



Reference No: 18:01:2022

18 January 2022

TO : ALL MEMBERS
FROM : MIEA SECRETARIAT

REFERENCE : Imposition of withholding tax by firms on income earned by Agents

This advisory is to help understand the mechanism and to comply with the LHDN directive. In this respect please be advised that Parliament has approved section 107D in the finance bill. This section imposes a 2% Withholding Tax on payments made by a firm to agents (which we believe includes REAs, PEAs, RENs) who are Malaysian Residents effective 1st January 2022.

The withholding of this tax shall apply if the total sum of payments (whether monetary or otherwise) received by that individual agent (REA, PEA, REN) from the firm in the preceding year of assessment exceeds RM100,000. The firms are required to deduct the 2% withholding tax and remit to the DGIR within 30 days after paying or crediting such payments to that individual. Any delay will cause an imposition of 10% penalty by the Director General of Inland Revenue (DGIR).

Meanwhile, the 2% withholding tax deducted and remitted to LHDN can be used to offset against the tax payable of the individual for the year of assessment upon submission of his/her income tax return.

Examples:

A REN earns an annual total income of more than RM100k in 2021, the firm will withhold 2% withholding tax on every commission paid in 2022.

Scenario 1

- Ali, a REN was paid RM102,000 commissions in monetary payment in year 2021. In 2022, Ali is now in the 2% withholding tax bracket. Ali earns RM8,000 commission in January 2022, the firm will have to withhold a 2% tax on RM8,000 (RM8k x 2%) amounting to RM160 and release the balance RM7,840 (98%) to Ali.

Scenario 2

- Nelson was paid RM98,000 commissions in monetary payment in year 2021. In 2022, Nelson is not in the tax bracket. No deductions will be done from any monetary payment in 2022.

At point of advisory, LHDN has not released the withholding tax submission form that follows the payment of the withholding tax.

To ensure that all payer companies are well prepared and given proper notice to their agents, distributors and/or dealers, LHDN has postponed the implementation of the tax deduction remittance under Section 107D of ITA 1967 until 31 Mar 2022. The payee company is allowed to remit the 2% tax deduction on cash payments paid to agents, distributors, or dealers for Jan to Mar 2022 in Apr 2022, without any penalty. [[Ref : Press Release LHDN dated 12 January 2022](#)]

Hope this is useful and for further clarification please contact your tax consultants.

Thank you.

A handwritten signature in black ink, appearing to read 'K. Soma Sundram'.

K. Soma Sundram
Chief Executive Officer