



**REVERSING THE BRAIN
DRAIN: MALAYSIA'S TAX
INCENTIVE FOR RETURNING
EXPERTS - KEY UPDATES
UNDER PUBLIC RULING NO.
1/2026**

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BY :



Sudharsanan Thillainathan &
Tania Kat-Lin Edward

REVERSING THE BRAIN DRAIN: MALAYSIA'S TAX INCENTIVE FOR RETURNING EXPERTS - KEY UPDATES UNDER PUBLIC RULING NO. 1/2026

This article discusses the Inland Revenue Board of Malaysia's ("the Revenue") recently published Public Ruling No. 1/2026 (published on 16 March 2026) ("the Public Ruling"), updating its guidance on the operation of the Returning Expert Programme ("REP") incentive regime. The Public Ruling supersedes the Revenue's earlier Public Ruling No. 2/2018.

The Public Ruling provides that approved individuals returning from overseas may elect to be charged a preferential flat tax rate of 15% on chargeable income from employment for an eligibility period of five (5) consecutive years of assessment ("YA(s)").

Background

Malaysia has for over a decade contended with the emigration of skilled professionals overseas. The REP, administered by Talent Corporation Malaysia Berhad ("TalentCorp") since 2011, is the government's primary tax-based mechanism to attract such professionals

back to Malaysia. The Public Ruling is the Revenue's updated guidance on how the REP's tax incentive operates and is effective as at its date of publication.

The Incentive

At the outset, applicants must fall within one of the recognised fields under the National Key Economic Areas ("NKEAs"), spanning multiple strategic economic sectors together with the Greater Kuala Lumpur / Klang Valley geographical cluster (as set out below):

Recognised Fields	Details
Energy and Primary Industries	Oil, Gas & Energy; Palm Oil & Rubber, and Agriculture
Services and Commerce	Financial Services; Business Services; Wholesale & Retail; and Tourism
Manufacturing	Electrical & Electronics
Knowledge and Social Infrastructure	Education; Healthcare; Communication

Recognised Fields	Details
	Content & Infrastructure
Geographical Cluster	Greater Kuala Lumpur / Klang Valley

Under the REP, an approved individual returning from overseas may elect to be charged a preferential flat tax rate of 15% on chargeable income from employment for an eligibility period of five (5) consecutive YAs.

Additionally, an approved individual may opt to claim the REP incentive starting either from:

- the YA in which they return to Malaysia; or
- the immediately following YA.

The eligibility period runs from the YA in which the individual opts to claim the incentive. If the individual does not opt in during the aforementioned specified period, they are deemed to have rejected the REP incentive.

The 15% rate applies only to employment income. Where an approved individual under the REP also has non-employment income (such as rental or business income), that income is taxed at the normal

scale rates as if the REP incentive had not been granted. Such income is arrived at by apportioning the ratio of non-employment income to total income, multiplied by the chargeable income.

When is the Preferential Rate Advantageous?

In the Public Ruling, the Revenue has, by way of examples, contrasted the tax treatment of two different income scenarios to demonstrate when the preferential tax rate is advantageous over the progressive scale rate, and when it is not.

*In the first scenario, a specialist doctor returns to Malaysia in July of a given year of assessment and earns RM300,000 in employment income over six months. After the permissible deductions, his chargeable income is RM279,000. At the 15% flat rate, his tax payable is RM41,850. Had the progressive scale rates been applied to that chargeable income, his tax payable would have been RM54,150. **Hence, the flat rate saves him RM12,300 for that year.***

In the second scenario, a lecturer returns in August of a given year and earns RM75,000 over five months. After the permissible deductions, his chargeable income is RM54,000. At the 15%

preferential flat rate, his tax payable is RM8,100 while based on the progressive scale rate, it would be only RM1,940. **Hence, the progressive scale rate returns the taxpayer savings of RM6,160 for that year.**

The lesson from these examples is clear: the 15% flat rate is preferable for high earners on a full year of income. However, where the taxpayer returns partway through a YA and earns income for only a part of that YA, the progressive scale rate may produce a lower tax bill. The Public Ruling's flexibility in allowing the election to be deferred to the following year of assessment is designed precisely to accommodate this. Approved individuals should therefore model both scenarios before electing, as opting in during the year of return may not always be the optimal choice to minimise one's tax liability.

Eligibility

Individuals applying for the 15% flat preferential tax rate must comply with the following pre-set conditions:

Condition	Details
Nationality / Residency	Must be a Malaysian citizen and resident in Malaysia

Condition	Details
Overseas Employment	Must not have employment income derived in Malaysia for at least 36 consecutive months prior to the date of application
Field of Expertise	Must be an expert in a field recognised under the NKEAs
Ministerial Approval	Must make an application under the REP, be granted approval by the Minister, and have the application be made on or after 12 April 2011 but not later than 31 December 2027
Employer Requirement	Employment income shall be received from a person resident in Malaysia
No Prior REP Approval	Must not have previously received REP approval

Condition	Details
Timing of Application	Must submit the application while the applicant is still living and working abroad
No Outstanding Bonds	Must have no outstanding financial or legal bonds with other government companies or agencies, and no bond of outstanding scholarship or loan obligations with the Malaysian government or its agencies

Upon receiving approval, an individual has two (2) years to return to Malaysia to commence employment and obtain *Surat Akuan Tarikh Kembali* (“**SATK**”) from TalentCorp. The SATK is required for the employer to commence deducting MTD at the 15% rate.

Returning within the same Corporate Group

The Public Ruling additionally clarifies that employees returning to Malaysia under the same corporate group may still qualify for the REP incentive, provided that:

- the individual has served with the overseas entity within the same corporate group for at least five (5) years;
- the overseas posting was not on a temporary assignment, secondment, or project basis;
- the overseas employment was under a direct-hire scheme with the overseas entity;
- the individual was paid by the overseas entity in foreign currency; and
- the individual is not financially or legally bound to return to work in Malaysia under the same group of companies upon completion of the overseas employment.

This clarification is particularly important for applicants employed in multinational corporate groups with regional mobility structures.

Legal Risks: What Practitioners and Employers Need to Watch

1. Secondment Trap

As noted above, the REP is not available to an applicant who was sent overseas by a Malaysian employer on secondment, rather than being genuinely and directly

employed by a foreign entity. The question is not where the employee was physically located, but the nature of the overseas engagement: whether it was truly a direct-hire arrangement or whether it remained, in substance, an extension of a Malaysian employment. Where the overseas posting is found to be ancillary to the Malaysian employment, REP eligibility is excluded.

2. Change of Employer Mid-Incentive Period

If an approved individual changes employer during the incentive period, the 15% rate continues to apply provided that the new employer is resident in Malaysia and the new role is in line with the approved NKEA field. If the new employer is a non-resident, the incentive terminates from the date of the change.

3. Change of Field

If the individual moves into a role outside the approved NKEA field during the incentive period, the incentive terminates from the date of the change. All employment income earned after that date is taxed at the normal progressive scale rates, and

the individual forfeits the remaining incentive years.

4. Election Window is Strict

The option to claim the REP incentive **must** be exercised in the year of return or the immediately following year. Missing both years results in the incentive being deemed permanently rejected. There is no mechanism for a late election.

5. Application Window is Equally Strict

The individual's application for the REP incentive **must** be submitted **whilst** the applicant is still living and working abroad. Submissions made by applicants upon their return to Malaysia will not be considered.

This article was written by our Tax and Customs Team, Sudharsanan Thillainathan and Tania Kat-Lin Edward, with the assistance of Daniel Lim (Pupil). It contains general information only. It does not constitute legal advice or an expression of legal opinion and should not be relied upon as such.