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CP21 Compliance Checklist for Employers of Departing Expatriates

Key Takeaway

- CP21 is a statutory employer notification facilitating Malaysian tax clearance for employees departing Malaysia for more 3 months.

Form CP21 is a statutory notification submitted by an employer when an employee who is chargeable to Malaysian income tax in respect of employment income leaves, or intends to leave, Malaysia for a period exceeding three months.

Under subsection 83(4) of the Income Tax Act 1967 (ITA), the employer must submit CP21 not less than 30 days before the employee's expected departure date.

Scope of the notification obligation

The notification requirement applies where an employee who is chargeable to tax in respect of employment income leaves, or intends to leave, Malaysia for a period exceeding three months. The requirement is not restricted to foreign nationals, expatriates or employees permanently relocating overseas.

For example, a Malaysian employee assigned overseas for six months may fall within the CP21 requirements if the statutory conditions are met.

Filing deadline and submission method

CP21 must be submitted not less than 30 days before the expected departure date.

Subsection 83(5) addresses the employer's obligation to withhold money payable to an employee who has ceased or is about to cease employment, or who is about to leave Malaysia for more than three months.

Employer should not release amounts subject to the withholding requirement merely because CP21 has been filed or the employee has already departed. The release should be supported by the relevant IRBM permission or clearance and documented internally.

CP21 versus CP22A and CP22B

Form	Purpose
CP21	Notification of an employee leaving Malaysia for more than three months.
CP22A	Notification concerning cessation of employment or death of a private-sector employee, where applicable.
CP22B	Notification concerning cessation of employment or death of a public-sector employee, where applicable.

These forms address different events. An employee may leave Malaysia for a long-term assignment while remaining employed by the same Malaysian employer; CP21 may therefore be relevant even where employment does not cease.

If employment also terminates, the employer should separately determine whether CP22A or CP22B is required. The relevant notification exemptions and withholding requirements should be assessed independently.

Penalties and employer exposure

IRBM's current employer notification page states that failure to comply without reasonable excuse may, upon conviction, attract a fine of RM200 to RM20,000, imprisonment for up to six months, or both. It also states that the employer is responsible for the employee's tax in the circumstances covered by the applicable provisions.

Overlooked tax implications

- **Departure does not necessarily mean cessation of employment**

CP21 may be relevant even where the employee remains employed by the same Malaysian entity. HR and payroll processes should distinguish an overseas assignment from termination of employment.

- **Tax residence requires a separate assessment**

The departure date does not automatically determine whether an employee is resident or non-resident for Malaysian tax purposes. The relevant residence tests, physical presence, employment income and any applicable double taxation agreement should be considered independently.

- **Remuneration extends beyond basic salary**

The employer should review all relevant employment remuneration and outstanding payments. A review limited to monthly salary may omit bonuses, benefits in kind, gratuities or other payments relevant to the employee's final tax position.

- **Historical income may affect tax clearance**

The prescribed CP21 form requests information concerning income from preceding years that has not been declared. Employers should coordinate with employees and payroll to identify outstanding remuneration information where relevant.

- **Payment release requires a separate control**

Submitting CP21 is not the same as obtaining tax clearance. Where withholding is required, payroll should prevent the release of relevant payments until the applicable permission or clearance is received or the relevant statutory requirements have otherwise been satisfied.

For more details, please refer to :
Source: Inland Revenue Board of Malaysia ("IRBM"), official website

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