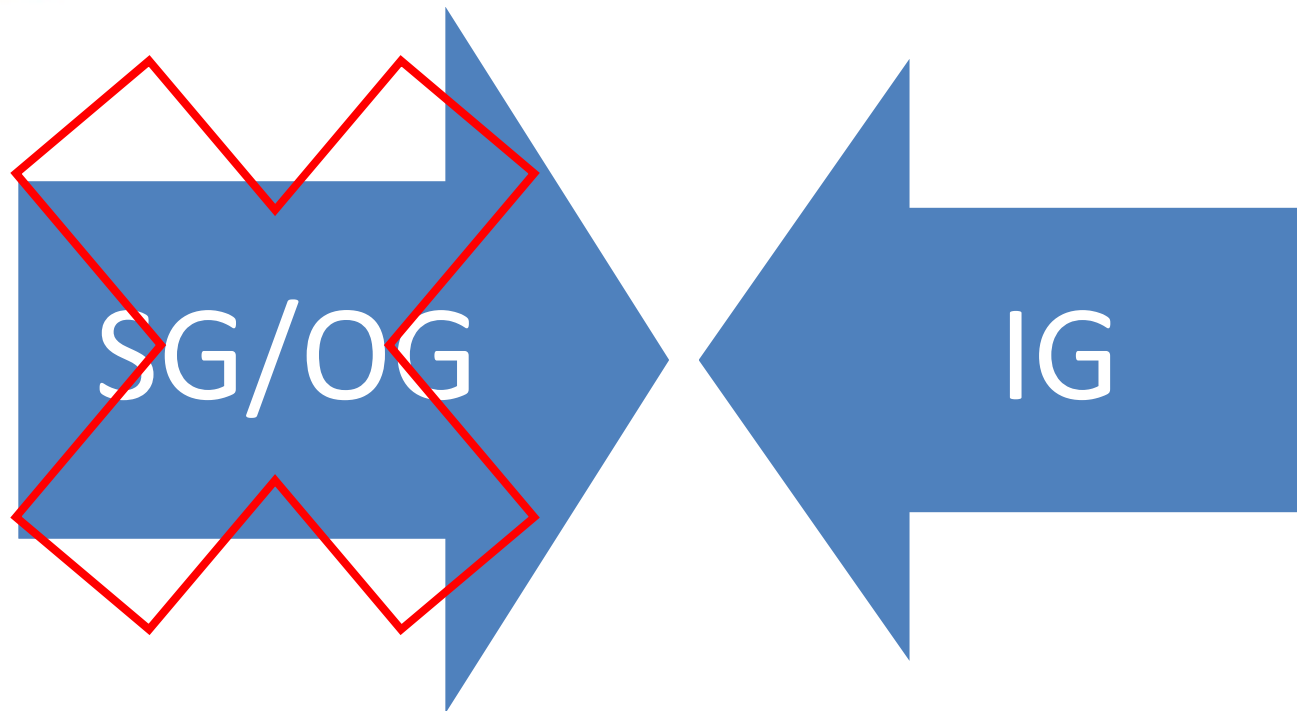
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**PEMAKLUMAN PENDAFTARAN NOMBOR CUKAI PENDAPATAN
MELALUI E-DAFTAR DAN PENETAPAN SERTA PERTUKARAN
PREFIX BAHARU BAGI PEMBAYAR CUKAI INDIVIDU DARIPADA SG &
OG KEPADA IG**



UPDATE

NEW TAX PREFIX CODE FROM SG/OG TO IG



Read more:

https://phl.hasil.gov.my/pdf/pdfam/KM_LHDNM_16052021_PEMAKLUMAN_PE_NDAFTARAN_NO_CUKAI_PENDAPATAN_MELALUI_E_DAFTAR_PENETAPAN_SERTA_PERTUKARAN_PREFIX_BAHARU_BAGI_PC_INDIVIDU_DARIPADA_SG_OG KEPAD A_IG.pdf



Retention of Records

1. Monthly Salary Listing (includes staff name, NRIC, position, IG Number);
2. Monthly Payslip;
3. Bank in Slip for any amount not recorded in payslip;
3. PCB 2(II); and
4. CP21, CP22, CP22A;
5. TP1 and TP3

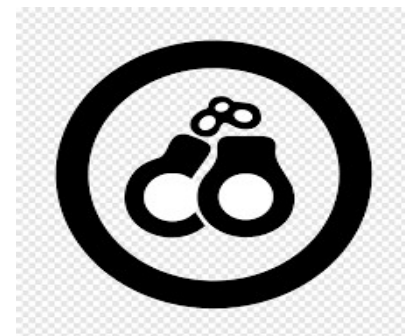
*Taxpayers are required to keep sufficient records for a period of seven years from the end of the year.

Retention of Records

- Sections 82 and 82A of the ITA require the taxpayer to maintain sufficient and complete records.

Failure to comply with subsections 82(1), 82(2) and 82(5) of the ITA, it is an **offence under section 119A** of the ITA.

Compound ranging between RM300 and RM10,000 or imprisonment up to 1 year – Section 119A of ITA 1967





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WHO IS AN EMPLOYEE?



Where the relationship of master
and servants subsists

Section 2, ITA 1967



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Contract **of** Service

VS

Contract **for** Service



Contract **For** Service

- A contract for service (also known as a freelance service contract) is an agreement between an organisation and an **independent contractor** who is engaged to carry out a particular assignment or project for a **defined fee**.
- Such an independent contractor could be **self-employed person** or **vendor**.
- The income received are considered business income and they are assessed under Section 4(a) of ITA 1967. The filing of tax return are usually under Form B.



Contract of Service

- A contract of service (also known as an **employment agreement**) is an agreement where one person (Party A) agrees to employ another (Party B) as an employee with a company or organization.
- A contract of service establishes an employer-employee relationship between Party A and Party B
- The income received are considered employment income and they are assessed under Section 4(b) of ITA 1967. The filing of tax return are usually under Form BE.



Q1: For payment to a person under wages and there are no contribution for EPF, Socso and EIS, do I need to give them Form EA?



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Answer: Yes





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Employee's Test – control over the employee





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EMPLOYEE ONBOARDING



- Step 1: Register tax reference number, EPF, Sosco and EIS.
- Step 2: Form TP3 - Employee to notify employer information relating to previous employment in the same year is important for calculating PCB for coming months. (no requirement to submit to LHDN)
https://phl.hasil.gov.my/pdf/pdfborang/Borang_TP3_2022.pdf
- Step 3: Form CP22 – Notification of New Employee form. An employer must notify IRB within 30 days from the date of commencement of employment.



	Duties of employer	Forms to be used	Deadline
Commencement of employment	Notify IRB not more than one month from the date of commencement of employment	Form CP22	Within 30 days from the date of commencement
Cessation of employment	Notify IRB not less than one month before the cessation of employment	CP22A for retirement or resignation Form CP21A if leaving the country for more than 3 months	



➤ Form CP22

https://phl.hasil.gov.my/pdf/pdfborang/CP22_Pin.1_2021.pdf

➤ Form CP22A

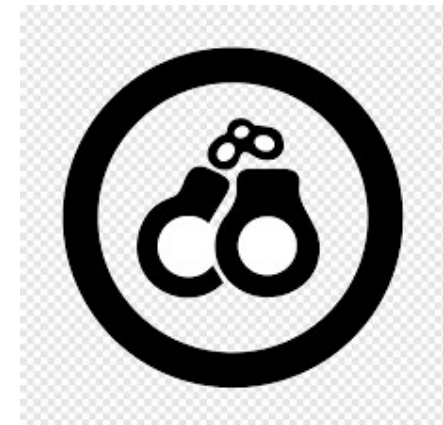
https://phl.hasil.gov.my/pdf/pdfborang/CP22A_Pin.1_2021.pdf

➤ Form CP21

https://phl.hasil.gov.my/pdf/pdfborang/CP21_Pin.1_2021.pdf

Non-Compliance:

Compound ranging between RM200 and RM20,000 or imprisonment up to 6 months – Section 120 of ITA 1967



Monthly Tax Deduction (MTD) or Potongan Bulanan Bercukai (PCB)





➤ **MTD** is a mechanism in which employers deduct monthly tax payments from the employment **income** of their employees.

➤ **Income** = remuneration received from employer



B EMPLOYMENT INCOME, BENEFITS AND LIVING ACCOMMODATION		RM
(Excluding Tax Exempt Allowances / Perquisites / Gifts / Benefits)		
1.	(a) Gross salary, wages or leave pay (including overtime pay)	.....
	(b) Fees (including director fees), commission or bonus	.....
	(c) Gross tips, perquisites, awards / rewards or other allowances (Details of payment: .....	.....
	(d) Income tax borne by the employer in respect of his employee	.....
	(e) Employee Share Option Scheme (ESOS) benefit	.....
	(f) Gratuity for the period from to .....	.....
2.	Details of arrears and others for preceding years paid in the current year	
	Type of income (a) .....	.....
	(b) .....	.....
3.	Benefits in kind (Specify: .....	.....
4.	Value of living accommodation provided (Address: .....	.....
5.	Refund from unapproved Provident / Pensions Fund	.....
6.	Compensation for loss of employment	.....

OR REFERENCE ONLY



Non-Compliance:

Compound ranging between RM200 and RM20,000 or imprisonment up to 6 months – Section 120 of ITA 1967





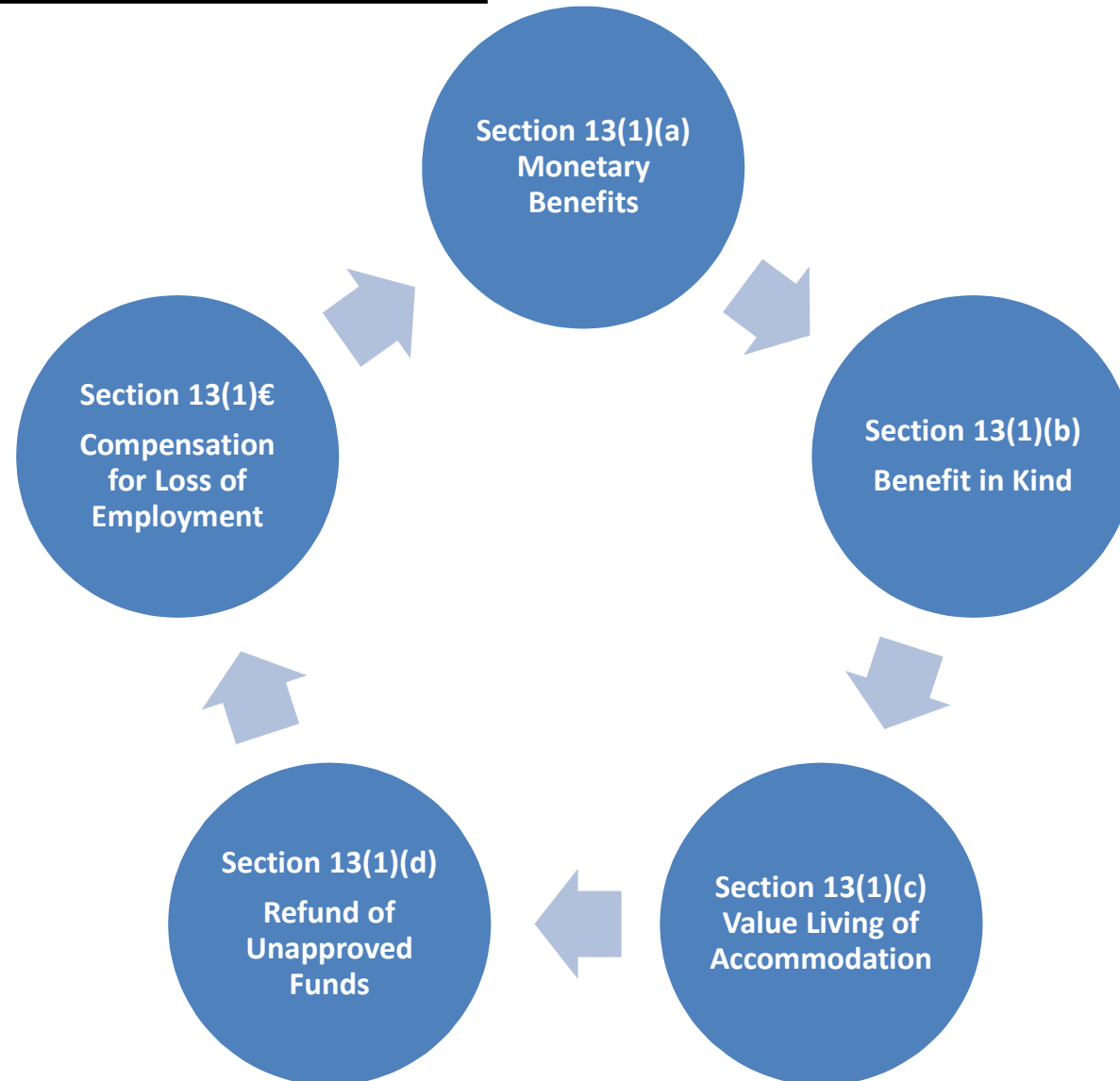
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TAXABLE INCOME





Taxable Income





Section 13(1)(a) – Monetary Benefits

B EMPLOYMENT INCOME, BENEFITS AND LIVING ACCOMMODATION		RM
(Excluding Tax Exempt Allowances / Perquisites / Gifts / Benefits)		
1.	(a) Gross salary, wages or leave pay (including overtime pay)	.....
	(b) Fees (including director fees), commission or bonus	.....
	(c) Gross tips, perquisites, awards / rewards or other allowances (Details of payment: .....) )	.....
	(d) Income tax borne by the employer in respect of his employee	.....
	(e) Employee Share Option Scheme (ESOS) benefit	.....
	(f) Gratuity for the period from to .....	.....
2.	Details of arrears and others for preceding years paid in the current year	
	Type of income (a) .....	.....
	(b) .....	.....
3.	Benefits in kind (Specify: .....) )	.....
4.	Value of living accommodation provided (Address: .....) )	.....
5.	Refund from unapproved Provident / Pension Fund	.....
6.	Compensation for loss of employment	.....

FOR REFERENCE ONLY





Explanation on Perquisites

- In cash or in kind;
- Regularly/ casually;
- Convertible into money
- Example:
 - Credit Card Facilities
 - Motor vehicle instalments
 - Recreational club membership
 - Tuition or school fee of child
 - Personal insurance
 - Gift vouchers



Explanation on Perquisites

➤ Example:

- Buy-out payment
- Childcare allowance
- Waiver of advance/ loan
- Business products provided free or at discounted value (exemption: maximum up to RM1,000)



Explanation on Benefit in Kind

- In kind;
- Not convertible into money;
- Cannot be sold, assigned or exchange for cash
- Example:
 - Motor vehicle provided by the Company (owned/lease);
 - Semi-Furnished/ Fully Furnished property provided by the company (owned/rent)
 - Telephone (Mobile/ Mobile bills) – Exemption for 1unit of asset/
1 telephone bill



Explanation on Benefit in Kind

➤ Example:

- Recreational club membership under corporate – Monthly or annual membership subscription fee
- Gardener
- Household servant
- Driver



Explanation on Benefit in Kind

1. THE PRESCRIBED VALUE OF MOTORCAR AND ITS RELATED BENEFITS

Cost of Motorcar (New) RM	Annual Prescribed Benefit of Motorcar RM	Annual Prescribed Benefit of Petrol RM
Up to 50,000	1,200	600
50,001-75,000	2,400	900
75,001-100,000	3,600	1,200
100,001-150,000	5,000	1,500
150,001-200,000	7,000	1,800
200,001-250,000	9,000	2,100
250,001-350,000	15,000	2,400
350,001-500,000	21,250	2,700
500,001 and above	25,000	3,000

Source: PR No. 11/2019, Appendix 2



Explanation on Benefit in Kind

2. PRESCRIBED VALUE OF HOUSEHOLD FURNISHINGS, APPARATUS AND APPLIANCES

CATEGORY	TYPE OF BENEFIT	ANNUAL PRESCRIBED VALUE OF BIK PROVIDED (RM)
1	Semi-furnished with furniture in the lounge, dining room or bedroom.	840
2	Semi-furnished with furniture as in Column 1 and one or two of the following: <ul style="list-style-type: none">▪ air-conditioners▪ curtains and alike▪ carpets	1,680
3	Fully furnished with benefits as in Columns 1 and 2 as above plus one or more of kitchen equipment, crockery, utensils and appliances	3,360
4	Service charges and other bills such as water and electricity.	Service charges and bills paid by the employer.

Source: PR No. 11/2019, Appendix 2

Tax – Exemption on Benefit In Kind (BIK)

Does not apply if employee has control over the employer

- Director;**
- Partner in partnership; and**
- Sole proprietor**

(All to be taxed under S13(1)(b) of ITA 1967)





Tax Exemption on BIK

- Dental Benefit
- Child Care Benefit (Child-care center provided by company)
- Food and Drinks provided free of charge
- Free of transportation between pick up points and place of work.
- Group insurance premium to cover workers in the event of an accident.
- Modern medicine, traditional medicine and maternity
- Monthly bills for fixed line telephone, mobile phone, PDA and subscription of broadband. (including registration cost-limited to one unit each and registered under company name)



Tax – Exempt Allowance

Does not apply if employee has control over the employer

- Director;**
- Partner in partnership; and**
- Sole proprietor**

(All to be taxed under S13(1)(b) of ITA 1967





Tax Exempt Allowance	Description	Max Value
Parking	Parking rate and allowance	-
Subsidized Interest	Subsidized interest fully exempted if loan for housing, education or car does not exceed RM300,000	-
Smartphone/Laptop/Tablet	Smartphone/Laptop/Tablet acquired by Employer and given to Employee (Belong to the Employee)	RM5,000
Petrol & Travelling	Petrol card / allowance / travel allowance / toll payment (for official duties)	6,000
Meal	Meal allowance on regular basis	-
Childcare	Childcare allowance (up to 12 years of age)	2,400
Phone	Mobile phone (including cost of registration and installation) Under Employer / Employee Name	1 unit
Phone Bills	Monthly phone bills	1 line
Perquisite	Awards under Paragraph 25C, Schedule 6 of the ITA 1967	2,000

- Please inform your company's tax agent/ person who prepares Form E & EA of any form of tax-exempt income/ benefits in kind/ perquisites/ allowances received from the company.
- The exempt amount must be declared in Form E and EA form.



Source:

- *Lembaga Hasil Dalam Negeri Malaysia, “Benefit In Kind Public Ruling No. 11/2019”, 12 December 2019*
- *Lembaga Hasil Dalam Negeri Malaysia, “Perquisites From Employment No. 5/2019”, 19 November 2019*
- *Lembaga Hasil Dalam Negeri Malaysia, “Tax Audit Framework”, 1 May 2022*

Disclaimer

Please take note that the above information is provided gratuitously and without liability. We shall not be responsible or liable for any claims, loss, damages, costs or expenses arising in any way out of or in connection with any person replying upon such information.



THE END

For enquiries and clarification, please refer to:

HSS ADVISORY SDN BHD (722956-M)

Visiting by appointment:

Unit L 13A-03-03A,
PJX-HM Shah Tower,
16A Persiaran Barat,
46050 Petaling Jaya,
Selangor.

Call:

+03-79320501/02

Website: <https://www.hssadvisory.com.my/>