Income Tax Act 1967 – Orders

Subsidiary legislation

Orders

Income Tax (Exemption) (No 24) Order 1993
   (Income of an approved research institute or approved research company)
Income Tax (Exemption) (No 25) Order 1993
   (Income of a New Technology based Firm)
Income Tax (Exemption) (No 25) Order 1995
   (Income of a non-resident from shipping pools)
Income Tax (Exemption) (No 26) Order 1995
   (Income derived from a qualifying asset in Labuan)
Income Tax (Exemption) (No 30) Order 1995
   (Income arising from the loan of securities on the KLSE)
Income Tax (Exemption) (No 51) Order 1997
   (Interest from Bon Simpanan Malaysia)
Income Tax (Exemption) (No 2) Order 1998
   (Income of a non-resident from moveable property in Labuan)
Income Tax (Exemption) (No 10) Order 1998
   (Income from TECO)
Income Tax (Exemption) (No 11) Order 1998
   (Banking or insurance income from TECO)
Income Tax (Exemption) (No 16) Order 1999
   (Income of a MITC arising from an increase in export sales)
Income Tax (Exemption) (No 17) Order 1999
   (Income derived by non-residents from filming activities)
Income Tax (Exemption) (No 5) Order 2000
   (Income of banks from loan growth exceeding eight per cent)
Income Tax (Exemption) (No 6) Order 2000
   (Income derived from operating domestic tours)
Income Tax (Exemption) (No 7) Order 2000
   (Income derived from operating group inclusive tours)
Income Tax (Exemption) (No 26) Order 2000

*(Income derived by a non-citizen from a teaching or lecturing employment)*

Income Tax (Exemption) (No 53) Order 2000

*(Income derived from conference organising)*

Income Tax (Exemption) (No 54) Order 2000

*(Income derived from international-standard motor racing)*

Income Tax (Exemption) (No 55) Order 2000

*(Income derived from organising or taking part in cultural shows etc.)*

Income Tax (Exemption) (No 56) Order 2000

*(Income of an employee from the gift of personal computer)*

Income Tax (Exemption) Order 2001

*(Income received in Malaysia by a returning expatriate)*

Income Tax (Exemption) (No 2) Order 2001

*(Income from the export of qualifying services)*

Income Tax (Approved Agricultural Projects) Order 2002

Income Tax (Approved Food Production Projects) Order 2002

Income Tax (Exemption) (No 8) Order 2002

*(Income of a trade association)*

Income Tax (Exemption) (No 9) Order 2002

*(Income from the export of qualifying services)*

Income Tax (Exemption) (No 10) Order 2002

*(Income derived from operating domestic tours)*

Income Tax (Exemption) (No 11) Order 2002

*(Income derived from operating group inclusive tours)*

Income Tax (Exemption) (No 12) Order 2002

*(Income of a MITC arising from an increase in export sales)*

Income Tax (Exemption) (No 15) Order 2002

*(Income from organising international trade exhibitions)*

Income Tax (Exemption) (No 16) Order 2002

*(Royalty income of a non-resident franchisor in relation to education programmes)*

Income Tax (Exemption) (No 22) Order 2002

*(Income of political organisation)*

Income Tax (Exemption) (No 23) Order 2002

*(Income from chartering luxury yachts)*
Income Tax (Exemption) (No 5) Order 2003

(Exemption for website trading)

Income Tax (Exemption) (No 60) Order 2003

(Exemption for a non-citizen employed by an OHC or a RO)

Income Tax (Exemption) (No 6) Order 2004

(Exemption for individuals commercialising scientific research)

Income Tax (Exemption) (No 21) Order 2004

(Exemption for expatriates working in Labuan)

Income Tax (Exemption) (No 22) Order 2004

(Exemption for Malaysians working in Labuan)

Income Tax (Exemption) (No 11) Order 2005

(Exemption for venture capital company)

Income Tax (Exemption) (No 12) Order 2005

(Exemption for venture capital management company)

Income Tax (Exemption) (No 13) Order 2005

(Exemption for Income received by a non-resident company from an MSC status company)

Income Tax (Exemption) (No 14) Order 2005

(Exemption for qualifying professional services rendered in Labuan)

Income Tax (Exemption) (No 17) Order 2005

(Exemption for income from export sales)

Income Tax (Exemption) (No 19) Order 2005

(Exemption for trade associations)

Income Tax (Exemption) (No 36) Order 2005

(Exemption for Income derived from managing cemetery grounds)

Income Tax (Exemption) (No 40) Order 2005

(Exemption for operational headquarters companies)

Income Tax (Exemption) (No 41) Order 2005

(Exemption for regional distribution centre companies)

Income Tax (Exemption) (No 42) Order 2005

(Exemption for international procurement centre companies)

Income Tax (Exemption) (No 9) Order 2006

(Exemption for approved food production project)

Income Tax (Exemption) (No 10) Order 2006

(Exemption for approved food production project or expansion)
Income Tax (Exemption) (No 11) Order 2006
(Exemption for the statutory Income of an ‘approved business’ under the special incentive scheme)

Income Tax (Exemption) (No 12) Order 2006
(Exemption for capital expenditure allowance of an ‘approved business’ under the special incentive scheme)

Income Tax (Exemption) (No 20) Order 2006
(Exemption for Income derived from the management of an international school)

Income Tax (Exemption) (No 21) Order 2006
(Exemptions for non-resident experts providing training in specified areas)

Income Tax (Exemption) (No 22) Order 2006
(Exemption for grants, subsidies, collections or donations received from or by authority of the Federal or a State Government)

Income Tax (Exemption) Order 2007
(Non-resident exemption for ship charter fees)

Income Tax (Exemption) (No 3) Order 2007
(Exemption for non-citizen director’s fees from Labuan)

Income Tax (Exemption) (No 5) Order 2007
(Exemption for citizen’s allowances from Labuan)

Income Tax (Exemption) (No 6) Order 2007
(Exemption for fees for professional services in Labuan)

Income Tax (Exemption) (No 15) Order 2007
(Exemption for income from fund management of Syariah funds provided to foreign investors)

Income Tax (Exemption) (No 16) Order 2007
(Exemption for foreign banking operations)

Income Tax (Exemption) (No 17) Order 2007
(Exemption for BioNexus status company – income based)

Income Tax (Exemption) (No 18) Order 2007
(Exemption for BioNexus status company – capital expenditure based)

Income Tax (Exemption) (No 19) Order 2007
(Withholding tax exemptions for IDR status companies)

Income Tax (Exemption) (No 20) Order 2007
(Tax exemption for IDR status companies)

Income Tax (Exemption) (No 21) Order 2007
(Tax exemption for IDR developers)
Income Tax (Exemption) (No 22) Order 2007

(Exemption for receipts by and from Labuan bodies)

Income Tax (Exemption) Order 2008

(Exemption for an individual participating in the Malaysian Technical Co-operation Programme who is not a Malaysian citizen and not a resident in Malaysia)

Income Tax (Exemption) (No 2) Order 2008

(Exemption for non-citizen employed by a regional distribution centre)

Income Tax (Exemption) (No 3) Order 2008

(Exemption under section 4A(ii) for Islamic finance expert)

Income Tax (Exemption) (No 5) Order 2008

(Exemption of income from non-profit orientated school)

Income Tax (Exemption) (No 7) Order 2008

(Exemption for interest received by a resident individual)

Income Tax (Exemption) (No 8) Order 2008

(Exemption of income from the sale of certified emission reduction)

Income Tax (Exemption) (No 9) Order 2008

(Exemption of income from dealing in sukuk)

Income Tax (Exemption) (No 10) Order 2008

(Exemption of income from arranging, underwriting and distributing sukuk)

Income Tax (Exemption) (No 11) Order 2008

(Exemption of income from advisory fees re listing of a foreign investment product on an approved stock exchange)

Income Tax (Exemption) (No 2) Order 2009

(Exemption for Bio Nexus status company)

Income Tax (Exemption) (No 3) Order 2009

(Exemption of income of a non-resident from training)

Income Tax (Exemption) (No 5) Order 2009

(Exemption for overseas insurance business)

Income Tax (Exemption) (No 6) Order 2009

(Exemption for increased exports in healthcare business)

Income Tax (Exemption) (No 7) Order 2009

(Exemption for overseas banking business)

Income Tax (Exemption) (No 9) Order 2009

(Exemption for consolidation of management project)
Income Tax (Exemption) (No 10) Order 2009
(Exemption for forest plantation project)

Income Tax (Exemption) (No 11) Order 2009
(Exemption for forest plantation project on loss surrender)

Income Tax (Exemption) Order 2010
(Exemption of income tax in relation to any income derived from the sukuk ijarah)

Income Tax (Exemption) (No 2) Order 2010
(Exemption for income received from the sale of certified emission reduction)

Income Tax (Exemption) Order 2011
(Exemption for income of a manufacturer of motor vehicles or automobile components arising from an increase in export sales)

Income Tax (Exemption) (No 2) Order 2011
(Exemption for individual, unit trust or listed close-end fund in respect of gains or profits received from the investment in Islamic securities - YA 2007 to 2009)

Income Tax (Exemption) (No 3) Order 2011
(Exemption for approved food production project)

Income Tax (Exemption) (No 4) Order 2011
(Exemption for gains or profits from sukuk wakala under the concept of Al-Wakala Bil Istimna)

Income Tax (Exemption) (No 5) Order 2011
(Exemption for expenditure to obtain green building index certificate)

Income Tax (Exemption) (No 6) Order 2011
(Exemption of statutory income for legal, accounting, financial or secretarial services rendered to a Labuan entity)

Income Tax (Exemption) (No 7) Order 2011
(Exemption of director fee of non-Malaysian citizen director of a Labuan entity)

Income Tax (Exemption) (No 8) Order 2011
(Exemption for non-Malaysian citizen individual in a managerial capacity with a Labuan entity)

Income Tax (Exemption) (No 9) Order 2011
(Exemption of gross housing allowance and gross Labuan Territory allowance received by Malaysian citizen exercising employment in Labuan)

Income Tax (Exemption) (No 10) Order 2011
(Exemption of statutory income relating to a business of dealing in non-ringgit sukuk that originates from Malaysia)
Income Tax (Exemption) (No 11) Order 2011
(Exemption of statutory income from dealing in securities and advising on corporate finance relating to the arranging of underwriting and distributing of non-ringgit sukuk that originates from Malaysia)

Income Tax (Exemption) Order 2012
(Exemption in respect of qualifying capital expenditure in private healthcare facilities)

Income Tax (Exemption) (No 2) Order 2012
(Exemption of statutory income from Malaysian ships - YA 2012 and 2013)

Income Tax (Exemption) (No 3) Order 2012
(Exemption for non-citizen’s employment income from a treasury management centre)

Income Tax (Exemption) (No 4) Order 2012
(Exemption of other income (s 4(f) received by non-resident from a Labuan entity)

Income Tax (Exemption) (No 5) Order 2012
(Exemption of statutory income from qualifying services provided to related companies by a treasury management centre)

Income Tax (Exemption) (No 6) Order 2012
(Exemption of interest from ‘‘borrowing’’ to treasury management centre)

Income Tax (Exemption) (No 7) Order 2012
(Exemption in respect of capital expenditure incurred in connection with and for the purpose of an activity relating to teaching and training in a private school)

Income Tax (Exemption) (No 8) Order 2012
(Exemption of statutory income derived from a business of private school or international school)

Income Tax (Exemption) (No 9) Order 2012
(Exemption of capital expenditure incurred in connection with and for the purpose of an activity relating to teaching and training in an international school)

Income Tax (Exemption) (No 10) Order 2012
(Exemption for ASEAN Infrastructure Fund Limited and its employees)

Income Tax (Exemption) (No 11) Order 2012
(Exemption of statutory income derived from domestic tours 2013-2015)

Income Tax (Exemption) Order 2013
(Exemption of statutory income of a child care centre)
Income Tax (Exemption) (No 2) Order 2013
(Exemption of statutory income derived from group inclusive tours 2013-2015)

Income Tax (Exemption) (No 3) Order 2013
(Exemption for statutory income derived from kindergarten business)

Income Tax (Exemption) (No 4) Order 2013
(Exemption for statutory income derived from undertaking a development in the Tun Razak Exchange)

Income Tax (Exemption) (No 5) Order 2013
(Exemption for statutory income of various kinds derived by a non-resident from RAPID Complex)

Income Tax (Exemption) (No 6) Order 2013
(Capital expenditure based exemption for statutory income derived by a qualifying person from RAPID Complex)

Income Tax (Exemption) (No 7) Order 2013
(Income based exemption for statutory income of a qualifying person derived from RAPID Complex)

Income Tax (Exemption) (No 8) Order 2013
(Capital expenditure based exemption for statutory income of a qualifying person derived from RAPID Complex)

Income Tax (Exemption) (No 9) Order 2013
(Exemption for interest derived from a loan given to a rescuing contractor to finance an abandoned project)

Income Tax (Exemption) (No 10) Order 2013
(Exemption for income derived from Sukuk Kijang)

Income Tax (Exemption) (No 11) Order 2013
(Exemption for income derived from merger of SMEs)

Income Tax (Exemption) (No 12) Order 2013
(Exemption for income derived by the acquirer of a merged SME)

Income Tax (Exemption) (No 13) Order 2013
(Exemption for income derived from commercialisation of research findings)

Income Tax (Tax Agents Application Fee) Order 2013

Income Tax (Exemption) (No 14) Order 2013
(Special Exemption for year of assessment 2013)

Income Tax (Exemption) Order 2014
(Exemption for income derived from fund management services to Business Trusts and REITs)
Income Tax (Exemption) (No 2) Order 2014
(Exemption for income derived from qualifying activities in RAPID Complex)

Income Tax (Exemption) (No 3) Order 2014
(Exemption for income of angel investors)

Income Tax (Exemption) Order 2015
(Exemption of income on deferred annuity withdrawn before reaching the age of 55)

Income Tax (Exemption) (No 2) Order 2015
(Exemption of statutory income derived from a qualifying activity carried out in multimedia super corridor cyber city or cyber centre)

Income Tax (Exemption) (No 3) Order 2015
(Exemption for gains and profits in lieu of interest from sukuk and wakala)

(Convention on mutual administrative assistance)

Income Tax (Exemption) Order 2016
(Exemption to an individual for year of assessment 2015 on chargeable income up to RM96,000)

Income Tax (Exemption) (No 2) Order 2016
(Exemption for gains and profits from sukuk and wakala)

Income Tax (Exemption) (No 3) Order 2016
(Exemption for profit from investment received through venture capital scheme)

Income Tax (Exemption) (No 4) Order 2016
(Exemption for statutory income equivalent to 100% of capital expenditure incurred in a qualifying activity in the East Coast Economic Region)

Income Tax (Exemption) (No 5) Order 2016
(Exemption for statutory income equivalent to 60% to 100% of capital expenditure incurred in a special qualifying activity in the East Coast Economic Region)

Income Tax (Exemption) (No 6) Order 2016
(Exemption for 10 years for statutory income derived from a qualifying activity in the East Coast Economic Region)

Income Tax (Exemption) (No 7) Order 2016
(Exemption for 5 years for 70% to 100% of statutory income derived from a special qualifying activity in the East Coast Economic Region)
Income Tax (Exemption) (No 8) Order 2016

(Exemption of statutory income derived from disposal of or renting of land or a building in an East Coast Economic Region industrial park)

Income Tax (Exemption) (No 9) Order 2016

(Exemption of statutory income derived from managing a building or land in an East Coast Economic Region industrial park)

Income Tax (Exemption) (No10) Order 2016

(Exemption for a non-resident for income tax under subparagraph 4(ii) (technical advice, assistance of services) or section 4(d) (royalties) derived from a person carrying on a qualifying activity in the East Coast Economic Region)

Income Tax (Exemption) (No 11) (Order) 2016

(Exemption of statutory income derived from group-inclusive tours 2016–2018)

Income Tax (Exemption) (No 12) (Order) 2016

(Exemption of statutory income derived from domestic tours 2016–2018)


(Agreement on Automatic Exchange of Financial Account Information)


(Agreement on the Exchange of Country-by-Country Reports)
INCOME TAX (EXEMPTION) (NO. 24) ORDER 1993

PU (A) 238

[19 July 1993]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967, the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT

1 This Order may be cited as the Income Tax (Exemption) (No. 24) Order 1993 and shall have effect for the year of assessment 1992 and subsequent years of assessment.

PARAGRAPH 2 EXEMPTION

2 The Minister exempts from tax, in the manner prescribed in paragraph 3, income derived by an approved research institute or approved research company, resident in Malaysia.

PARAGRAPH 3 ADJUSTED INCOME TO BE EXEMPT AND PERIOD OF EXEMPTION

3 Income mentioned in paragraph 2 shall be the adjusted income as ascertained under the Act and shall be exempt for a period of five consecutive years of assessment commencing from the year of assessment in the basis period in which the approval is to take effect.

PARAGRAPH 4 ADJUSTED LOSS DURING THE PERIOD OF EXEMPTION

4 The amount of adjusted loss for each year of assessment, if any, incurred during the period of exemption shall be deemed to have been incurred in the basis period for the year of assessment immediately after the exempt period.

PARAGRAPH 5 APPLICATION OF PARAGRAPHS 5 AND 6 OF SCHEDULE 7A

5 In relation to a company, paragraph 5 and 6 of Schedule 7A to the Act shall apply, mutatis mutandis, to the amount of the adjusted income exempt under paragraph 2.

History

Para. 5 amended by PU (A) 400/93, corrigendum, effective from 3 December 1993, by substituting “to” for “of”.

PARAGRAPH 6 INTERPRETATION

6 For the purposes of this Order, the words “approved research institute” and “approved research company” shall have the same meanings assigned thereto in section 34B of the Act.

Thornton’s Malaysian Tax Commentaries

Para 6
INCOME TAX (EXEMPTION) (NO. 25) ORDER 1993

PU (A) 239

[19 July 1993]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967, the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1 This Order may be cited as the Income Tax (Exemption) (No. 25) Order 1993 and shall have effect for the year of assessment 1992 and subsequent years of assessment.

PARAGRAPH 2 EXEMPTION
2 The Minister exempts from tax, in the manner prescribed in paragraph 3 below, income derived by any New Technology Based Firm (NTBF) approved by the Minister, a company resident in Malaysia, consisting of the development or commercialisation of technological innovations.

PARAGRAPH 3 ADJUSTED INCOME TO BE EXEMPT AND PERIOD OF EXEMPTION
3 Income mentioned in paragraph 2 shall be the adjusted income as ascertained under the Act and shall be exempt for a period of five consecutive years of assessment commencing from the year of assessment in the basis period in which the approval is to take effect.

PARAGRAPH 4 APPLICATION OF PARAGRAPHS 5 AND 6 OF SCHEDULE 7A
4 Paragraphs 5 and 6 of Schedule 7A to the Act shall apply, mutatis mutandis, to the amount of the adjusted income exempt under paragraph 2.
INCOME TAX (EXEMPTION) (NO. 25) ORDER 1995
PU (A) 322

[3 August 1995]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967, the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1 This order may be cited as the Income Tax (Exemption) (No. 25) Order 1995 and shall have come into force on 21 October 1993.

PARAGRAPH 2 EXEMPTION
2 The Minister exempts from tax a person not resident in Malaysia in respect of income under subsection 4A(iii) of the Act consisting of payments made under an agreement or arrangement for participation in a pool, by a company resident in Malaysia engaged in the business of transporting passenger (sic) or cargo by sea.

PARAGRAPH 3 NON-APPLICATION OF SECTION 109B
3 The provisions of section 109B of the Act shall not apply to income exempt under this Order.
INCOME TAX (EXEMPTION) (NO. 26)
ORDER 1995
PU (A) 355

[16 September 1995]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967, the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1 This order may be cited as the Income Tax (Exemption) (No. 26) Order 1995 and shall have effect from the year of assessment 1992.

PARAGRAPH 2 EXEMPTION FROM TAX OF INCOME FROM THE BUSINESS WHICH RELATES TO, OR THE LETTING OF A QUALIFYING ASSET
2 The Minister exempts from tax, in the manner prescribed in paragraph 3, income of a person derived from the carrying on of a business which relates to a qualifying asset, or the letting of a qualifying asset, in Labuan, where that person—
(a) has undertaken the construction project in respect of that qualifying asset in Labuan; or
(b) has purchased that qualifying asset from a person who undertook the construction project of that asset in Labuan.

PARAGRAPH 3 EXEMPTION FROM TAX UP TO 50%
3 Income derived from the business or letting referred to in paragraph 2 is exempted from income tax up to an amount equivalent to 50% of the adjusted income from the source consisting of that business or letting for the year of assessment in the basis period in which adjusted income in respect of that source first arises and four subsequent years of assessment thereafter:

Provided that, in the case of a person who purchased the qualifying asset, the exemption under this paragraph shall not exceed five years of assessment commencing from the year of assessment in the basis period in which the adjusted income first arises from the source, consisting of that business or letting, of the person who undertook the construction project of that asset.

PARAGRAPH 4 NON-APPLICATION OF EXEMPTION
4 The exemption under paragraph 3 shall not apply—
(a) where the construction project of a qualifying asset does not commence within a period of six years commencing from 1 October 1990; or
(b) to income from a business or letting in respect of which—
(i) pioneer status or pioneer certificate has been granted under the Promotion of Investments Act 1986; or
(ii) approval has been granted under section 27 of the Promotion of Investments Act 1986.

PARAGRAPH 5 APPLICATION OF PARAGRAPHS 5 AND 6 OF SCHEDULE 7A

5 Paragraphs 5 and 6 of Schedule 7A to the Income Tax Act 1967 shall apply, mutatis mutandis, to the amount of income exempt under paragraph 3.

PARAGRAPH 6 INTERPRETATION

6 For the purposes of this Order, the words ‘‘qualifying asset’’ means road, drainage, telecommunication facility, school, hospital, office, port or airport facility, hotel, any public utility or amenity or any recreational facility.

PARAGRAPH 7 REVOCATION

INCOME TAX (EXEMPTION) (NO. 30) ORDER 1995
PU (A) 430

[12 December 1995]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967, the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1 This order may be cited as the Income Tax (Exemption) (No. 30) Order 1995 and shall have effect for the year of assessment 1996 and subsequent years of assessment.

PARAGRAPH 2 INTERPRETATION
2 For the purpose of this Order:
   (a) “borrower” and “lender” means a person authorised by the Securities Commission to engage as a borrower or lender, as the case may be, in securities borrowing and lending transactions under a Securities Borrowing and Lending Agreement that has been approved by that Commission;
   (b) “equivalent securities” means securities of an identical type, nominal value, description and amount to particular securities borrowed and such term shall include the certificates and other documents of or evidencing title and transfer in respect of the foregoing.

PARAGRAPH 3 EXEMPTION
3 The Minister exempts a borrower and a lender from tax on any income (other than dividends, lending fees, interest earned on collateral and rebate) arising from a loan of securities listed on the Kuala Lumpur Stock Exchange and, the return of the same or equivalent securities and, the corresponding exchange of collateral, in respect of a securities borrowing and lending transaction made under a Securities Borrowing and Lending Agreement.

PARAGRAPH 4 LENDER AND BORROWER NOT ABSOLVED FROM COMPLIANCE, ETC.
4 Nothing in paragraph 3 shall absolve or be deemed to have absolved the lender and borrower from complying with any return or statement of accounts or to furnish any information under the provisions of the Income Tax Act 1967 in respect of the income exempted under this Order.

Para 1 Commerce Clearing House (Malaysia) Sdn Bhd
INCOME TAX (EXEMPTION) (NO. 51) ORDER 1997
PU (A) 473

[8 November 1997]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967, the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1 This order may be cited as the Income Tax (Exemption) (No. 51) Order 1997 and shall have effect from the year of assessment 1998.

PARAGRAPH 2 EXEMPTION FROM INCOME TAX ON INTEREST
2 The Minister exempts a person from the payment of income tax on interest which accrues for the basis year of assessment in respect of bonds issued under the Bon Simpanan Malaysia Siri Kedua (BSM 2) by the Bank Simpanan Nasional.
INCOME TAX (EXEMPTION) (NO 2) ORDER 1998
PU (A) 69

25 October 1997

In exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPh 1 CITATION AND COMMENCEMENT
1 This order may be cited as the Income Tax (Exemption) (No 2) Order 1998 and shall be deemed to have come into force on 25 October 1997.

PARAGRAPh 2 EXEMPTION
2 The Minister exempts a non-resident person from tax in respect of income arising from the use of any moveable property by an offshore company licensed under the Offshore Banking Act 1990 [Act 443] approved by the Labuan Offshore Financial Services Authority (LOFSA) to carry out leasing business in Labuan.

PARAGRAPh 3 NON-APPLICATION
3 The provisions of section 109B of the Act shall not apply to income exempt under this Order.
INCOME TAX (EXEMPTION) (NO. 10) ORDER 1998

PU (A) 201

[4 May 1998]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967, the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1 This order may be cited as the Income Tax (Exemption) (No. 10) Order 1998 and shall have effect from the year of assessment 2000.

PARAGRAPH 2 INTERPRETATION
2 For the purposes of this Order—

“enterprise of TECO” means an enterprise carried on by a resident of TECO;

“interest” means income from debt-claims of every kind, whether or not secured by mortgage, and whether or not carrying a right to participate in the debtor’s profits, and in particular, income from government securities and income from bonds or debentures;

“international traffic” means any transport by a ship or aircraft operated by an enterprise of TECO except when the ship or aircraft is operated solely between places in TECO;

“permanent establishment” means—
(a) a fixed place of business through which the business of an enterprise of TECO is wholly or partly carried on. It shall include especially—

(i) a place of management;
(ii) a branch;
(iii) an office;
(iv) a factory;
(v) a workshop;
(vi) a mine, oil well, quarry or other places of extraction of natural resources;
(vii) a plantation, farm, orchard or vineyard;
(viii) a building site, construction, installation and assembly project which exists in the aggregate for more than six months in a calendar year or for more than six consecutive months overlapping two calendar years;

(b) an enterprise of TECO that carries on supervisory activities in Malaysia for more than six months in connection with a construction, installation or assembly project which is being undertaken in Malaysia;
(c) a person acting in Malaysia on behalf of an enterprise of TECO notwithstanding he has no fixed place of business in Malaysia if—

(i) he has, and habitually exercises a general authority in Malaysia to conclude contracts in the name of the enterprise; or

(ii) he maintains in Malaysia a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders on behalf of the enterprise; or

(iii) he regularly secures orders in Malaysia wholly or almost wholly for the enterprise;

“person” comprises an individual, a company and any other body of persons which is treated as a person for tax purposes;

“professional services” includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants;

“resident of TECO” means any person who is a resident in accordance with the taxation laws applicable in TECO;

“technical fees” means payment of any kind to any person, other than to an employee of the person making the payments, in consideration for any services of a technical, managerial or consultancy nature; and

“TECO” means the area represented by the Taipei Economic and Cultural Office in Malaysia.

PARAGRAPH 3 EXEMPTION FROM TAX

3 The Minister exempts a person who is a resident of TECO in respect of income from—

Business Profits

3.1 Profits of an enterprise of TECO that carries on business in Malaysia not through a permanent establishment.

Profits from Shipping and Air Transport

3.2 The operation of ships or aircraft in international traffic, including share of profits from the participation in a pool, a joint business or an international operating agency and profits from the rental of ships or aircraft on a full (time or voyage) or bareboat basis and from the rental of containers and related equipment, which is incidental to the international operation of ships or aircraft.
Interest

3.3 Interest paid to a resident of TECO who is the beneficial owner of the interest equal to an amount arrived at by the following formula:

\[ A \times \frac{B}{C} \]

where
- \( A \) is the gross amount of interest derived from Malaysia;
- \( B \) is the difference between the tax rate pursuant to Part II, Schedule 1 and 10 percent; and
- \( C \) is the tax rate pursuant to Part II, Schedule 1.

Technical Fees

3.4 Technical fees paid to a resident of TECO who is the beneficial owner of the technical fees equal to an amount arrived at by the following formula:

\[ A \times \frac{B}{C} \]

where
- \( A \) is the gross amount of technical fees derived from Malaysia;
- \( B \) is the difference between the tax rate pursuant to Part V, Schedule 1 and 7.5 percent; and
- \( C \) is the tax rate pursuant to Part V, Schedule 1.

Independent Personal Services

3.5 Professional services or other independent activities of a similar character—
(a) if his stay in Malaysia is for a period or periods amounting to or in aggregate of less than 183 days in the calendar year concerned; or
(b) if the remuneration for his services in Malaysia does not exceed 3,000 U.S. Dollars or the equivalent in Malaysian Ringgit in the calendar year concerned.

Dependent Personal Services

3.6 An employment exercised in Malaysia if—
(a) the recipient is present in Malaysia for a period or periods amounting to or in the aggregate of less than 183 days in the calendar year concerned; and
(b) the remuneration is paid by, or on behalf of an employer who is not a resident of Malaysia; and
(c) the remuneration is not borne by a resident or a permanent establishment which the employer has in Malaysia.

Artistes and Sportsmen

3.7 Activities exercised in Malaysia as or by an entertainer, such as a theater, motion picture, radio or television artiste, or a musician, or as a sportsman, if the visit to Malaysia is directly or indirectly supported wholly or substantially from public funds of TECO.
Teachers and Researchers

3.8 Teaching or research (other than those undertaken primarily for the private benefit of a specific person or persons) or both at a public university, college or other similar public institutions at the invitation of such public institutions provided that the individual is a resident of TECO immediately before making the visit to Malaysia and that visit is for a period not exceeding two years solely for that purpose and such remuneration is subject to tax in TECO.

Students and Trainees

3.9

(a) All remittances from abroad for the purposes of his maintenance, education, study, research or training;

(b) Any amount of grant, allowance or award; and

(c) Any remuneration not exceeding 3,000 U.S. Dollars or the equivalent in Malaysian Ringgit per annum in respect of services in Malaysia provided the services are performed in connection with his study, research or training or are necessary for the purposes of his maintenance, and he is a resident of TECO immediately before making a visit to Malaysia and is temporarily present in Malaysia solely—

(i) as a student at a recognized university, college, school or other similar recognized educational institutions in Malaysia;

(ii) as a business or technical apprentice; or

(iii) as recipient of a grant, allowance or award for the primary purpose of study, research or training from the relevant authorities in TECO or in Malaysia or from a scientific, educational, religious or charitable organization or under a technical assistance programme entered into between the relevant authorities in TECO and in Malaysia.

PARAGRAPH 4 LIMITATION OF EXEMPTION

4 Where income mentioned in the preceding paragraphs is subject to tax under the laws in force in TECO by reference to the amount thereof which is remitted to or received in TECO and not by reference to the full amount thereof, then the exemption to be allowed under this Order shall apply to so much of the income as is remitted to or received in TECO.
INCOME TAX (EXEMPTION) (NO. 11)
ORDER 1998

[4 May 1998]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967, the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1 This order may be cited as the Income Tax (Exemption) (No. 11) Order 1998 and shall have effect from the year of assessment 2000.

PARAGRAPH 2 INTERPRETATION
2 For the purpose of this Order, the word “TECO” means the area represented by the Taipei Economic and Cultural Office in Malaysia.

PARAGRAPH 3 EXEMPTION
3 The Minister exempts an individual, or a company carrying on the business of banking or insurance, resident in Malaysia, from tax in respect of income received or derived from TECO, where such income has been subject to tax in TECO, for a basis period for a year of assessment.

PARAGRAPH 4 CHARGEABLE TAX
4 Income mentioned in the preceding paragraph refers to an amount, if tax is charged on it, that tax will equal to an amount, arrived at by the following formula:

\[
\text{Income from TECO} \times \frac{\text{Total Tax}}{\text{Total Income}}
\]
INCOME TAX (EXEMPTION) (NO. 16)
ORDER 1999

[13 July 1999]

IN exercise of the powers conferred by paragraph 127(3) (b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 16) Order 1999.
1(2) This Order shall have effect from the year of assessment 1999.

PARAGRAPH 2 INTERPRETATION
2 In this Order, unless the context otherwise requires—

“export sales” means sales derived from exports of local and imported goods and commodities, but does not include trading commissions and profits derived from trading at the Commodity Exchange and sales to Free Industrial Zones and Licensed Manufacturing Warehouses;

“Malaysia External Trade Development Corporation” means the corporation established under section 3 of the Malaysia External Trade Development Corporation Act 1992 [Act 490];

“Malaysian International Trading Company” means a company approved by the Malaysia External Trade Development Corporation which has fulfilled the following conditions:

(a) the company is incorporated in Malaysia and at least 70 per cent of the issued share capital of the company is Malaysian owned;

(b) the company has achieved annual sales of more than RM25 million; and

(c) the company exports manufactured goods especially from Malaysian small and medium companies;

“Malaysian small and medium company” means a company with annual sales of less than RM25 million and with not more than 150 employees;

“related company” means a company where—

(a) at least 20 per cent of Malaysian International Trading Company issued share capital is beneficially owned, either directly or indirectly, by that company; or

(b) at least 20 per cent of the issued share capital of that company is beneficially owned, either directly or indirectly, by the Malaysian International Trading Company.

Para 1(1) Commerce Clearing House (Malaysia) Sdn Bhd
PARAGRAPH 3 EXEMPTION

3(1) The Minister exempts the Malaysian International Trading Company from the payment of income tax up to an amount equivalent to 70 per cent of the statutory income of the company for the basis period for a year of assessment arising from an increase of its export sales, which shall be determined in accordance with the following formula:

\[ \frac{A \times B}{C} \]

where

- \( A \) is the statutory income of the company in relation to its export sales in that basis period;
- \( B \) is the increase of the export sales of the company in that basis period over the export sales in the immediately preceding basis period; and
- \( C \) is the total of the export sales of the company in that basis period.

3(2) The exemption under paragraph (1) shall be granted to the Malaysian International Trading Company for five consecutive years of assessment beginning from the year of assessment in which that company first qualified for the exemption.

PARAGRAPH 4 QUALIFICATIONS FOR EXEMPTION

4 To qualify for the exemption under paragraph 3, the Malaysian International Trading Company claiming the exemption shall obtain a letter from the Malaysia External Trade Development Corporation certifying that the following conditions have been fulfilled:

(a) that the company is incorporated in Malaysia and at least 70 per cent of the issued share capital of the company is Malaysian owned;
(b) that the company has achieved annual sales of more than RM25 million;
(c) that the company exports manufactured goods especially from Malaysian small and medium companies;
(d) that not more than 20 per cent of the company’s annual sales is derived from the trading of commodities;
(e) that not more than 20 per cent of the company’s annual sales is derived from the sales of goods of related companies; and
(f) that the company uses local services for the purposes of banking, finance and insurance and uses local ports airports.
INCOME TAX (EXEMPTION) (NO 17)
ORDER 1999

In exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT

1(1) This order may be cited as the Income Tax (Exemption) (No 17) Order 1999.
1(2) This Order shall have effect for the year of assessment 2000 and subsequent years of assessment.

PARAGRAPH 2 EXEMPTION

2 The Minister exempts non-resident film companies, actors and film crews who are in Malaysia from the payment of income tax in respect of income derived from filming activities commencing on or after 31 March 1999 which has been approved by the Jawatankuasa Filem Asing, Ministry of Home Affairs, Malaysia.

Para 1(1) Commerce Clearing House (Malaysia) Sdn Bhd
INCOME TAX (EXEMPTION) (NO. 5) ORDER 2000

[22 February 2000]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 5) Order 2000.
1(2) This Order shall be deemed to have come into operation on 1 January 2000.

PARAGRAPH 2 INTERPRETATION
2 In this Order, “banking institution” means a commercial bank, a finance company or a merchant bank licensed under the Banking and Financial Institutions Act 1989 [Act 372] or an Islamic bank licensed under the Islamic Banking Act 1983 [Act 276].

PARAGRAPH 3 EXEMPTION
3(3) The Minister exempts a banking institution from the payment of income tax on the adjusted income in respect of interest derived from loans, or profits derived from financing, granted within the period 1 January 2000 until 31 December 2000 (the relevant period) in excess of eight per cent annual growth.
3(4) For the purpose of this Order, the banking institution shall obtain a letter from Bank Negara Malaysia certifying—
   (a) that the banking institution has achieved at least ten per cent annual growth for the relevant period; and
   (b) the amount of interest or profits which is in excess of eight per cent annual growth referred to in paragraph (3).
INCOME TAX (EXEMPTION) (NO. 6)
ORDER 2000
PU (A) 67

[24 February 2000]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 6) Order 2000.
1(2) This Order shall have effect for the years of assessment 2000 in respect of the basis period ending in the year 2000 (current year basis) and 2001.

PARAGRAPH 2 INTERPRETATION
2 For the purpose of this Order—
   “domestic tour” means a tour package for travel within Malaysia, undertaken by local tourists inclusive of transportation by air, land or sea and accommodation;
   “local tourists” means individuals who are Malaysian citizens or residing in Malaysia;
   “tour operating business” has the meaning assigned to it under subsection 2(1) of the Tourism Industry Act 1992 [Act 482].

PARAGRAPH 3 EXEMPTION FROM TAX
3(1) The Minister exempts a company resident in Malaysia, which is licensed under the Tourism Industry Act 1992 to carry on a tour operating business, from the payment of tax in respect of the statutory income derived from domestic tours.
3(2) The exemption in subparagraph (1) shall not apply if the total number of local tourists on domestic tours relating to that company is less than one thousand two hundred in the basis period for a year of assessment.

PARAGRAPH 4 KEEPING OF SEPARATE ACCOUNTS
4 A company seeking exemption under paragraph 3 shall maintain a separate account for the income derived from domestic tours.

PARAGRAPH 5 APPLICATION OF PARAGRAPHS 5 AND 6 OF SCHEDULE 7A
5 Paragraphs 5 and 6 of Schedule 7A to the Act shall apply, mutatis mutandis, to the amount of income exempted under paragraph 3.
INCOME TAX (EXEMPTION) (NO. 7) ORDER 2000
PU (A) 68

[24 February 2000]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 7) Order 2000.
1(2) This Order shall have effect for the years or assessment 2000 in respect of the basis period ending in the year 2000 (current year basis) and 2001.

PARAGRAPH 2 INTERPRETATION
2 For the purpose of this Order—
``group inclusive tour’’ means a tour package to or of Malaysia or any place within Malaysia undertaken by tourists from outside Malaysia, inclusive of transportation by air, land or sea and accommodation;
``tour operating business’’ has the meaning assigned to it under subsection 2(1) of the Tourism Industry Act 1992 [Act 482].

PARAGRAPH 3 EXEMPTION FROM TAX
3(1) The Minister exempts a company resident in Malaysia which is licensed under the Tourism Industry Act 1992 to carry on a tour operating business from the payment of tax in respect of the statutory income derived from group inclusive tours.
3(2) The exemption in subparagraph (1) shall not apply if the total number of tourists from outside Malaysia on group inclusive tours is less than five hundred in the basis period for a year of assessment.

PARAGRAPH 4 KEEPING OF SEPARATE ACCOUNTS
4 A company seeking exemption under paragraph 3 shall maintain a separate account for the income derived from group inclusive tours.

PARAGRAPH 5 APPLICATION OF PARAGRAPHS 5 AND 6 OF SCHEDULE 7A
5 Paragraphs 5 and 6 of Schedule 7A to the Act shall apply, *mutatis mutandis*, to the amount of income exempted under paragraph 3.
INCOME TAX (EXEMPTION) (NO. 26)
ORDER 2000
PU (A) 199

[17 May 2000]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 26) Order 2000.
1(2) This Order shall be deemed to have come into operation from the year of assessment 1997 until the year of assessment 2000 (inclusive of years of assessment 1997 and 2000).

PARAGRAPH 2 INTERPRETATION
2 For the purpose of this Order—
``approved field'' means any field as set out in the Schedule;
``approved institution'' means any university, college or public institution of higher learning or private institution of higher learning approved by the Ministry of Education Malaysia or any training institution approved by the Minister of Finance.

PARAGRAPH 3 EXEMPTION
3 The Minister exempts a non-resident individual from the payment of income tax on 50% of gross income derived by that individual from undertaking an employment relating to teaching or lecturing in any approved field at any approved institution.

SCHEDULE
(1) Engineering (mechanical, electrical and electronic, aerospace, chemical, microelectronic, computer and telecommunication system).
(2) Computer science and information technology.
(3) Medical science, dentistry and pharmacy.
(4) Law.
(5) Allied health.
(6) Architecture, planning and survey.
(7) Science and mathematics.
(8) Mass communication.

Para 1(1) Commerce Clearing House (Malaysia) Sdn Bhd
INCOME TAX (EXEMPTION) (NO. 53)
ORDER 2000

PU (A) 500

[14 December 2000]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 53) Order 2000.
1(2) This Order shall be deemed to have effect from the year of assessment 1997.

PARAGRAPH 2 INTERPRETATION
2 For the purpose of this Order—

``statutory income derived from organising conferences held in Malaysia’’ means fees and other payments received by a company, an association or an organisation in performing its duties as a conference promoter less allowable expenses for tax purposes and capital allowances, if any;

``conference promoter’’ means a company incorporated under the Companies Act 1965 [Act 125], or an association or organisation registered under the Societies Act 1966 [Act 335] performing the duties of promoting and organising conferences including the arranging of accommodation, tours and sightseeing for foreign participants;

``foreign participants’’ means individuals who are non-Malaysian citizens participating in conferences held in Malaysia, but does not include individuals who are non-Malaysian citizens who reside in Malaysia.

PARAGRAPH 3 EXEMPTION
3(1) The Minister exempts a conference promoter resident in Malaysia from the payment of income tax in respect of the statutory income derived from organising conferences held in Malaysia.
3(2) The exemption in subparagraph (1) shall not apply if the total number of foreign participants brought in by that conference promoter for conferences held in Malaysia is less than five hundred in the basis period for a year of assessment.
3(3) Nothing in subparagraph (1) shall absolve or be deemed to have absolved the conference promoter from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provisions of the Act.

Thornton’s Malaysian Tax Commentaries

Para 3(3)
PARAGRAPH 4 KEEPING OF SEPARATE ACCOUNTS
4 A conference promoter seeking exemption under paragraph 3 shall maintain a separate account for the income derived from organising conferences held in Malaysia.

PARAGRAPH 5 APPLICATION OF PARAGRAPHS 5 AND 6 OF SCHEDULE 7A
5 In relation to a company, paragraphs 5 and 6 of Schedule 7A to the Act shall apply, mutatis mutandis, to the amount of income exempted under paragraph 3.
INCOME TAX (EXEMPTION) (NO. 54)
ORDER 2000
PU (A) 501

[14 December 2000]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No.54) Order 2000.
1(2) This Order shall be deemed to have effect from the year of assessment 1999.

PARAGRAPH 2 INTERPRETATION
2 For the purpose of this Order—
``promoter of car or motorcycle races'' means a company incorporated under the Companies Act 1965 [Act 125], or an association or organisation registered under the Societies Act 1966 [Act 335];
``races of international standard'' means any car or motorcycle races recognised by the Federation De L Automobile (FIA) and the Federation International De Motorcyclisme (FIM).

PARAGRAPH 3 EXEMPTION
3(1) The Minister exempts—
(a) the driver of a racing car or motorcycle from the payment of tax in respect of the gross income earned from competing in races of international standard held in Malaysia; and
(b) a promoter of car or motorcycle races from the payment of tax in respect of fifty per cent of the statutory income derived from the organisation of races of international standard held in Malaysia.
3(2) Nothing in this paragraph shall absolve or be deemed to have absolved the driver or the promoter from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provisions of the Act.

PARAGRAPH 4 KEEPING OF SEPARATE ACCOUNTS
4 A promoter of car or motorcycle races seeking exemption under subparagraph 3(1)(b) shall maintain a separate account for the income derived from the organisation of races of international standard held in Malaysia.

PARAGRAPH 5 APPLICATION OF PARAGRAPHS 5 AND 6 OF SCHEDULE 7A
5 In relation to a company, paragraphs 5 and 6 of Schedule 7A to the Act shall apply, mutatis mutandis, to the amount of income exempted under subparagraph 3(1)(b).
INCOME TAX (EXEMPTION) (NO. 55) 
ORDER 2000 
PU (A) 502

[22 December 2000]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1  CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 55) Order 2000.
1(2) This Order shall be deemed to have come into operation from 23 October 1998 until 31 December 2000 and shall have effect from the year of assessment 1999 until the year of assessment 2000 in respect of the basis period ending in the year 2000.

PARAGRAPH 2  INTERPRETATION
2 For the purpose of this Order—

“exhibition, festival or conference” means an exhibition, festival or conference organized with the participation of foreign nationals;
“promoter” means a company incorporated under the Companies Act 1965 [Act 125], or an association or organization registered under the Societies Act 1966 [Act 335];
“games or sports competition of international standard” means any sporting event or recreational activity approved by the Ministry of Youth and Sports and organized in any form with the participation of foreign nationals from a number of countries;
“cultural or arts show” means a stage performance approved by the Ministry of Culture, Arts and Tourism and organized with the participation of foreign nationals who have made at least three performances in foreign countries other than their own;
“foreign national” means an individual who is not a Malaysian citizen.

PARAGRAPH 3  EXEMPTION
3(1) The Minister exempts—

(a) a foreign national from the payment of income tax in respect of the gross income derived from participating in any cultural or arts show, exhibition, festival or conference or games or sports competition of international standard; and

(b) a promoter of any cultural or arts show, exhibition, festival or conference or games or sports competition of international standard from the payment of income tax on 50 per cent of the statutory income derived from the organization of such activities.

3(2) The exemption in subparagraph (1) shall apply only if the cultural or arts show, exhibition, festival or conference or games or sports competition of international standard referred to in subparagraph (1) is held in Malaysia at the National Sports Complex, National Theatre, National Art Gallery or Petronas Philharmonic Hall.

Para 1(1) Commerce Clearing House (Malaysia) Sdn Bhd
3(3) Nothing in this paragraph shall absolve or be deemed to have absolved the foreign national or the promoter from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provisions of the Act.

PARAGRAPH 4 KEEPING OF SEPARATE ACCOUNTS

4 A promoter seeking an exemption under sub-subparagraph 3(1)(b) shall maintain a separate account for the income derived from the organization of any cultural or arts show, exhibition, festival or conference or games or sports competition of international standard in Malaysia.

PARAGRAPH 5 APPLICATION OF PARAGRAPHS 5 AND 6 OF SCHEDULE 7A

5 In relation to a company, paragraphs 5 and 6 of Schedule 7A to the Act shall apply, mutatis mutandis, to the amount of income exempted under sub-subparagraph 3(1)(b).
INCOME TAX (EXEMPTION) (NO. 56)
ORDER 2000
PU (A) 503

[22 December 2000]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be as the Income Tax (Exemption) (No. 56) Order 2000.
1(2) This order shall have effect from the year of assessment 2001 until the year of assessment 2003 (inclusive of years of assessment 2001 and 2003).

PARAGRAPH 2 EXEMPTION
2(1) The Minister exempts an employee from the payment of income tax on an amount equal to the value of the benefit in the form of one new personal computer received by him as a gift from his employer, in ascertaining the gross income from his employment for the basis period for a year of assessment.
2(2) The individual employee shall be granted one exemption only on the value of the benefit of one new personal computer for the whole duration of the basis periods from the year of assessment 2001 until the year of assessment 2003.
2(3) Nothing in this paragraph shall absolved or be deemed to have absolved the employee from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provisions of the Act.
INCOME TAX (EXEMPTION) ORDER 2001
PU (A) 67

[1 January 2001]

In exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) Order 2001.
1(2) This Order shall be deemed to have come into operation on 1 January 2001.

PARAGRAPH 2 INTERPRETATION
2 For the purpose of this Order, ‘Special Committee’ means a committee set up by the Ministry of Human Resources to approve applications for incentives made by Malaysian citizens abroad who are experts in specific areas and intend to return to Malaysia.

PARAGRAPH 3 EXEMPTION
3(1) The Minister exempts a Malaysian citizen and his or her spouse who have been approved by the Special Committee from the payment of income tax in respect of income arising from sources outside Malaysia and remitted into Malaysia within a period of two years from the date of arrival in Malaysia.
3(2) Nothing in this paragraph shall absolve or be deemed to have absolved the individual and his or her spouse from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provisions of the Act.
INCOME TAX (EXEMPTION) (NO. 2)
ORDER 2001
PU (A) 154

[8 May 2001]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 2) Order 2001.
1(2) This Order shall be deemed to have come into operation on 1 January 1998 for items 1 to 11 as listed in the Schedule.
1(3) This Order shall have effect from the year of assessment 2001 for items 12 and 13 as listed in the Schedule.

PARAGRAPH 2 INTERPRETATION
2 For the purpose of this Order—
   “foreign client” means a company, a partnership, an organisation or a co-operative society which is incorporated or registered outside Malaysia or an individual who is a non-Malaysian citizen and does not hold a Malaysian work permit or an individual who is a non-resident Malaysian citizen living abroad;
   “qualifying services” means services specified in the Schedule which are provided to foreign clients, from Malaysia, and in relation to the provisions of private healthcare and private education, the services to be provided to foreign clients are to be provided either in Malaysia, or provided from Malaysia;
   “value of increased exports” means the difference of the value of the qualifying services exported in the basis period and that of the immediately preceding basis period.

PARAGRAPH 3 EXEMPTION
3 The Minister exempts a person resident in Malaysia from the payment of income tax in respect of income derived from the export of qualifying services specified in the Schedule in the basis period for a year of assessment, in an amount and manner prescribed in paragraph 4.

PARAGRAPH 4 AMOUNT OF INCOME TO BE EXEMPTED
4(1) The amount of income referred to in paragraph 3 shall be equal to 10 per cent of the value of increased exports.
4(2) Where an amount of income equivalent to 10 per cent of the value of increased exports has been determined for a year of assessment, so much of the statutory income of the business of that person for that year of assessment as is equal to that value of increased exports (or to the aggregate amount of any such value of increased exports as the case may be) but not exceeding 70 per cent of the statutory income shall be exempted from tax.

Para 1(1) Commerce Clearing House (Malaysia) Sdn Bhd
PARAGRAPH 5 INSUFFICIENCY OF INCOME

5 Where, by reason of the restriction of 70 per cent of the statutory income or of an insufficiency or absence of statutory income from a business of the person for the basis period for a year of assessment, effect cannot be given or cannot be given in full to the amount of the determined value of increased exports to which the person is entitled under paragraph 4 for that year of assessment, then so much of that amount or the aggregate amount as cannot be given for that year shall be given to the person for the first subsequent year of assessment for the basis period for which there is statutory income from that business, and for subsequent years of assessment until the person has received the whole of the amount or the aggregate amount to which the person is so entitled.

PARAGRAPH 6 NON-APPLICATION

6 This Order shall not apply to a person—

(a) for the period during which the person has been granted any incentives (except for deductions for promotion of exports) under the Promotion or Investments Act 1986 [Act 327];

(b) for the period during which the person has been granted investment allowance under Schedule 7B of the Act; and

(c) for the period during which the person has been granted an exemption under paragraph 127(3)(b) in respect of an approved service project.

PARAGRAPH 7 APPLICATION OF PARAGRAPHS 5 AND 6 OF SCHEDULE 7A

7 Paragraphs 5 and 6 of Schedule 7A to the Act shall apply *mutatis mutandis* to the amount of income exempt under paragraph 4.

SCHEDULE

Qualifying services

1. Legal.
2. Accounting.
3. Architecture.
5. Business consultancy.
6. Office services.
7. Construction management.
8. Building management.
11. Private education.
12. Publishing services.
13. Information technology and communication services (ICT).
INCOME TAX (APPROVED AGRICULTURAL PROJECTS) ORDER
2002
PU (A) 61

[24 January 2002]

IN exercise of the powers conferred by paragraphs 1, 3 and 8 of Schedule 4A to the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT

1(1) This order may be cited as the Income Tax (Approved Agricultural Projects) Order 2002.

1(2) This Order shall be deemed to have effect from the year of assessment 1989 in respect of an agricultural project listed under items 1 and 2 in column (1) of the First Schedule.

1(3) This Order shall be deemed to have effect from the year of assessment 1999 in respect of an agricultural project under item 3 in column (1) of the First Schedule.

1(4) This Order shall have effect from the year of assessment 2002 in respect of an agricultural project listed under items 4 to 16 in column (1) of the First Schedule.

PARAGRAPH 2 APPROVED AGRICULTURAL PROJECTS

2(1) The projects listed in column (1) of the First Schedule are the agricultural projects approved by the Minister for the purposes of Schedule 4A.

2(2) The species of crop relating to the approved agricultural project under item 3 in column (1) of the First Schedule are listed in column (1) of the Second Schedule.

PARAGRAPH 3 STIPULATED PERIOD AND COMMENCEMENT OF THE PERIOD

3(1) The period in relation to an approved agricultural project under items 1 and 2 and items 4 to 16 in column (1) of the First Schedule is stipulated in column (2) of the First Schedule and the stipulated period shall commence from the date of commencement of the business consisting of the carrying on of that project.

3(2) The period in relation to each specie of crop listed in column (1) of the Second Schedule of an approved agricultural project under item 3 in column (1) of the First Schedule is stipulated in column (2) of the Second Schedule and the stipulated period shall commence from the date of commencement of the business consisting of the carrying on of that project.

Para 1(1) Commerce Clearing House (Malaysia) Sdn Bhd
**PARAGRAPH 4  MINIMUM HECTARAGE**

4(1) The minimum hectarage in relation to an approved agricultural project under items 1 and 2 and items 4 to 16 in column (1) of the First Schedule is stipulated in column (3) of the First Schedule.

4(2) The minimum hectarage in relation to each specie of crop listed in column (1) of the Second Schedule of an approved agricultural project under item 3 in column (1) of the First Schedule is stipulated in column (3) of the First Schedule.

**PARAGRAPH 5  REVOCATION**


**FIRST SCHEDULE**

<table>
<thead>
<tr>
<th>(1)</th>
<th>(2)</th>
<th>(3)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project</td>
<td>Period</td>
<td>Minimum Hectarage</td>
</tr>
<tr>
<td>1. Cultivation of crops:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Papaya</td>
<td>1 year</td>
<td>40 hectarage</td>
</tr>
<tr>
<td>Banana</td>
<td>1 year</td>
<td>40 hectarage</td>
</tr>
<tr>
<td>Passion-fruit</td>
<td>1 year</td>
<td>40 hectarage</td>
</tr>
<tr>
<td>Star-fruit</td>
<td>2 years</td>
<td>8 hectarage</td>
</tr>
<tr>
<td>Guava</td>
<td>2 years</td>
<td>8 hectarage</td>
</tr>
<tr>
<td>Mangosteen</td>
<td>7 years</td>
<td>8 hectarage</td>
</tr>
<tr>
<td>2. Floriculture</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(plants, bulbs, tubers and roots with or without flowers or flower buds, of the kind specified in Chapter 6 of the Custom Duties Order 1988 [PU (A) 347/88], which are suitable for planting or ornamental use excluding:</td>
<td>2 years</td>
<td>8 hectarage</td>
</tr>
<tr>
<td>(a) mushroom spawn;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b) budded or seedling rubber stumps; and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(c) rubber bud wood)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Forest plantation project</td>
<td>6 to 50 years depending on the type of specie specified in the Second Schedule</td>
<td>50 hectarage</td>
</tr>
<tr>
<td>4. Cultivation of vegetables, tubers, roots, herbs, spices, crops for animal feed and hydroponic based products</td>
<td>3 years</td>
<td>40 hectarage</td>
</tr>
<tr>
<td>5. Ornamental fish culture-open system (land/concrete pond)</td>
<td>2 years</td>
<td>5 hectarage</td>
</tr>
<tr>
<td>(1) Project</td>
<td>(2) Period</td>
<td>(3) Minimum Hectarage</td>
</tr>
<tr>
<td>-----------------------------------------</td>
<td>------------</td>
<td>-----------------------</td>
</tr>
<tr>
<td>Ornamental fish culture-enclosure system</td>
<td>2 years</td>
<td>0.25 hectarage</td>
</tr>
<tr>
<td>Pond culture-fish and prawns (brackish water/fresh water)</td>
<td>2 years</td>
<td>20 hectarage</td>
</tr>
<tr>
<td>Tank culture-fish (brackish water/fresh water)</td>
<td>2 years</td>
<td>1 hectarage</td>
</tr>
<tr>
<td>Offshore-marine cage culture fish</td>
<td>2 years</td>
<td>0.5 hectarage</td>
</tr>
<tr>
<td>Marine cage culture-fish (brackish water/fresh water)</td>
<td>2 years</td>
<td>0.5 hectarage</td>
</tr>
<tr>
<td>Cockle culture</td>
<td>1 year</td>
<td>10 hectarage</td>
</tr>
<tr>
<td>Mussel and oyster culture</td>
<td>2 years</td>
<td>0.5 hectarage</td>
</tr>
<tr>
<td>Seaweed culture</td>
<td>1 year</td>
<td>5 hectarage</td>
</tr>
<tr>
<td>Shrimp hatchery</td>
<td>2 years</td>
<td>0.25 hectarage</td>
</tr>
<tr>
<td>Prawn hatchery</td>
<td>2 years</td>
<td>0.25 hectarage</td>
</tr>
<tr>
<td>Fish hatchery (sea water/brackish water/fresh water)</td>
<td>2 years</td>
<td>0.5 hectarage</td>
</tr>
</tbody>
</table>

**SECOND SCHEDULE**

<table>
<thead>
<tr>
<th>(1) Specie</th>
<th>(2) Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bamboo poring (<em>Gigantochloa levis</em>)</td>
<td>6 years</td>
</tr>
<tr>
<td>Rotan (<em>Calamus</em>)</td>
<td>8 years</td>
</tr>
<tr>
<td>Acacia (<em>Acacia</em>)</td>
<td>15 years</td>
</tr>
<tr>
<td>Kelempayan (<em>Anthocephalus</em>)</td>
<td>15 years</td>
</tr>
<tr>
<td>Kapok (<em>Ceiba</em>)</td>
<td>15 years</td>
</tr>
<tr>
<td>Sawih (<em>Duabanga</em>)</td>
<td>15 years</td>
</tr>
<tr>
<td>Sesendok (<em>Endospernum</em>)</td>
<td>15 years</td>
</tr>
<tr>
<td>Mahang (<em>Macaranga</em>)</td>
<td>15 years</td>
</tr>
<tr>
<td>Balik angin (<em>Mallotus</em>)</td>
<td>15 years</td>
</tr>
<tr>
<td>Binuang (<em>Octomeles</em>)</td>
<td>15 years</td>
</tr>
<tr>
<td>Batai/kayu macis (*Raserianthes (<em>Albizia</em>))</td>
<td>15 years</td>
</tr>
<tr>
<td>Sungkai (<em>Peromina canescens</em>)</td>
<td>15 years</td>
</tr>
<tr>
<td>Bayor (<em>Pterospermum stajianum</em>)</td>
<td>15 years</td>
</tr>
<tr>
<td>Damar minyak/Bindang (<em>Agathis</em>)</td>
<td>25 years</td>
</tr>
<tr>
<td>Pulai (<em>Alstonia</em>)</td>
<td>25 years</td>
</tr>
<tr>
<td>Hoop pine/Klinki pine (<em>Artocarpus</em>)</td>
<td>25 years</td>
</tr>
<tr>
<td>Cempedak/Terap (<em>Artocarpus</em>)</td>
<td>25 years</td>
</tr>
<tr>
<td>Sentang/Ranggu (<em>Azadirachta</em>)</td>
<td>25 years</td>
</tr>
<tr>
<td>Javan cedar (<em>Bischofia</em>)</td>
<td>25 years</td>
</tr>
</tbody>
</table>

Sch 2 Commerce Clearing House (Malaysia) Sdn Bhd
<table>
<thead>
<tr>
<th>No.</th>
<th>Specie</th>
<th>Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>20</td>
<td>Terentang (<em>Cannosperma</em>)</td>
<td>25 years</td>
</tr>
<tr>
<td>21</td>
<td>Pokok teja (<em>Cinnamomum</em>)</td>
<td>25 years</td>
</tr>
<tr>
<td>22</td>
<td>Geronggang (<em>Cratoxylon</em>)</td>
<td>25 years</td>
</tr>
<tr>
<td>23</td>
<td>Sempilor (<em>Dacrydium</em>)</td>
<td>25 years</td>
</tr>
<tr>
<td>24</td>
<td>Simpoh (<em>Dillenia</em>)</td>
<td>25 years</td>
</tr>
<tr>
<td>25</td>
<td>Jelutong (<em>Dyera</em>)</td>
<td>25 years</td>
</tr>
<tr>
<td>26</td>
<td>Terbulan (<em>Endospermum</em>)</td>
<td>25 years</td>
</tr>
<tr>
<td>27</td>
<td>Eucalyptus (<em>Eucalyptus</em>)</td>
<td>25 years</td>
</tr>
<tr>
<td>28</td>
<td>Yemane (<em>Gmelina</em>)</td>
<td>25 years</td>
</tr>
<tr>
<td>29</td>
<td>Rubber (<em>Hevea</em>)</td>
<td>25 years</td>
</tr>
<tr>
<td>30</td>
<td>Khaya (<em>Khaya</em>)</td>
<td>25 years</td>
</tr>
<tr>
<td>31</td>
<td>Kerdam (<em>Ilex</em>)</td>
<td>25 years</td>
</tr>
<tr>
<td>32</td>
<td>Machang (<em>Mangifera</em>)</td>
<td>25 years</td>
</tr>
<tr>
<td>33</td>
<td>Nyatoh (<em>Palaquium</em>)</td>
<td>25 years</td>
</tr>
<tr>
<td>34</td>
<td>Petai (<em>Parkia</em>)</td>
<td>25 years</td>
</tr>
<tr>
<td>35</td>
<td>Pine (<em>Pinus</em>)</td>
<td>25 years</td>
</tr>
<tr>
<td>36</td>
<td>Angsana (<em>Pterocarpus</em>)</td>
<td>25 years</td>
</tr>
<tr>
<td>37</td>
<td>Melembu (<em>Pterocymbium</em>)</td>
<td>25 years</td>
</tr>
<tr>
<td>38</td>
<td>Bayor Batu (<em>Petrospermum javanicum</em>)</td>
<td>25 years</td>
</tr>
<tr>
<td>39</td>
<td>Kedondong (<em>Santiria</em>)</td>
<td>25 years</td>
</tr>
<tr>
<td>40</td>
<td>Gegatal (<em>Schima</em>)</td>
<td>25 years</td>
</tr>
<tr>
<td>41</td>
<td>Kelampu (<em>Sandoricum</em>)</td>
<td>25 years</td>
</tr>
<tr>
<td>42</td>
<td>Mahogany (<em>Swietenia</em>)</td>
<td>25 years</td>
</tr>
<tr>
<td>43</td>
<td>Teak/Kayu Jati (<em>Tectona</em>)</td>
<td>25 years</td>
</tr>
<tr>
<td>44</td>
<td>Talisai (<em>Terminalia</em>)</td>
<td>25 years</td>
</tr>
<tr>
<td>45</td>
<td>Mersawa (<em>Anisoptera</em>)</td>
<td>50 years</td>
</tr>
<tr>
<td>46</td>
<td>Bintangor (<em>Anisoptera Cylophyllum</em>)</td>
<td>50 years</td>
</tr>
<tr>
<td>47</td>
<td>Kenanga (<em>Canaga</em>)</td>
<td>50 years</td>
</tr>
<tr>
<td>48</td>
<td>Kedondong (<em>Canarium</em>)</td>
<td>50 years</td>
</tr>
<tr>
<td>49</td>
<td>Ru (<em>Casuarina</em>)</td>
<td>50 years</td>
</tr>
<tr>
<td>50</td>
<td>Surian batu (<em>Chukrasia</em>)</td>
<td>50 years</td>
</tr>
<tr>
<td>51</td>
<td>Punggai (<em>Coelostegia</em>)</td>
<td>50 years</td>
</tr>
<tr>
<td>52</td>
<td>Jongkong (<em>Dactylocladus</em>)</td>
<td>50 years</td>
</tr>
<tr>
<td>53</td>
<td>Keruing (<em>Dipterocarpus</em>)</td>
<td>50 years</td>
</tr>
<tr>
<td>54</td>
<td>Kapur (<em>Dryobalanops</em>)</td>
<td>50 years</td>
</tr>
<tr>
<td>55</td>
<td>Durian (<em>Durio</em>)</td>
<td>50 years</td>
</tr>
<tr>
<td>56</td>
<td>Belian (<em>Durio Eusideroxylon zwageri</em>)</td>
<td>50 years</td>
</tr>
<tr>
<td>57</td>
<td>Ramin (<em>Gomystylus</em>)</td>
<td>50 years</td>
</tr>
<tr>
<td>No.</td>
<td>Specie</td>
<td>Period</td>
</tr>
<tr>
<td>-----</td>
<td>-------------------------------------</td>
<td>--------</td>
</tr>
<tr>
<td>58</td>
<td>Mengkulang (Heritiera)</td>
<td>50 years</td>
</tr>
<tr>
<td>59</td>
<td>Merawan (Hopea)</td>
<td>50 years</td>
</tr>
<tr>
<td>60</td>
<td>Merbau (Instia)</td>
<td>50 years</td>
</tr>
<tr>
<td>61</td>
<td>Mata ulat (Kokoona)</td>
<td>50 years</td>
</tr>
<tr>
<td>62</td>
<td>Kempas (K. Koompassia)</td>
<td>50 years</td>
</tr>
<tr>
<td>63</td>
<td>Chengal (Neobalanocarpus)</td>
<td>50 years</td>
</tr>
<tr>
<td>64</td>
<td>Urat mata/Gerutu (Parashorea)</td>
<td>50 years</td>
</tr>
<tr>
<td>65</td>
<td>Melunak (Pentace)</td>
<td>50 years</td>
</tr>
<tr>
<td>66</td>
<td>Pelon (Pentaspadon)</td>
<td>50 years</td>
</tr>
<tr>
<td>67</td>
<td>Kungkur (Pithecellobium)</td>
<td>50 years</td>
</tr>
<tr>
<td>68</td>
<td>Teluto (Pterocymbium javanicum)</td>
<td>50 years</td>
</tr>
<tr>
<td>69</td>
<td>Sentul (Sandoricum)</td>
<td>50 years</td>
</tr>
<tr>
<td>70</td>
<td>Kembang semangkok (Scapium)</td>
<td>50 years</td>
</tr>
<tr>
<td>71</td>
<td>Sepetir (Scapium sindora)</td>
<td>50 years</td>
</tr>
<tr>
<td>72</td>
<td>Meranti/Engkabang/Majau/Seroya (Shorea)</td>
<td>50 years</td>
</tr>
<tr>
<td>73</td>
<td>Punah (Tetramerista)</td>
<td>50 years</td>
</tr>
<tr>
<td>74</td>
<td>Sudan (Toona)</td>
<td>50 years</td>
</tr>
<tr>
<td>75</td>
<td>Resak (Vatica)</td>
<td>50 years</td>
</tr>
</tbody>
</table>
INCOME TAX (APPROVED FOOD PRODUCTION PROJECTS) ORDER 2002

PU (A) 289

[25 June 2002]

IN exercise of the powers conferred by paragraphs 1, 2 and 11 of Schedule 4C to the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT

1(1) This order may be cited as the Income Tax (Approved Food Production Projects) Order 2002.

1(2) This Order shall be deemed to have come into effect from the year of assessment 2001.

PARAGRAPH 2 APPROVED FOOD PRODUCTION PROJECTS

2 The projects listed in the Schedule are the food production projects approved by the Minister for the purposes of Schedule 4C.

PARAGRAPH 3 REVOCATION


SCHEDULE

Projects

1. Planting of—
   (a) kenaf;
   (b) vegetables;
   (c) fruits;
   (d) herbs; and
   (e) spices.
2. Aquaculture.
3. Rearing of—
   (a) cattle;
   (b) goats; and
   (c) sheep.
4. Deep sea fishing

History

Item 4 of the Schedule inserted by PU (A) 72/2003, para. 2, deemed effective on 21 September 2002.
INCOME TAX (EXEMPTION) (NO. 8)  
ORDER 2002  
PU (A) 56  

[24 January 2002]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT  
1(1) This Order may be cited as the Income Tax (Exemption) (No. 8) Order 2002.  
1(2) This Order shall be deemed to have effect from the year of assessment 1996.

PARAGRAPH 2 INTERPRETATION  
2 For the purpose of this Order, “trade association” shall have the same meaning assigned to it by subsection 53(3) of the Act.

PARAGRAPH 3 EXEMPTION  
3 The Minister exempts from tax, in the manner prescribed in paragraph 4, income received by a trade association resident in Malaysia.

PARAGRAPH 4 EXEMPTION FROM TAX UP TO FIFTY PER CENT  
4(1) Income received by a trade association established before 1 January 1996 is exempted from tax up to an amount equivalent to fifty per cent of the statutory income for each year of assessment from the year of assessment 1996 until the year of assessment 2000 (on preceding year basis).  
4(2) Income received by a trade association established on or after 1 January 1996 until 31 December 2001 is exempted from tax up to an amount equivalent to fifty per cent of the statutory income for a maximum period of 5 years of assessment from the year of assessment in the basis period in which the trade association was established.

PARAGRAPH 5 NON-APPLICATION  
5 The exemption under paragraph 4 shall not apply to a trade association where the trade association has claimed an exemption under the Income Tax (Exemption) (No. 7) Order 2002 [PU (A) 55/2002] for the year of assessment and the remaining years of assessment to which the trade association would otherwise be entitled under this Order.

PARAGRAPH 6 REVOCATION  

Para 1(1) Commerce Clearing House (Malaysia) Sdn Bhd
INCOME TAX (EXEMPTION) (NO. 9) ORDER 2002

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT

1(1) This order may be cited as the Income Tax (Exemption) (No. 9) Order 2002.

1(2) This Order shall have effect from the year of assessment 2002.

PARAGRAPH 2 INTERPRETATION

2 For the purpose of this Order—

“value of increased exports” means the difference of the value of the qualifying services exported in the basis period and that of the immediately preceding basis period;

“foreign client” means a company, a partnership, an organization or a cooperative society which is incorporated or registered outside Malaysia or an individual who is a non-Malaysian citizen and does not hold a Malaysian work permit or an individual who is a non-resident Malaysian citizen living abroad;

“qualifying services” means services specified in the Schedule which are provided to foreign clients, from Malaysia, and in relation to the provisions of private health care and private education, the services to be provided to foreign clients are to be provided either in Malaysia, or provided from Malaysia.

PARAGRAPH 3 EXEMPTION

3 The Minister exempts a person resident in Malaysia from the payment of income tax in respect of income derived from the export of qualifying services specified in the Schedule in the basis period for a year of assessment, in an amount and manner prescribed in paragraph 4.

PARAGRAPH 4 AMOUNT OF INCOME TO BE EXEMPT

4(1) The amount of income referred to in paragraph 3 shall be equal to 50 per cent of the value of increased exports.

4(2) Where an amount of income equivalent to 50 per cent of the value of increased exports has been determined for a year of assessment, so much of the statutory income of the business of that person for that year of assessment as is equal to that value of increased exports (or to the aggregate amount of any such value of increased export, as the case may be) but not exceeding 70 per cent of the statutory income shall be exempted from tax.
PARAGRAPH 5  INSUFFICIENCY OF INCOME

5 Where by reason of the restriction of 70 per cent of the statutory income or of an
insufficiency or absence of statutory income from a business of the person for the basis
period for a year of assessment, effect cannot be given or cannot be given in full to the
amount of the determined value of increased exports to which the person is entitled under
paragraph 4 for that year of assessment, then so much of that amount or the aggregate
amount as cannot be given for that year shall be given to the person for the first
subsequent year of assessment for the basis period for which there is statutory income
from that business, and for subsequent years of assessment until the person has received
the whole of that amount or the aggregate amount to which the person is so entitled.

PARAGRAPH 6  NON-APPLICATION

6 This Order shall not apply to a person—

(a) for the period during which the person has been granted any incentives (except for
deductions for promotion of exports) under the Promotion of Investments Act
1986 [Act 327];

(b) for the period during which the person has been granted investment allowance
under Schedule 7B of the Act; and

(c) for the period during which the person has been granted an exemption under
paragraph 127(3)(b) of the Act in respect of an approved service project.

PARAGRAPH 7  APPLICATION OF PARAGRAPHS 5 AND 6 OF SCHEDULE
7A

7 Paragraphs 5 and 6 of Schedule 7A to the Act shall apply mutatis mutandis to the
amount of income exempt under paragraph 4.

SCHEDULE

Qualifying services

1. Legal.
2. Accounting.
3. Architecture.
5. Business consultancy.
6. Office services.
7. Construction management.
8. Building management.

Para 5

Commerce Clearing House (Malaysia) Sdn Bhd
11. Private education.
12. Publishing services.
13. Information technology and communication (ICT) services.
14. Engineering services.
15. Printing services.
16. Local franchise services.

History
Items 14, 15 and 16 inserted by PU (A) 275/2006, para 2, in operation from the year of assessment 2006.
INCOME TAX (EXEMPTION) (NO. 10) ORDER 2002
PU (A) 58

[24 January 2002]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 10) Order 2002.
1(2) This Order shall have effect from the year of assessment 2002 until the year of assessment 2006 (inclusive of years of assessment 2002 and 2006).

PARAGRAPH 2 INTERPRETATION
2 For the purpose of this Order—
   "local tourists" means individuals who are Malaysian citizens or residing in Malaysia;
   "domestic tour" means a tour package for travel within Malaysia undertaken by local tourists inclusive of transportation by air, land or sea and accommodation;
   "tour operating business" has the same meaning assigned to it under subsection 2(1) of the Tourism Industry Act 1992 [Act 482].

PARAGRAPH 3 EXEMPTION FROM TAX
3(1) The Minister exempts a company resident in Malaysia, which is licensed under the Tourism Industry Act 1992 to carry on a tour operating business, from the payment of tax in respect of the statutory income derived from domestic tours.
3(2) The exemption in subparagraph (1) shall only apply if the total number of local tourists on domestic tours relating to that company is one thousand two hundred in the basis period for a year of assessment which is certified by a letter from the Ministry of Culture, Arts and Tourism.

PARAGRAPH 4 MAINTAINING SEPARATE ACCOUNTS
4 A company seeking exemption under paragraph 3 shall maintain a separate account for the income derived from domestic tours.

PARAGRAPH 5 APPLICATION OF PARAGRAPHS 5 AND 6 OF SCHEDULE 7A
5 Paragraphs 5 and 6 of Schedule 7A to the Act shall apply mutatis mutandis to the amount of income exempted under paragraph 3.

PARAGRAPH 6 REVOCATION
6 The Income Tax (Exemption) (No. 19) Order 2001 [PU (A) 379/01] published in the Gazette on 27 December 2001 is revoked.

Para 1(1) Commerce Clearing House (Malaysia) Sdn Bhd
INCOME TAX (EXEMPTION) (NO. 11) ORDER 2002

[24 January 2002]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 11) Order 2002.
1(2) This Order shall have effect from the year of assessment 2002 until the year of assessment 2006 (inclusive of years of assessment 2002 and 2006).

PARAGRAPH 2 INTERPRETATION
2 For the purpose of this Order—
“‘tour operating business’” has the same meaning assigned to it under sub-section 2(1) of the Tourism Industry Act 1992 [Act 482];
“‘group inclusive tour’” means a tour package to or of Malaysia or any place within Malaysia undertaken by tourists from outside Malaysia, inclusive of transportation by air, land or sea and accommodation.

PARAGRAPH 3 EXEMPTION FROM TAX
3(1) The Minister exempts a company resident in Malaysia which is licensed under the Tourism Industry Act 1992 to carry on a tour operating business from the payment of tax in respect of the statutory income derived from group inclusive tours.
3(2) The exemption in subparagraph (1) shall only apply if the total number of tourists from outside Malaysia on group inclusive tours relating to that company is not less than five hundred in the basis period for a year of assessment which is certified by a letter form [sic] Ministry of Culture, Arts and Tourism.

PARAGRAPH 4 MAINTAINING SEPARATE ACCOUNTS
4 A company seeking exemption under paragraph 3 shall maintain a separate account for the income derived from group inclusive tours.

PARAGRAPH 5 APPLICATION OF PARAGRAPHS 5 AND 6 OF SCHEDULE 7A
5 Paragraphs 5 and 6 of Schedule 7A to the Act shall apply mutatis mutandis to the amount of income exempted under paragraph 3.
INCOME TAX (EXEMPTION) (NO. 12) ORDER 2002

[24 January 2002]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 12) Order 2002.
1(2) This Order shall have effect from the year of assessment 2002.

PARAGRAPH 2 INTERPRETATION
2 In this Order, unless the context otherwise requires—
``value of increased exports'' means the difference of free on board value of goods and commodities exported in a basis period and that of the immediately preceding basis period;
``export sales'' means sales derived from exports of local and imported goods and commodities, but does not include trading commissions and profits derived from trading at the Commodity Exchange and sales to Free Industrial Zone and Licensed Manufacturing Warehouses;
``Malaysia External Trade Development Corporation'' means the corporation established under section 3 of the Malaysia External Trade Development Corporation Act 1992 [Act 490];
``Malaysian International Trading Company'' means a company approved by the Malaysia External Trade Development Corporation.

PARAGRAPH 3 EXEMPTION
3(1) The Minister exempts a Malaysian International Trading Company from the payment of income tax in respect of income derived from export sales in the basis period for a year of assessment, in the amount and manner prescribed in paragraph 4 subject to the conditions stipulated in paragraph 6.
3(2) The exemption under subparagraph (1) shall be granted to the Malaysian International Trading Company for five consecutive years of assessment beginning from the year of assessment in which that company first qualified for the exemption.

PARAGRAPH 4 AMOUNT OF INCOME TO BE EXEMPT
4(1) The amount of income referred to in paragraph 3 shall be equal to 20 per cent of the value of increased exports.
4(2) Where an amount of income equivalent to 20 per cent of the value of increased exports has been determined for a year of assessment, so much of the statutory income of the business of the Malaysian International Trading Company for that year of assessment

Para 1(1) Commerce Clearing House (Malaysia) Sdn Bhd
as is equal to that value of increased exports (or to the aggregate amount of any such value of increased export, as the case may be) but not exceeding 70 per cent of the statutory income shall be exempted from tax.

History
Para. 4(1) and (2) amended by PU (A) 181/2003, para. 2, deemed effective from 2003, by substituting “20” for “10”.

PARAGRAPH 5 INSUFFICIENCY OF INCOME
5 Where by reason of the restriction of 70 per cent of the statutory income or of an insufficiency or absence of statutory income from a business of the Malaysian International Trading Company for the basis period for a year of assessment, effect cannot be given or cannot be given in full to the amount of the determined value of increased exports to which the Malaysian International Trading Company is entitled under paragraph 4 for that year of assessment, then so much of that amount or the aggregate amount as cannot be given for that year shall be given to the Malaysian International Trading Company for the first subsequent year of assessment for the basis period for which there is statutory income from that business, and for subsequent years of assessment until the Malaysian International Trading Company has received the whole of the amount or the aggregate amount to which it is so entitled.

PARAGRAPH 6 CONDITIONS FOR EXEMPTION
6 To qualify for the exemption under paragraph 3, the Malaysian International Trading Company claiming the exemption shall obtain a letter from the Malaysia External Trade Development Corporation certifying that the following conditions have been fulfilled:
   (a) that the company is incorporated in Malaysia and at least 60 per cent of the issued share capital of the company is Malaysian owned;
   (b) that the company has achieved annual sales of more than RM10 million;
   (c) that not more than 20 per cent of the Company’s annual sales is derived from the trading of commodities; and
   (d) that the company uses local services for the purposes of banking, finance and insurance and uses local ports and airports.

PARAGRAPH 7 APPLICATION OF PARAGRAPHS 5 AND 6 OF SCHEDULE 7A
7 Paragraphs 5 and 6 of Schedule 7A to the Act shall apply *mutatis mutandis* to the amount of income exempted under paragraph 3.
INCOME TAX (EXEMPTION) (NO. 15) 
ORDER 2002 
PU (A) 113

[13 March 2002]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 15) Order 2002.
1(2) This Order shall have effect from the year of assessment 2002.

PARAGRAPH 2 INTERPRETATION
2 In this Order, unless the context otherwise requires—
“international trade exhibition” means an international trade exhibition held in Malaysia and approved by the Malaysia External Trade Development Corporation (MATRADE);
“foreign trade visitors” means individuals who are non Malaysian citizens visiting the international trade exhibition, but does not include individuals who are non Malaysian citizens who reside in Malaysia;
“international trade exhibition promoter” means a company incorporated under the Companies Act 1965 [Act 125], or association or organization registered under the Societies Act 1966 [Act 335] performing the duties of organizing an international trade exhibition;
“statutory income derived from organizing an international trade exhibition” means fees and other payments received by a company, an association or an organization in performing its duties as an international trade exhibition promoted less allowable expenses for tax purposes and capital allowances, if any.

PARAGRAPH 3 EXEMPTION
3(1) The Minister exempts an international trade exhibition promoter resident in Malaysia from the payment of income tax in respect of the statutory income derived from organizing an international trade exhibition in Malaysia.
3(2) The exemption in subparagraph (1) shall apply where the total number of foreign trade visitors brought in by the international trade exhibition promoter for the international trade exhibition, as verified by the Malaysia External Trade Development Corporation (MATRADE), is not less than five hundred in the basis period for a year of assessment.
3(3) Nothing in subparagraph (1) shall absolve or be deemed to have absolved the international trade exhibition promoter from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provisions of the Act.

Para 1(1) Commerce Clearing House (Malaysia) Sdn Bhd
PARAGRAPH 4 KEEPING OF SEPARATE ACCOUNTS

4 An international trade exhibition promoter seeking exemption under subparagraph 3(1) shall maintain a separate account for the statutory income derived from organizing an international trade exhibition.

PARAGRAPH 5 APPLICATION OF PARAGRAPHS 5 AND 6 OF SCHEDULE 7A

5 In relation to a company, paragraphs 5 and 6 of Schedule 7A to the Act shall apply, mutatis mutandis, to the amount of statutory income derived from organizing an international trade exhibition exempted from the payment of income tax under subparagraph 3(1).
INCOME TAX (EXEMPTION) (NO. 16) 
ORDER 2002 
PU (A) 135

[2 April 2002]

IN exercise of the powers conferred by paragraph 17(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 16) Order 2002.
1(2) This Order shall be deemed to have come into operation on 20 October 2001.

PARAGRAPH 2 INTERPRETATION
2 In this Order, unless the context otherwise requires—
"registered institution" means any private higher educational institution registered under section 24 of the Private Higher Educational Institutions Act 1996 [Act 555];
"franchisor" has the meaning as defined under section 4 of the Franchise Act 1998 [Act 590] in relation to conducting a course of study or training programme jointly or in affiliation, association or collaboration with any University, University College, higher educational institution, whether public or private, or professional body, outside Malaysia as specified under section 38 of the Private Higher Educational Institutions Act 1996;
"approved programme" means a course of study or training programme approved under section 38 of the Private Higher Educational Institutions Act 1996.

PARAGRAPH 3 EXEMPTION
3 The Minister exempts a non-resident franchisor from the payment of income tax in respect of royalty received from a registered institution in relation to an approved programme.

PARAGRAPH 4 NON-APPLICATION
4 The provisions of section 109 of the Act shall not apply to income exempted under this Order.

Para 1(1) Commerce Clearing House (Malaysia) Sdn Bhd
[19 April 2002]

IN exercise of the powers conferred by paragraph 17(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT

1(1) This order may be cited as the Income Tax (Exemption) (No. 22) Order 2002.
1(2) This Order shall be deemed to have effect from the year of assessment 2001.

PARAGRAPH 2 EXEMPTION

2(1) The Minister exempts a political association from the payment of income tax in respect of all income from the year of assessment 2001.
2(2) Nothing in subparagraph (1) shall absolve or be deemed to have absolved the political association from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provisions of the Act.
INCOME TAX (EXEMPTION) (NO. 23)  
ORDER 2002  
PU (A) 209  

[26 April 2002]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967  
[Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 23) Order 2002.
1(2) This Order shall be deemed to have effect from 20 October 2001.

PARAGRAPH 2 INTERPRETATION
2 For the purpose of this Order—
“luxury yacht” means a light sailing vessel propelled by sails, steam, electricity or  
motive power other than oars equipped with—
(a) bathrooms, galleys, saloons, cabins and staterooms, which has exotic and  
expensive furnishings and finishing; and  
(b) recreational facilities,  
as verified by the Ministry of Transport Malaysia;
“provision of services” means provision of chartering services of a luxury yacht  
departing from and ending at any port in Malaysia.

PARAGRAPH 3 EXEMPTION
3(1) The Minister exempts a company resident in Malaysia from the payment of  
income tax in respect of the statutory income derived from the provisions of services  
approved by the Minister for a period of five consecutive years of assessment  
commencing from the year of assessment in the basis period in which the approval is in  
effect.
3(2) Nothing in subparagraph (1) shall absolve or be deemed to have absolved the  
company from complying with any requirement to submit any return or statement of  
accounts or to furnish any other information under the provisions of the Act.

PARAGRAPH 4 KEEPING OF SEPARATE ACCOUNTS
4 A company seeking exemption under subparagraph 3(1) shall maintain a separate  
account for the income derived from the provision of services.

PARAGRAPH 5 APPLICATION OF PARAGRAPHS 5 AND 6 OF SCHEDULE  
7A
5 Paragraphs 5 and 6 of Schedule 7A to the Act shall apply, mutatis mutandis, to the  
statutory income exempted under subparagraph 3(1) of this Order.

Para 1(1)  
Commerce Clearing House (Malaysia) Sdn Bhd
INCOME TAX (EXEMPTION) (NO. 5) ORDER 2003

PU (A) 152

[13 May 2003]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT

1(1) This order may be cited as the Income Tax (Exemption) (No. 5) Order 2003.

1(2) This Order is deemed to have come into operation on 20 October 2001.

PARAGRAPH 2 INTERPRETATION

2 In this Order, unless the context otherwise requires—

“website in Malaysia” means a website that is hosted to server in Malaysia;

“chargeable income” means statutory income of an approved offshore trading company from an offshore trading reduced by any deduction to be made pursuant to subsection 43(2) of the Act relating to an offshore trading;

“offshore trading” means buying from and selling to non-residents through a website in Malaysia of foreign goods for consumption outside Malaysia including goods brought into Malaysia for the purpose of redistribution outside Malaysia;

“approved offshore trading company” means a company which carries on an offshore trading and is approved by the Minister as eligible for exemption.

PARAGRAPH 3 EXEMPTION

3(1) The Minister exempts an approved offshore trading company from the payment of income tax in respect of the chargeable income for a period of five consecutive years of assessment commencing from the year of assessment in which the approval is given in the basis period of that year of assessment.

3(2) The amount of chargeable income exempted under subparagraph (1) derived in the basis period for a year of assessment shall be determined in accordance with the following formula:

$$ A - [\frac{10}{B} \times A \times B] $$

where $A$ is the chargeable income; and

$B$ is the rate of tax applicable to an approved offshore trading company for a year of assessment.
3(3) Notwithstanding subparagraph (2), the chargeable income which is not exempted from payment of income tax shall be determined in accordance with the following formula:

\[
\frac{10}{B} \times A
\]

where

A is the chargeable income; and

B is the rate of tax applicable to an approved offshore trading company for a year of assessment.

PARAGRAPH 4 MAINTAINING SEPARATE ACCOUNTS

4 An approved offshore trading company shall maintain a separate account for the income derived from carrying on an offshore trading.

PARAGRAPH 5 APPLICATION OF PARAGRAPHS 5 AND 6 OF SCHEDULE 7A

5 Paragraphs 5 and 6 of Schedule 7A to the Act shall apply, mutatis mutandis, to the amount of chargeable income exempted under subparagraph 3(2).
INCOME TAX (EXEMPTION) (NO. 60)
ORDER 2003

PU (A) 382

[25 September 2003]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 60) Order 2003.
1(2) This Order is deemed to have effect from the year of assessment 2003.

PARAGRAPH 2 INTERPRETATION
2 In this Order, unless the context otherwise requires—
   “regional office” means a regional office approved by the Minister of International Trade and Industry;
   “operational headquarters company” means an operational headquarters company approved by the Minister of Finance.

PARAGRAPH 3 EXEMPTION
3(1) The Minister exempts a non-citizen individual from the payment of income tax in respect of income derived from an employment with an operational headquarters company or a regional office.
3(2) Subject to subparagraph (3), the amount of income exempted under subparagraph (1) is in respect of the employment exercised outside Malaysia which shall be determined in accordance with the following formula:

\[ \frac{A \times B}{C} \]

where
   A is the chargeable income for a year of assessment attributable to an operational headquarters company or a regional office;
   B is the number of days in the year of assessment he is in employment with the operational headquarters or the regional office exercised outside Malaysia; and
   C is the number of days in the year of assessment he is in employment with the operational headquarters company or the regional office.
3(3) Where the non-citizen individual has sources of income other than that of employment with the operational headquarters or the regional office, the chargeable income referred to in subparagraph (2) shall be determined in accordance with the following formula:

\[ D \times \frac{E}{F} \]

where

- \( D \) is the chargeable income for a year of assessment;
- \( E \) is the gross income from employment with the operational headquarters company or the regional office for a year of assessment; and
- \( F \) is the total of gross income from all sources for a year of assessment.

3(4) For the purpose of subparagraph (2), a non-citizen individual is deemed to be outside Malaysia for a day if he is outside Malaysia for the whole of that day.
INCOME TAX (EXEMPTION) (NO. 6) ORDER 2004

[16 January 2004]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT

1(1) This order may be cited as the Income Tax (Exemption) (No. 6) Order 2004.
1(2) This Order comes into operation from the year of assessment 2004.

PARAGRAPH 2 EXEMPTION

2(1) The Minister exempts an individual from the payment of income tax in respect of 50% of the statutory income in relation to a scientific research carried out by the individual which has been commercialised and verified by the Minister of Science, Technology and Environment for a period of five years commencing from the date the first payment is made to that individual in relation to the scientific research.

2(2) Nothing in subparagraph (1) shall absolve or is deemed to have absolved that individual from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provisions of the Act.
INCOME TAX (EXEMPTION) (NO. 21)
ORDER 2004
PU (A) 405

[21 October 2004]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 21) Order 2004.
1(2) This Order is deemed to have effect from the year of assessment 2002.

PARAGRAPH 2 EXEMPTION
2(1) Subject to this paragraph, the Minister exempts a non-citizen individual from the payment of income tax on 50% of the gross income derived by that individual from exercising an employment in Labuan, in managerial capacity in a trust company from the year of assessment 2002 until the year of assessment 2005.
2(2) For the purpose of exemption under subparagraph (1) “trust company” has the meaning assigned to it in the Labuan Trust Companies Act 1990 [Act 442].
INCOME TAX (EXEMPTION) (NO. 22)
ORDER 2004
PU (A) 406

[21 October 2004]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT

1(1) This order may be cited as the Income Tax (Exemption) (No. 22) Order 2004.
1(2) This Order is deemed to have effect from the year of assessment 2002.

PARAGRAPH 2 EXEMPTION

2(1) Subject to this paragraph, the Minister exempts a citizen from the payment of income tax on 50% of the gross housing and Labuan Territory allowances received by that citizen from exercising an employment in Labuan with the Federal or State Government, a statutory body or an offshore company from the year of assessment 2002 until the year of assessment 2005.

2(2) For the purpose of exemption under subparagraph (1) “offshore company” has the meaning assigned to it in the Labuan Offshore Business Activity Tax Act 1990 [Act 445].
INCOME TAX (EXEMPTION) (NO. 11)
ORDER 2005

PU (A) 75

[14 February 2005]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPh 1 CITATION AND COMMENCEMENT

1(1) This order may be cited as the Income Tax (Exemption) (No. 11) Order 2005.
1(2) This Order is deemed to have effect from the year of assessment 2003.

PARAGRAPh 2 INTERPRETATION

2 In this Order—

“seed capital financing” means a financing provided by a venture capital company to a venture company for the purposes of research, assessment and development of an initial concept or prototype;

“Securities Commission” means the Securities Commission established under the Securities Commission Act 1993 [Act 498];

“early stage financing” means a financing provided by a venture capital company to a venture company as—

(a) capital expenditure or working capital to initiate commercialization of a technology or product;

(b) additional capital expenditure or additional working capital to increase production capacity, marketing or product development; or

(c) an interim financing for the purpose of being listed on the official list of a stock exchange;

“start-up financing” means a financing provided by a venture capital company to a venture company for product development and initial marketing;

“related company” has the meaning as assigned to it under section 2 of the Promotion of Investments Act 1986 [Act 327];

“venture capital company” means a company incorporated under the Companies Act 1965 [Act 125], investing in a venture company in the form of seed capital financing, start-up financing or early stage financing and that is registered with the Securities Commission;
“venture company” means a company incorporated under the Companies Act 1965, which is—

(a) resident in Malaysia for the basis year for a year of assessment; and

(b) involved in utilizing the seed capital financing, start-up financing or early stage financing for—

(i) activities or products promoted under the Promotion of Investment Act 1986;

(ii) technology-based activities listed under the MESDAQ Market of Bursa Malaysia;

(iii) Industrial Research and Development Grant Scheme; or

(iv) Multimedia Super Corridor Research and Development Grant Scheme.

PARAGRAPH 3 EXEMPTION

3(1) The Minister exempts a venture capital company from the payment of income tax in respect of the statutory income on all sources of income, other than interest income arising from savings or fixed deposits and profits from syariah-based deposits, commencing from the year of assessment in the basis period the venture capital company commences business or the year of assessment of the coming into effect of this Order, whichever is the later, upon satisfying the conditions as specified in paragraph 4, for an exempt period of—

(a) where the qualification under subparagraph 4(a) is fulfilled, ten years of assessment or the years of assessment equivalent to the life of the fund established for the purpose of investing in a venture company, whichever is the lesser; or

(b) where the qualification under subparagraph 4(aa) is fulfilled, five years of assessment or the years of assessment equivalent to the life of the fund established for the purpose of investing in a venture company, whichever is the lesser.

History

Para 3(1) substituted by PU (A) 159/2009, para 2, deemed to have effect from the year of assessment 2008. Para 3(1) formerly read:

“The Minister exempts a venture capital company from the payment of income tax in respect of the statutory income on all sources of income, other than interest income arising from savings or fixed deposits and profits from syariah-based deposits, commencing from the year of assessment in the basis period the venture capital company commences business or the year of assessment of the coming into effect of this Order, whichever is the later, upon satisfying the conditions as specified in paragraph 4.”

3(2) Nothing in subparagraph (1) shall absolve or be deemed to have absolved the venture capital company from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provisions of the Act.

Thornton’s Malaysian Tax Commentaries
PARAGRAPH 4 CONDITIONS TO QUALIFY FOR THE EXEMPTION

4 To qualify for the exemption under subparagraph 3(1), the venture capital company shall, for each year of assessment for the period of exemption, obtain a certification from the Securities Commission confirming that—

(a) relating to an exempt period of ten years of assessment under subsubparagraph 3(1)(a), it has invested at least seventy percent of its invested funds in venture companies at the point of the first investment, or where the investment is in the form of seed capital at least fifty percent of its invested funds at the point of the first investment;

(aa) relating to an exempt period of five years under subsubparagraph 3(1)(b)—

(i) it has invested at least thirty percent of its invested funds in the form of seed capital, start-up financing, early stage financing or its combination in venture companies at the point of the first investment; and

(ii) it has made an application for the exemption to the Securities Commission between 30 August 2008 and 31 December 2013;

(b) it has not invested in a venture company which is its related company at the point of the first investment; and

(c) it has provided an early stage financing to a venture company which is involved in activities which are not listed under the MESDAQ Market of Bursa Malaysia as technology-based activities, from the seed capital or start-up stage where such early stage financing is provided as—

(i) additional capital expenditure or additional working capital to increase production capacity, marketing or product development; or

(ii) an interim financing for the purpose of being listed on the official list of a stock exchange.

PARAGRAPH 5 LOSSES FROM DISPOSAL OF SHARES

5 Where a venture capital company incurs a loss from the disposal of shares in a venture company in the basis period for any year of assessment within the exempt period, such loss shall be carried forward to the post-exempt period.

PARAGRAPH 6 APPLICATION OF PARAGRAPHS 5 AND 6 SCHEDULE 7A

6 Paragraphs 5 and 6 Schedule 7A to the Act shall apply mutatis mutandis to the amount exempt under subparagraph 3(1).
PARAGRAPH 7  REVOCATION AND SAVINGS

7(1) The Income Tax (Exemption) (No. 3) Order 2001 [P.U. (A) 211/2001], which is referred to as the ‘‘repealed Order’’ in this paragraph, is revoked with effect from the year of assessment 2003.

7(2) Where a venture capital company has been granted an exemption under the repealed Order, such exemption shall continue to remain in full force and effect and that Order shall be deemed to continue to apply for the remaining years of assessment of the exempt period of that venture capital company.

7(3) Notwithstanding subparagraph (2), where the venture capital company referred to in subparagraph (2) elects for an exemption under this Order, the provisions of this Order shall apply for the remaining years of assessment of the exempt period of that venture capital company and the repealed Order shall cease to apply.

7(4) An application for an exemption under the repealed Order which is pending on the date of the coming into operation of this Order shall, on that date, cease to be dealt with under the repealed Order and should be dealt with under the provisions of this Order.
INCOME TAX (EXEMPTION) (NO. 12) ORDER 2005

[14 February 2005]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 12) Order 2005.
1(2) This Order is deemed to have effect from the year of assessment 2003.

PARAGRAPH 2 INTERPRETATION
2 In this Order, ‘‘Securities Commission’’ means the Securities Commission established under the Securities Commission Act 1993 [Act 498].

PARAGRAPH 3 EXEMPTION
3(1) The Minister exempts a venture capital management company that is registered with the Securities Commission from the payment of income tax in respect of the statutory income from the share of profits received by it from a venture capital company on any investment made by the venture capital company as stipulated in the agreement entered into between them.
3(2) The venture capital company which is referred to in subparagraph (1) shall be a company—
   (a) which—
      (i) is registered with the Securities Commission; and
      (ii) has obtained a certification from the Securities Commission; or
   (b) which has been granted an exemption under any order made under any written law relating to income tax.
3(3) The certification referred to in subparagraph (2) is a certification in relation to exemption given to a venture capital company under the Income Tax (Exemption) (No. 11) Order 2005 [P.U. (A) 75/2005] or the Income Tax (Deduction for Investment in a Venture Company) Rules 2005 [P.U. (A) 76/2005].
INCOME TAX (EXEMPTION) (NO. 13) ORDER 2005
PU (A) 102

[12 January 2005]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 13) Order 2005.
1(2) This Order is deemed to have come into operation on 1 October 2002.

PARAGRAPH 2 EXEMPTION
2(1) The Minister exempts a non-resident company from payment of income tax in respect of income received from the approved MSC status company as follows:
   (a) payment from technical advice or technical services
   (b) licensing fees in relation to technology development; and
   (c) interest on loans for technology development.
2(2) For the purpose of subparagraph (1), “approved MSC status company” means company which has been awarded MSC status by the Government of Malaysia, and engaged in the activities of regional IT solutions hub, regional internet exchange, regional data center, regional internet data center and regional call center, and located in the area of Cyberjaya, Technology Park Malaysia-Phase I, University Putra Malaysia-Malaysia Technology Development Corporation Incubator I and the Petronas Twin Towers.

PARAGRAPH 3 NON-APPLICATION
3 The provisions of sections 109 and 109B of the Act shall not apply to the exempted under this Order.
INCOME TAX (EXEMPTION) (NO. 14)  
ORDER 2005  
PU (A) 103

[9 March 2005]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1  CITATION AND COMMENCEMENT

1(1) This order may be cited as the Income Tax (Exemption) (No. 14) Order 2005.
1(2) This Order is deemed to have effect from the year of assessment 2000 in respect of the basis period ending in the year 2000.

PARAGRAPH 2  EXEMPTION

2(1) The Minister exempts any person from the payment of income tax on 65% of the statutory income from a source consisting of the provision of qualifying professional services rendered in Labuan by that person to an offshore company from the year of assessment 2000 in respect of the basis period ending in the year 2000 until the year of assessment 2004.
2(2) For the purpose of subparagraph (1)—

``qualifying professional services’’ means legal, accounting, financial or secretarial services and includes services provided by a trust company as defined in the Labuan Trust Companies Act 1990 [Act 442]; and

``offshore company’’ has the same meaning as defined in the Labuan Offshore Business Activity Tax Act [Act 445]

PARAGRAPH 3  APPLICATION OF PARAGRAPHS 5 AND 6 SCHEDULE 7A

3 Where a person referred to in paragraph 2 is a company, paragraphs 5 and 6 of Schedule 7A to the Act shall apply mutatis mutandis to the amount of income exempted under the paragraph.

PARAGRAPH 4  REVOCATION


Para 1(1)  
Commerce Clearing House (Malaysia) Sdn Bhd
INCOME TAX (EXEMPTION) (NO. 17) 
ORDER 2005

PU (A) 158

[11 April 2005]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT

1(1) This order may be cited as the Income Tax (Exemption) (No. 17) Order 2005.

1(2) This Order is deemed to have come into operation from the year of assessment 2003.

PARAGRAPH 2 INTERPRETATION

2 In this Order, unless the context otherwise requires—

“Export Excellence Award” means an award given by the Ministry of International Trade and Industry to a company for achieving the highest increase in export sales for a year of assessment;

“export sales” means direct export sales of manufactured products or agricultural produce from Malaysia but does not include sales to Free Industrial Zones, Free Commercial Zones, Licensed Manufacturing Warehouses and Labuan, Langkawi and Tioman Free Zones;

“value of increased exports” means the difference of the free-on-board value of export sales in a basis period and that of the immediately preceding basis period;

“new market” means export markets as determined by the Malaysia External Trade Development Corporation;

“significant increase in exports” means the value of increased exports of the company in the basis period for a year of assessment is at least 50 percent;

“local company” means a company incorporated in Malaysia and at least 60 per cent of the issued share capital of the company is Malaysian owned.

PARAGRAPH 3 EXEMPTION

3 The Minister exempts a local company resident in Malaysia and carrying on activities of manufacturing or agriculture from the payment of income tax in respect of income derived from export sales in the basis period for a year of assessment.
PARAGRAPH 4  AMOUNT OF INCOME TO BE EXEMPTED

4(1) The amount of income to be exempted referred to in paragraph 3 shall be an amount equal to—

(a) 30 per cent of the value of increased exports where a company has achieved a significant increase in exports;

(b) 50 per cent of the value of increased exports where a company has penetrated new markets; and

(c) 100 per cent of the value of increased exports where a company has been awarded the Export Excellence Award.

4(2) Where the amount of income to be exempted has been determined under subparagraph (1) for a year of assessment, so much of the statutory income of the business for that year of assessment as is equal to that amount but not exceeding 70 per cent of the statutory income shall be exempted from tax.

PARAGRAPH 5  INSUFFICIENCY OF INCOME

5 Where by reason of the restriction to 70 per cent of the statutory income or of an insufficiency or absence of statutory income from a business of the company for the basis period for a year of assessment, effect cannot be given or cannot be given in full to the amount as determined to which the company is entitled under paragraph 4 for that year of assessment, then so much of that amount as cannot be exempt for that year shall be exempted for the first subsequent year of assessment for the basis period for which there is statutory income from that business, and for subsequent years of assessment but not exceeding 70 per cent of the statutory income for each year or years of assessment until the whole of the amount to which it is so entitled is exempted.

PARAGRAPH 6  APPLICATION OF PARAGRAPHS 5 AND 6 SCHEDULE 7A

6 Paragraphs 5 and 6 Schedule 7A to the Act shall apply mutatis mutandis to the amount of income exempted under paragraph 3.

PARAGRAPH 7  MAINTAINING SEPARATE RECORD

7 The company shall maintain a separate record for export sales which are entitled for exemption on the value of increased exports under subsubparagraphs 4(1)(a) and (b).

PARAGRAPH 8  NON-APPLICATION

8(1) The company which has been granted exemption under subsubparagraphs 4(1)(a) and (b) in the basis period for a year of assessment under this Order, shall not be entitled for exemption under subsubparagraph 4(1)(c) in the same year of assessment.

8(2) This Order shall not apply to a company for a year of assessment—

(a) in the basis period the company has been granted any incentives (except for deductions for promotion of exports) under the Promotion of Investments Act 1986 [Act 327];

(b) in the basis period the company has been granted reinvestment allowance under Schedule 7A of the Act;
(c) in the basis period the company has been granted an allowance under the Income Tax (Allowance For Increased Exports) Rules 1999 [P.U. (A) 128/1999]; and

(d) in the basis period the company has been granted deduction under the Income Tax (Deduction For Cost On Acquisition Of A Foreign Owned Company) Rules 2003 [P.U. (A) 310/2003]; and

(e) on export sales of—
   (i) products subject to prohibition of export under the Customs Act 1967 [Act 235]; and
   (ii) products listed in the Schedule.

**SCHEDULE**

<table>
<thead>
<tr>
<th>Description</th>
<th>Harmonized System Code (H.S)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i) Tin ingots or slabs; tin ore and concentrates</td>
<td>80.01</td>
</tr>
<tr>
<td></td>
<td>2609.00 000</td>
</tr>
<tr>
<td>(ii) Natural rubber sheet and slabs, Standard Malaysian Rubber, crepe natural</td>
<td>4001.10; 4001.21;</td>
</tr>
<tr>
<td>rubber, natural rubber latex and natural gums</td>
<td>4001.22; 4001.29;</td>
</tr>
<tr>
<td></td>
<td>4001.30</td>
</tr>
<tr>
<td>(iii) Crude palm kernel oil; palm kernel cakes and crude palm oil</td>
<td>1513.21 100;</td>
</tr>
<tr>
<td></td>
<td>2306.60 200;</td>
</tr>
<tr>
<td></td>
<td>1511.10 000</td>
</tr>
<tr>
<td>(iv) Copra, copra cakes and crude coconut oil</td>
<td>1203.00 000;</td>
</tr>
<tr>
<td></td>
<td>1513.11 000;</td>
</tr>
<tr>
<td></td>
<td>2306.50 000</td>
</tr>
<tr>
<td>(v) Logs, sawn timber (ungraded and non-kiln dry) and wood chips (except</td>
<td>44.03; 44.07</td>
</tr>
<tr>
<td>briquettes)</td>
<td>44.08; 44.01</td>
</tr>
<tr>
<td>(vi) Petroleum oils (crude and other than crude) and petroleum gases and</td>
<td>2709.00; 27.10;</td>
</tr>
<tr>
<td>other gaseous hydrocarbons (liquified or in gaseous state) hydrogen, nitrogen</td>
<td>27.11; 27.12; 27.13;</td>
</tr>
<tr>
<td>and oxygen</td>
<td>2804.10 000;</td>
</tr>
<tr>
<td></td>
<td>2804.30 000;</td>
</tr>
<tr>
<td></td>
<td>2804.40 000</td>
</tr>
</tbody>
</table>
INCOME TAX (EXEMPTION) (NO. 19)
ORDER 2005
PU (A) 190

[20 April 2005]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This Order may be cited as the Income Tax (Exemption) (No. 19) Order 2005.
1(2) This Order shall have effect from the year of assessment 2005.

PARAGRAPH 2 INTERPRETATION
2 For the purpose of this Order, “trade association” shall have the same meaning assigned to it by subsection 53(3) of the Act.

PARAGRAPH 3 EXEMPTION
3(1) The Minister exempts a trade association resident in Malaysia from the payment of income tax in respect of statutory income derived from its member’s subscription fees in the basis period for a year of assessment.
3(2) The amount of statutory income referred to in subparagraph (1) shall consist of the amount of gross income from its members’ subscription fees in the basis period for a year of assessment, reduced—
(a) first, by any amount of expenses incurred in the production of that income; and
(b) next, by any allowance falling to be made pursuant to Schedule 3 to the Act in respect of that income.
3(3) The amount of expenses and allowances referred to in subparagraph (2)—
(a) Shall include an amount of expenses and allowances which are common to the income exempt under subparagraph (1) and other non-exempt income, which amount shall be determined—
(i) in relation to expenses, in accordance with the following formula:

\[
\frac{A \times B}{C}
\]

where
A is the amount of common expenses;
B is the amount of gross income from its members’ subscription fees; and
C is the amount of gross income from its business sources; and

Para 1(1) Commerce Clearing House (Malaysia) Sdn Bhd
(ii) in relation to allowances, in accordance with the following formula:

\[ D \times \frac{B}{C} \]

where

- \(D\) is the amount of common allowances;
- \(B\) is the amount of gross income from its members’ subscription fees; and
- \(C\) is the amount of gross income from its business sources.

3(4) The amount of common expenses and common allowances that has been determined under subparagraph (3) for the purposes of subparagraph (2) shall be disregarded for the purposes of other income not exempted under this Order.

PARAGRAPH 4 NON-APPLICATION

4 The exemption under paragraph 3 shall not apply to a trade association for the year of assessment in which the trade association has claimed an exemption under the Income Tax (Exemption) (No. 8) Order 2002 [P.U. (A) 56/2002].

PARAGRAPH 5 REVOCATION

INCOME TAX (EXEMPTION) (NO. 36) ORDER 2005
PU (A) 266

[5 July 2005]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax Act (Exemption) (No. 36) Order 2005.
1(2) This Order is deemed to have effect from the year of assessment 2004.

PARAGRAPH 2 INTERPRETATION
2 In this Order—
"qualifying person" means—
(a) a body of persons or a trust as the meaning assigned to it under section 2 of the Income Tax Act 1967 [Act 53] or a company limited by guarantee which is registered under the Companies Act 1965 [Act 125];
(b) a resident in Malaysia; and
(c) not operated or conducted primarily for profit;
"qualifying activity" means the activity related to the management of the public cemeterial ground.

PARAGRAPH 3 EXEMPTION
3(1) The Minister exempts a qualifying person from the payment of tax in respect of the statutory income in relation to its income received or derived from the qualifying activity as specified in the Schedule.
3(2) Nothing in subparagraph (1) shall absolve or is deemed to have absolved the qualifying person from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provisions of the Act.

PARAGRAPH 4 CONDITION FOR EXEMPTION
4 For the purposes of qualifying for the exemption under paragraph 3, the qualifying person shall satisfy the condition that the income received for [sic] derived from the qualifying activity is used solely for the purposes of the qualifying activity as follows:
(a) maintenance of the cemeterial ground including the maintenance of facilities and infrastructure;
(b) religious or cultural and traditional ceremony;
(c) purchase of new cemeterial ground;
(d) administrative expenditure;

Para 1(1) Commerce Clearing House (Malaysia) Sdn Bhd
(e) building or maintenance of a building for prayer or a building which is needed in accordance to the specific tradition or culture of each specific race;
(f) building or maintenance of the crematorium or funeral parlour; or
(g) building or maintenance of a columbarium building for storage of the deceased’s ash.

PARAGRAPH 5 SETTING UP A FUND
5 Where the qualifying person undertakes an activity other than the qualifying activity, the qualifying person shall set up a fund solely for the purposes of the qualifying activity.

PARAGRAPH 6 MAINTAINING SEPARATE ACCOUNTS
6 Where the qualifying person undertakes an activity other than the qualifying activity, the qualifying person shall maintain a separate account for the income received or derived from the qualifying activity.

SCHEDULE

<table>
<thead>
<tr>
<th>NO.</th>
<th>TYPE OF INCOME</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a)</td>
<td>performance fees/donation whether in cash or kind;</td>
</tr>
<tr>
<td>(b)</td>
<td>cemetery bookings deposits;</td>
</tr>
<tr>
<td>(c)</td>
<td>service fees for the burial or cremation of the deceased, the provision for the storage of the deceased’s ash, grave maintenance or the provision of the place and facilities for the praying ceremony;</td>
</tr>
<tr>
<td>(d)</td>
<td>sale proceeds of the cemetarial plot;</td>
</tr>
<tr>
<td>(e)</td>
<td>sale proceeds of the columbarium site for storage of the deceased’s ash;</td>
</tr>
<tr>
<td>(f)</td>
<td>member’s subscription fees received;</td>
</tr>
<tr>
<td>(g)</td>
<td>interest from fixed deposit; and</td>
</tr>
<tr>
<td>(h)</td>
<td>rental of the praying hall/funeral parlour or a building or real property owned by it.</td>
</tr>
</tbody>
</table>
INCOME TAX (EXEMPTION) (NO. 40) ORDER 2005

PU (A) 307

[15 July 2005]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT

1(1) This order may be cited as the Income Tax (Exemption) (No. 40) Order 2005.
1(2) This Order is deemed to have effect from the year of assessment 2003.

PARAGRAPH 2 INTERPRETATION

2 In this Order, unless the context otherwise requires—

“services in Malaysia” means services provided by an operational headquarters company to a related company in Malaysia in respect of services as specified by the Minister;

“qualifying services” means services provided by an operational headquarters company to at least three of its offices outside Malaysia or its related companies outside Malaysia in respect of services as specified by the Minister;

“related company” has the same meaning as defined under section 2 of the Promotion of Investments Act 1986 [Act 327];

“operational headquarters company” means a company carrying on a business in Malaysia providing qualifying services and approved by the Minister upon fulfilling conditions specified by him.

PARAGRAPH 3 EXEMPTION

3(1) The Minister exempts an operational headquarters company from the payment of income tax in respect of the statutory income from its business for a period of ten years of assessment commencing from a year of assessment in which the date of approval of such operational headquarters company falls in the basis period of that year of assessment (hereafter referred to as the “exempt period”).

Para 1(1) Commerce Clearing House (Malaysia) Sdn Bhd
3(2) The statutory income exempted as referred to in subparagraph (1) shall be on—

(a) all income from the provision of qualifying services; and

(b) a part of the income from the provision of services in Malaysia determined in accordance with the following formula:

\[
\frac{A}{B} \times C
\]

where,

A is the amount as determined in accordance with the following formula:

\[
\frac{20}{80} \times \text{amount of all income from the provision of qualifying services};
\]

B is the amount of gross income from services in Malaysia; and

C is the amount of statutory income from services in Malaysia.

3(3) The statutory income of the exempted business in the basis period for a year of assessment in the exempt period shall be determined after deducting allowances which fall to be made under Schedule 3 of the Act notwithstanding that no claim for such allowances has been made.

PARAGRAPH 4 SEPARATE SOURCE

4 Where an operational headquarters company carries on a business of providing qualifying services, a business of providing services in Malaysia and other businesses, each of such businesses shall be treated as a separate and distinct source of business.

PARAGRAPH 5 TAX TREATMENT FOR AN OPERATIONAL HEADQUARTERS COMPANY THAT SUFFERED LOSSES

5(1) Where an operational headquarters company is ascertained to have an adjusted loss under subsection 44(2) of the Act for the basis period for a year of assessment during the exempt period in respect of a business source consisting of the provision of qualifying services, the amount of adjusted loss shall be disregarded from the source consisting of the provision of services in Malaysia and other businesses.

5(2) Where an operational headquarters company is ascertained to have a loss under subsection 43(2) of the Act for the basis period for a year of assessment during the exempt period in respect of a business source consisting of the provision of qualifying services, the amount of adjusted loss shall be disregarded from the source consisting of the provision of services in Malaysia and other businesses.

5(3) Any amount of loss ascertained pursuant to subsections 43(2) and 44(2) of the Act in respect of a business source consisting of the provision of qualifying services shall be disregarded for the purposes of this Act in the year of assessment in which the last date of the exempt period of the operational headquarters company falls and in the following years of assessment after the exempt period, as the case may be.
PARAGRAPH 6  APPLICATION OF PARAGRAPHS 5 AND 6 OF SCHEDULE 7A
6 Paragraphs 5 and 6 of Schedule 7A to the Act shall apply mutatis mutandis to the amount of statutory income exempted under paragraph 3.

PARAGRAPH 7  TRANSITIONAL PROVISION FOR AN OPERATIONAL HEADQUARTERS COMPANY CARRYING ON BUSINESS PRIOR TO THE YEAR OF ASSESSMENT 2003
7 Where a company is an operational headquarters company under section 60E of the Act prior to the year of assessment 2003 and the exempt period has not ceased—
(a) the company is deemed to be an operational headquarters company for the purposes of this Order with effect from the year of assessment 2003; and
(b) the exempt period referred to in subparagraph 3(1) is deemed to be a period commencing from the date of approval of the operational headquarters company up to a date being the last day of tenth year from the date of approval of the operational headquarters company.

PARAGRAPH 8  NON-APPLICATION
8(1) Where in any year of assessment of the exempt period, the approved operational headquarters company fails to satisfy the conditions as specified by the Minister upon its approval, this Order shall not apply to the statutory income from the provision of qualifying services and the provision of services in Malaysia for that year of assessment.

History
Para. 8(2) deleted by PU (A) 260/2007, para. 2, deemed effective from the year of assessment 2003. Para. 8(2) formally read:
“8(2) This Order shall not apply to an operational headquarters company in the basis period for the year of assessment where it has been granted any incentives (except deductions for promotion of exports) under the Promotion of Investments Act 1986 or any exemption or allowances or deductions given under the Income Tax Act 1967 in respect of its non-qualifying income.”
INCOME TAX (EXEMPTION) (NO. 41)
ORDER 2005

PU (A) 308

[15 July 2005]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT

1(1) This order may be cited as the Income Tax (Exemption) (No. 41) Order 2005.

1(2) This Order is deemed to have effect from the year of assessment 2003.

PARAGRAPH 2 INTERPRETATION

2 In this Order, unless the context otherwise requires—

“qualifying activities” means activities undertaken by a regional distribution centre company as a collection and consolidation centre for finished products, components and spare parts produced by its related companies for its own brand, from within or outside Malaysia to be distributed to related and unrelated companies within or outside Malaysia;

“annual value of export sales” means the annual free-on-board value of the direct export sales and drop shipment export sales;

“drop shipment export sales” means export sales made by a regional distribution centre company in respect of qualifying activities to related and unrelated companies outside Malaysia via shipment from outside Malaysia;

“direct export sales” means export sales made by a regional distribution centre company in respect of qualifying activities to related and unrelated companies outside Malaysia via shipment from within Malaysia but does not include sale Free Zones and Licensed Manufacturing Warehouses;

“local sales” means sales made by a regional distribution centre company in respect of qualifying activities to related and unrelated companies within Malaysia including to Free Zones and Licensed Manufacturing Warehouses;

“related company” has the same meaning as defined under section 2 of the Promotion of Investment Act 1986 [Act 327];

“regional distribution centre company” means a company or a division of a company incorporated in Malaysia which carries on a business of providing qualifying activities and which is approved by the Minister upon fulfilling conditions specified by him.

[CCH Note: The following relates to typo error: “regional distribution centre company” should read “regional distribution centre company”]

Thornton’s Malaysian Tax Commentaries Para 2
PARAGRAPH 3  EXEMPTION

3(1) The Minister exempts a regional distribution centre company from the payment of income tax in respect of the statutory income from its business for a period of ten years of assessment (hereafter referred to as the “exempt period”).

3(2) The statutory income exempted as referred to in subparagraph (1) shall be on—

(a) all income from the qualifying activities in respect of its direct export sales;

(b) a part of the income from the qualifying activities in relation to its drop shipment export sales to be determined in accordance with the following formula:

\[
\frac{A}{B} \times C
\]

where,
A is the amount as determined in accordance with the following formula:
\[
\frac{30}{50} \times \text{value of direct exports sales}
\]
or the value of drop shipment export sales, whichever is the lower;
B is the annual value of the sales from the qualifying activities; and
C is the amount of the statutory income from the qualifying activities; and

(c) a part of the income from the qualifying activities in relation to its local sales to be determined in accordance with following formula:

\[
\frac{D}{B} \times C
\]

where,
D is the amount as determined in accordance with the following formula:
\[
\frac{20}{80} \times E
\]
where
E is the total value of direct export sales and value of A, or the value of local sales, whichever is the lower:
B is the annual value of sales from the qualifying activities; and
C is the amount of the statutory income from the qualifying activities.

3(3) The statutory income of the exempted business [sic] a in the basis period for a year of assessment in the exempt period shall be determined after deducting allowances which fall to be made under Schedule 3 of the Act notwithstanding that no claim for such allowances has been made.

Para 3(1) Commerce Clearing House (Malaysia) Sdn Bhd
PARAGRAPH 4  COMMENCEMENT OF THE EXEMPT PERIOD

4(1) For the purposes of subparagraph 3(1)—

(a) where the regional distribution centre can fulfill the stipulated conditions within the third year of assessment from the basis period for the year of assessment in which the date of approval falls, the exempt period shall commence in the basis period of a year of assessment when that regional distribution centre company first fulfill the stipulated conditions; or

(b) where the regional distribution centre company cannot fulfill the stipulated conditions within the third year of assessment from the basis period for the year of assessment in which the date of approval falls, the exempt period shall commence on the first day of the basis period of the year of assessment following the end of the third year of assessment in which the date of approval of the regional distribution centre company falls.

4(2) For the purposes of subparagraph 4(1), in determining whether the stipulated conditions in relation to income and operating expenditure are fulfilled, reference shall be made to the income and operating expenditure of the regional distribution centre company for the basis period in each year of assessment.

PARAGRAPH 5  SPECIFIC CONDITIONS TO QUALIFY FOR THE EXEMPTION

5 To qualify for the exemption under subparagraph 3(1), the regional distribution centre company shall achieve an annual value of sales of RM100 million of which the annual value of export sales achieve RM80 million and the value of direct export sales achieve RM50 million in respect of the qualifying activities in the basis period for a year of assessment.

PARAGRAPH 6  SEPERATE SOURCE

6 Where a regional distribution centre company carries on a business of providing qualifying activities and other businesses, each of such businesses shall be treated as a separate and distinct source of business.

[CCIC Note: The following relates to typo error: ‘‘Seperate source’’ should read ‘‘Separate source’’]

PARAGRAPH 7  TAX TREATMENT FOR A REGIONAL DISTRIBUTION CENTRE COMPANY THAT SUFFERED LOSSES

7(1) Where a regional distribution centre company is ascertained to have an adjusted loss under subsection 44(2) of the Act for the basis period for a year of assessment during the exempt period in respect of a business source consisting of the qualifying activities, the amount of adjusted loss shall be disregarded from the source consisting of the other businesses.

7(2) Where a regional distribution centre company is ascertained to have a loss under subsection 43(2) of the Act for the basis period for a year of assessment during the exempt period in respect of a business source consisting of the qualifying activities, the amount of adjusted loss shall be disregarded from the source consisting of the other businesses.

Thornton’s Malaysian Tax Commentaries
7(3) Any amount of loss ascertained pursuant to subsections 43(2) and 44(2) of the Act in respect of a business source consisting of the qualifying activities shall be disregarded for the purposes of this Act in the year of assessment in which the last date of the exempt period of the regional distribution centre company falls and in the following years of assessment after the exempt period, as the case may be.

PARAGRAPh 8 SPECIAL PROVISION FOR AN REGIONAL DISTRIBUTION CENTRE COMPANY WHICH OPERATES AS A DIVISION OF A COMPANY INCORPORATED IN MALAYSIA

8 Where a regional distribution centre company operates as a division of a company incorporated in Malaysia—

(a) any sales of that company to the other divisions of that company or to other related and unrelated companies shall be at market price; and

(b) any procurement of that company from the other division of that company or from other related and unrelated companies shall be at market price.

PARAGRAPh 9 APPLICATION OF PARAGRAPHS 5 AND 6 OF SCHEDULE 7A

9 Paragraphs 5 and 6 of Schedule 7A to the Act shall apply mutatis mutandis to the amount of statutory income exempted under subparagraph 3(1).

PARAGRAPh 10 NON-APPLICATION

10(1) Where in any year of assessment of the exempt period, the approved regional distribution centre company fails to satisfy the conditions as specified by the Minister upon its approval, this Order shall not apply to the statutory income from the provision of qualifying activities for that year of assessment.

History

Para. 10(2) deleted by PU (A) 261/2007, para. 2, deemed effective from the year of assessment 2003. Para. 10(2) formally read:

"10(2) This Order shall not apply to a regional distribution centre company in the basis period for the year of assessment where it has been granted any incentives (except deductions for promotion of exports) under the Promotion of Investments Act 1986 or any exemption or allowances or deduction given under the Income Tax Act 1967 in respect of its non-qualifying income."

Para 7(3) Commerce Clearing House (Malaysia) Sdn Bhd
INCOME TAX (EXEMPTION) (NO. 42) ORDER 2005

PU (A) 309

[15 July 2005]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT

1(1) This order may be cited as the Income Tax (Exemption) (No. 42) Order 2005.

1(2) This Order is deemed to have effect from the year of assessment 2003.

PARAGRAPH 2 INTERPRETATION

2 In this Order, unless the context otherwise requires—

``qualifying activities'' means activities undertaken by an international procurement centre company in respect of procurement and sale of raw materials, components and finished products from related and unrelated companies to related and unrelated companies within or outside Malaysia;

``annual value of export sales'' means the annual free-on-board value of the direct export sales and drop shipment export sales;

``drop shipment export sales'' means export sales made by an international procurement centre company in respect of qualifying activities to related and unrelated companies outside Malaysia via shipment from outside Malaysia;

``direct export sales'' means export sales made by an international procurement centre company in respect of qualifying activities to related and unrelated companies outside Malaysia via shipment from within Malaysia but does not include sales to Free Zones and Licensed Manufacturing Warehouses;

``local sales'' means sales made by an international procurement centre company in respect of qualifying activities to related and unrelated companies within Malaysia including to Free Zones and Licensed Manufacturing Warehouses;

``related company'' has the same meaning as defined under section 2 of the Promotion of Investment Act 1986 [Act 327];

``international procurement centre company'' means a company or a division of a company incorporated in Malaysia which carries on a business of providing qualifying activities and which is approved by the Minister upon fulfilling conditions specified by him.

PARAGRAPH 3 EXEMPTION

3(1) The Minister exempts an international procurement centre company from the payment of income tax in respect of the statutory income from its business for a period of ten years of assessment (hereafter referred to as the ‘‘exempt period’’).
3(2) The statutory income exempted as referred to in subparagraph (1) shall be on—
(a) all income from the qualifying activities in respect of its direct export sales;
(b) a part of the income from the qualifying activities in relation to its drop shipment export sales to be determined in accordance with the following formula:

\[
\frac{A}{B} \times C
\]

where,
A is the amount as determined in accordance with the following formula:
\[
\frac{30}{50} \times \text{value of direct exports sales}
\]
or the value of drop shipment export sales, whichever is the lower;
B is the annual value of the sales from the qualifying activities; and
C is the amount of the statutory income from the qualifying activities; and
(c) a part of the income from the qualifying activities in relation to its local sales to be determined in accordance with following formula:

\[
\frac{D}{B} \times C
\]

where,
D is the amount as determined in accordance with the following formula:
\[
\frac{20}{80} \times E
\]
where,
E is the total value of direct export sales and value of A, or the value of local sales, whichever is the lower;
B is the annual value of sales from the qualifying activities; and
C is the amount of the statutory income from the qualifying activities.

3(3) The statutory income of the exempted business in the basis period for a year of assessment in the exempt period shall be determined after deducting allowances which fall to be made under Schedule 3 of the Act notwithstanding that no claim for such allowances has been made.

PARAGRAPH 4 COMMENCEMENT OF THE EXEMPT PERIOD

4(1) For the purposes of subparagraph 3(1)—
(a) where the international procurement centre company can fulfill the stipulated conditions within the third year of assessment from the basis period for the year of assessment in which the date of approval falls, the exempt period shall commence in the basis period for a year of assessment when that international procurement centre company first fulfill the stipulated conditions; or

Para 3(2) Commerce Clearing House (Malaysia) Sdn Bhd
(b) where the international procurement centre company cannot fulfill the stipulated conditions within the third year of assessment from the basis period for the year of assessment in which the date of approval falls, the exempt period shall commence on the first day of the basis period of the year of assessment following the end of the third year of assessment in which the date of approval of the international procurement centre company falls.

4(2) For the purposes of subparagraph 4(1), in determining whether the stipulated conditions in relation to income and operating expenditure are fulfilled, reference shall be made to the income and operating expenditure of the international procurement centre company for the basis period in each year of assessment.

PARAGRAPH 5 SPECIFIC CONDITIONS TO QUALIFY FOR THE EXEMPTION

5 To qualify for the exemption under subparagraph 3(1)—

(a) the international procurement centre company shall have made procurement from and sale to its related companies within or outside Malaysia; and

(b) the international procurement centre company shall achieve an annual value of sales of RM100 million of which the annual value of export sales achieve RM80 million and the value of direct export sales achieve RM50 million in respect of the qualifying activities in the basis period for a year of assessment.

PARAGRAPH 6 SEPARATE SOURCE

6 Where an international procurement centre company carries on a business of providing qualifying activities and other businesses, each of such businesses shall be treated as a separate and distinct source of business.

PARAGRAPH 7 TAX TREATMENT FOR AN INTERNATIONAL PROCUREMENT CENTRE COMPANY THAT SUFFERED LOSSES

7(1) Where an international procurement centre company is ascertained to have an adjusted loss under subsection 44(2) of the Act for the basis period for a year of assessment during the exempt period in respect of a business source consisting of the qualifying activities, the amount of adjusted loss shall be disregarded from the source consisting of the other businesses.

7(2) Where an international procurement centre company is ascertained to have a loss under subsection 43(2) of the Act for the basis period for a year of assessment during the exempt period in respect of a business source consisting of the qualifying activities, the amount of adjusted loss shall be disregarded from the source consisting of the other businesses.

7(3) Any amount of loss ascertained pursuant to subsections 43(2) and 44(2) of the Act in respect of a business source consisting of the qualifying activities shall be disregarded for the purposes of this Act in the year of assessment in which the last date of the exempt period of the international procurement centre company falls and in the following years of assessment after the exempt period, as the case may be.
PARAGRAPH 8 SPECIAL PROVISION FOR AN INTERNATIONAL PROCUREMENT CENTRE COMPANY WHICH OPERATES AS A DIVISION OF A COMPANY INCORPORATED IN MALAYSIA

Where an international procurement centre company operates as a division of a company incorporated in Malaysia—

(a) any sales transaction of that company to the other divisions of that company or to other related companies shall be at market price; and

(b) any procurement transaction of that company from the other divisions of that company or from other related companies shall be at market price.

PARAGRAPH 9 APPLICATION OF PARAGRAPHS 5 AND 6 OF SCHEDULE 7A

Paragraphs 5 and 6 of Schedule 7A to the Act shall apply mutatis mutandis to the amount of statutory income exempted under subparagraph 3(1).

PARAGRAPH 10 NON-APPLICATION

Where in any year of assessment of the exempt period, the approved international procurement centre company fails to satisfy the conditions as specified by the Minister upon its approval, this Order shall not apply to the statutory income from the provision of qualifying activities for that year of assessment.

History

Para. 10(2) deleted by PU (A) 262/2007, para. 2, deemed effective from the year of assessment 2003. Para. 10(2) formally read:

"10(2) This Order shall not apply to an international centre company in the basis period for the year of assessment where it has been granted any incentives (except deductions for promotion of exports) under the Promotion of Investment Act 1986 or any exemption or allowances or deduction given under the Income Tax Act 1967 in respect of its non-qualifying income."

Para 8

Commerce Clearing House (Malaysia) Sdn Bhd
INCOME TAX (EXEMPTION) (NO. 9) ORDER 2006
PU (A) 50

[12 January 2006]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT

1(1) This order may be cited as the Income Tax (Exemption) (No. 9) Order 2006.
1(2) This Order is deemed to have come into effect from the year of assessment 2001.

PARAGRAPH 2 INTERPRETATION

2 In this Order, unless the context otherwise requires—

``new project'' means the first project carried out by a company for the purpose of undertaking an approved food production project and the project is approved by the Minister;

``approved food production project'' has the same meaning as defined in paragraph 11 of Schedule 4C of the Act and is deemed to be as a separate and distinct business;

``company'' means a company incorporated under the Companies Act 1965 [Act 125] which is solely engaged in a new project and referred to as a surrendering company under Schedule 4C of the Act.

PARAGRAPH 3 EXEMPTION

3(1) Subject to subparagraph (2), the Minister exempts a company resident in Malaysia from the payment of income tax in respect of the statutory income in relation to a new project for a period of ten consecutive years of assessment, commencing from the first year of assessment in which the company derived statutory income in relation to that project (that ten consecutive years of assessment hereinafter referred to as the exempt years of assessment).

3(2) The statutory income of a new project referred to in subparagraph (1) in the basis period for each of the exempt years of assessment shall be determined after deducting allowances which fall to be made under Schedule 3 of the Act notwithstanding that no claim for such allowances has been made:

Provided that where an asset used for the purposes of the new project referred to in subparagraph (1) is also used for the purposes of a project other than that project, then the allowances which fall to be made under Schedule 3 of the Act shall be deducted as is reasonable having regard to the extent to which the asset is used for the purposes of the first-mentioned project.

3(3) Nothing in subparagraph (1) shall absolve or is deemed to absolve the company from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provision of the Act.

Thornton’s Malaysian Tax Commentaries Para 3(3)
PARAGRAPH 4 LOSSES

4(1) Schedule 4C of the Act shall apply, *mutatis mutandis*, to the amount of adjusted loss from a new project for any year of assessment in the basis period in which that project commenced to the year of assessment immediately prior to the exempt years of assessment.

4(2) Any amount of adjusted loss that is not surrendered prior to and during the exempt year or years of assessment shall be carried forward and deducted against the statutory income of the new project in the post-exempt year or years of assessment until that new project has utilised the whole amount of the adjusted loss to which it is so entitled.

4(3) So much of the adjusted loss that was utilized to reduce the statutory income of that new project in the post-exempt year or years of assessment shall be disregarded for the purposes of the subsections 43(2) and 44(2) of the Act.

PARAGRAPH 5 APPLICATION OF PARAGRAPHS 5 AND 6 OF SCHEDULE 7A OF THE ACT

5 Paragraphs 5 and 6 of Schedule 7A of the Act shall apply, *mutatis mutandis*, to the amount of income exempted under subparagraph 3(1) from the new project.

PARAGRAPH 6 MAINTAINING OF SEPARATE ACCOUNTS

6 The company which is exempted under subparagraph 3(1) shall maintain a separate account for the income derived from the new project referred to in that subparagraph.

PARAGRAPH 7 NON-APPLICATION

7 This Order shall not apply to—

(a) an application for a new project received by the Ministry of Agriculture and Agro-based Industry after 30 September 2005;

(b) a company for a year of assessment in the basis period the company has been granted—

(i) any deduction under the Income Tax (Deduction For Investment In An Approved Food Production Project) Rules 2006;

(ii) any deduction for approved food production project under Schedule 4C of the Act;

(iii) any deduction for capital expenditure on approved agricultural projects under Schedule 4A of the Act;

(iv) any deduction under the Income Tax (Allowance for Increased Exports) Rules 1999;

(v) any deduction under the Income Tax (Deduction for Cost on Acquisition of A Foreign Owned Company) Rules 2003;

(vi) any exemption on the value of increased exports under the Income Tax (Exemption) (No. 17) Order 2005;

(vii) any reinvestment allowance under Schedule 7A of the Act; or

(viii) any incentive under the Promotion of Investments Act 1986.
INCOME TAX (EXEMPTION) (NO. 10) ORDER 2006  
PU (A) 51

[12 January 2006]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 10) Order 2006.
1(2) This Order is deemed to have come into effect from the year of assessment 2001 in respect of a new project.
1(3) This Order is deemed to have come into effect from the year of assessment 2002 in respect of an expansion project.

PARAGRAPH 2 INTERPRETATION
2 In this Order, unless the context otherwise requires—
   “new project” means the first project carried out by a company for the purpose of undertaking an approved food production project and the project is approved by the Minister;
   “expansion project” means a project carried out by a company for the purpose of expanding its existing approved food production project where the project—
      (a) has not been granted an exemption under this Order;
      (b) involves a new area of land; and
      (c) is approved by the Minister;
   “approved food production project” has the same meaning as defined in paragraph 11 of Schedule 4C of the Act and is deemed to be as a separate and distinct business;
   “company” means a company incorporated under the Companies Act 1965 [Act 125], an agro-based co-operative society, an Area Farmers’ Association, a Federal Farmers’ Association, a State Farmers’ Association, an Area Fishermen’s Association, a Federal Fishermen’s Association, a State Fishermen’s Association and sole proprietorship, partnership or association solely engaged in agriculture.

PARAGRAPH 3 EXEMPTION
3(1) Subject to subparagraph (2), the Minister exempts a company resident in Malaysia from the payment of income tax in relation to—
      (a) a new project for a period of ten consecutive years of assessment, in respect of its statutory income, commencing from the first year of assessment in which the company derived statutory income in relation to that project; or
(b) an expansion project for a period of five consecutive years of assessment, in respect of the statutory income from its existing and expansion projects, commencing from the first year of assessment in which the company derived statutory income in relation to the existing and expansion projects, and the first year of assessment shall not be earlier than the year of assessment in the basis period in which the date of approval from the Minister falls;

(the ten consecutive years of assessment or five consecutive years of assessment, as the case may be, henceforth referred to as the exempt years of assessment).

3(2) The statutory income of the project referred to in subparagraph (1)(a) or (b), as the case may be, in the basis period for each of the exempt years of assessment shall be determined after deducting allowances which fall to be made under Schedule 3 of the Act notwithstanding that no claim for such allowances has been made:

Provided that where an asset used for the purposes of the project referred to in subparagraph (1)(a) or (b), as the case may be, is also used for the purposes of a project other than that project, then the allowances which fall to be made under Schedule 3 of the Act shall be deducted as is reasonable having regard to the extent to which the asset is used for the purposes of the first-mentioned project:

3(3) Nothing in subparagraph (1) shall absolve or is deemed to absolve the company from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provision of the Act.

PARAGRAPH 4 LOSSES

4(1) Any amount of adjusted loss incurred—

(a) from the year of assessment in the basis period in which the project referred to in subparagraph 3(1)(a) or (b), as the case may be, commenced to the year of assessment immediately prior to the exempt years of assessment; and

(b) during the exempt years of assessment,

shall be carried forward and deducted against the statutory income of the project in its post-exempt year or years of assessment until that project utilized the whole amount of the adjusted loss to which it is so entitled.

4(2) So much of the adjusted loss that was utilized to reduce the statutory income of the project referred to in subparagraph 3(1)(a) or (b), as the case may be, in its post-exempt year or years of assessment shall be disregarded for the purposes of the sections 43(2) and 44(2) of the Act.

PARAGRAPH 5 APPLICATION OF PARAGRAPHS 5 AND 6 OF SCHEDULE 7A OF THE ACT

5 Paragraphs 5 and 6 of Schedule 7A of the Act shall only apply, mutatis mutandis, to the amount of income exempted from the projects referred to under subparagraph 3(1)(a) or (b), as the case may be, for a company incorporated under the Companies Act 1965 [Act 125].
PARAGRAPH 6 MAINTAINING OF SEPARATE ACCOUNTS
6 The company which is exempted under subparagraph 3(1)(a) or (b), as the case may be, shall maintain a separate account for the income derived from the projects referred to in that subparagraph.

PARAGRAPH 7 NON-APPLICATION
7 This Order shall not apply to—
(a) an application for a new project or an expansion project received by the Ministry of Agriculture and Agro-based Industry after 30 September 2005;
(b) a company for a year of assessment in the basis period the company has been granted—
   (i) any deduction under the Income Tax (Deduction For Investment In An Approved Food Production Project) Rules 2006;
   (ii) any deduction for approved food production projects under Schedule 4C of the Act;
   (iii) any deduction for capital expenditure on approved agricultural projects under Schedule 4A of the Act;
   (iv) any deduction under the Income Tax (Allowance For Increased Exports) Rules 1999
   (v) any deduction under the Income Tax (Deduction For Cost On Acquisition Of A Foreign Owned Company) Rules 2003;
   (vi) any exemption on the value of increased exports under the Income Tax (Exemption) (No. 17) Order 2005;
   (vii) any reinvestment allowance under Schedule 7A of the Act; or
   (viii) any incentive under the Promotion of Investments Act 1986.
INCOME TAX (EXEMPTION) (NO. 11) ORDER 2006
PU (A) 112

[27 February 2006]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 11) Order 2006.
1(2) This Order is deemed to have effect from the year of assessment 1998.

PARAGRAPH 2 INTERPRETATION
2 In this Order—
``approved business’’ means any business approved by the Minister under the special incentive scheme;
``pioneer business’’ has the same meaning as defined in section 2 of the Promotion of Investments Act 1986 [Act 327];
``special incentive scheme’’ means a pre-package incentive scheme approved by the Minister;
``company’’ means a company incorporated under the Companies Act 1965 [Act 125].

PARAGRAPH 3 EXEMPTION
3(1) The Minister exempts a company resident in Malaysia in the basis period for a year of assessment from the payment of income tax in respect of the statutory income derived from an approved business.
3(2) The tax exemption on the statutory income of the approved business referred to in subparagraph (1) is subject to such conditions as stated by the Minister in the approval letter of the approved business.
3(3) The statutory income of the approved business referred to in subparagraph (1) shall be exempt for a period as the Minister may determine (hereinafter referred to as ‘‘exempt period’’) and computed in the manner prescribed under paragraph 4.
3(4) The commencement of the exempt period shall be determined by the Minister or the Minister of International Trade and Industry, as the case may be.
3(5) Subject to the conditions stated in the approval letter as mentioned in subparagraph (2), the Promotion of Investments Act 1986 shall apply to any approved business which has been granted an exemption under this Order.
3(6) In a case where the approved business is an extension of tax relief period of a pioneer business of a company granted under the Promotion of Investments Act 1986, then the approved business shall be deemed as an extension of the pioneer business of that company.

Para 1(1) Commerce Clearing House (Malaysia) Sdn Bhd
Nothing in subparagraph (1) shall absolve or is deemed to have absolved that company from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the Act.

PARAGRAPH 4 STATUTORY INCOME

4(1) The statutory income of the approved business in the basis period for a year of assessment shall be determined after deducting allowances which fall to be made under Schedule 3 of the Act notwithstanding that no claim for such allowances have been made.

4(2) The amount of statutory income of the approved business to be exempt in the basis period for a year of assessment during the exempt period shall be determined in the following manner:

(a) seventy percent (or any other rate as prescribed by the Minister) of the statutory income;

(b) the amount of statutory income referred to in subsubparagraph (2)(a) shall be reduced by—

   (i) first, current year adjusted loss from a business or businesses other than a pioneer business or pioneer businesses and any approved business exempted under this Order, as the case may be; and

   (ii) next, any unabsorbed adjusted loss or current year adjusted loss from a pioneer business or pioneer businesses and any approved business exempted under this Order, as the case may be;

(c) so much of the adjusted loss referred to in subsubparagraphs (b)(i) and (ii) which was utilised to reduce the statutory income of the approved business for a year of assessment shall not be taken into account for the purposes of subsections 43(2) and 44(2) of the Act and section 21A of the Promotion of Investments Act 1986, as the case may be, in determining the income of a business other than the pioneer business or pioneer businesses and the approved business under this Order; and

(d) any amount of unabsorbed adjusted loss and current year adjusted loss from the approved business that are not utilised to reduce the statutory income during the exempt period referred to in subsubparagraph (b)(ii), as the case may be, other than an activity of contract research and development defined under section 2 of the Promotion of Investments Act 1986, shall not be available to reduce the total income of the company.

4(3) Notwithstanding subsubparagraph (2), where the exempt period of the approved business ceases on or after 1 October 2005, any amount of unabsorbed adjusted loss and current year adjusted loss, from the approved business that are not utilised to reduce the statutory income during the exempt period referred to in subsubparagraph (b)(ii), shall be available to reduce the total income of the company in accordance with subsections 43(2) and 44(2) of the Act in the basis period following the cessation of that exempt period for the year of assessment and subsequent years of assessment.
PARAGRAPH 5  CAPITAL ALLOWANCE

5  For the purpose of this Order, notwithstanding the provision of Schedule 3 of the Act—

(a) the residual expenditure of an asset used prior to the date of commencement of exempt period and that asset continues to be used in the basis period for the year of assessment in which the day of commencement of the exempt period falls shall be deemed to be the residual expenditure of that asset on the day of commencement of that exempt period;

(b) any capital expenditure incurred in respect of an asset in the basis period prior to the date of commencement of the exempt period and that asset continues to be used in the basis period for the year of assessment in which the exempt period falls shall be deemed to have been incurred on the day of commencement of that exempt period;

(c) the residual expenditure of an asset used in the exempt period and that asset continues to be used in the basis period for the year of assessment in which the date of cessation of the exempt period falls shall be deemed to be the residual expenditure of that asset on the day following the cessation of that exempt period;

(d) any capital expenditure incurred in respect of an asset during the exempt period and that asset continues to be used in the basis period for a year of assessment in which the date of cessation of exempt period falls shall be deemed to have been incurred on the day following the cessation of that exempt period;

(e) where an asset used for the purposes of the approved business is also used for the purposes of other than that business—

(i) then, the allowances which fall to be made under Schedule 3 of the Act shall be deducted as is reasonable having regard to the extent to which the asset is used for the purpose of the first-mentioned business; and

(ii) the residual expenditure arrived at under subparagraphs 4(1) and (3) shall be reduced by the amount of any deduction made under subsubparagraph (a);

(f) unabsorbed capital allowance prior to the commencement of the exempt period shall be utilised to reduce the statutory income of the approved business in the basis period for the year of assessment of the exempt period; and

(g) unabsorbed capital allowance during the exempt period of that approved business shall not be utilised to reduce the statutory income of the approved business in the basis period following the cessation of that exempt period for the year of assessment and any subsequent years of assessment:

Provided that, the exempt period of the approved business ceases on or after 1 October 2005, that unabsorbed capital allowance shall be utilised to reduce the statutory income of the approved business in the basis period following the cessation of that exempt period for the year of assessment and subsequent years of assessment.

Para 5  Commerce Clearing House (Malaysia) Sdn Bhd
PARAGRAPH 6 WITHDRAWAL OF TAX EXEMPTION OF APPROVED BUSINESS

6 The Minister may withdraw the tax exemption on the statutory income of the approved business if the company fails to comply with the conditions prescribed by the Minister referred to in subparagraph 3(2).

PARAGRAPH 7 SEPARATE ACCOUNT

7 The company shall maintain a separate account for the income derived from the approved business for the basis period for each year of assessment of the exempt period.

RULE 8 APPLICATION OF DEDUCTIONS FOR PROMOTION OF EXPORTS

8 An expenditure which would be allowed as a deduction for promotion of exports under section 41 of the Promotion of Investments Act 1986 for the purpose of computing the income from the approved business shall be accumulated, and the aggregate amount thereof shall be allowed as a deduction for the purposes of ascertaining the income in the first basis period for the year of assessment after the exempt period.

PARAGRAPH 9 APPLICATION OF PARAGRAPHS 5 AND 6 OF SCHEDULE 7A

9 Paragraphs 5 and 6 of Schedule 7A to the Act shall apply, *mutatis mutandis*, to the amount of statutory income exempted referred to under paragraph 3.

PARAGRAPH 10 NON-APPLICATION

10 This Order shall not apply to a company in the basis period for a year of assessment which has been granted—

(a) reinvestment allowance under Schedule 7A of the Act;
(b) reinvestment allowance for service sector under Schedule 7B of the Act;
(c) allowance for increased export under the Income Tax (Allowance for Increased Exports) Rules 1999 [*P.U. (A) 128/1999*];
(d) exemption on the value of increased export under the Income Tax (Exemption) (No. 17) Order 2005 [*P.U. (A) 158/2005*];
(e) exemption on the value of increased export of services under the Income Tax (Exemption) (No. 2) Order 2001 [*P.U. (A) 154/2001*] and the Income Tax (Exemption) (No. 9) Order 2002 [*P.U. (A) 57/2002*];
(f) deduction under the Income Tax (Deduction for Cost on Acquisition of a Foreign Owned Company) Rules 2003 [*P.U. (A) 310/2003*]; or
(g) any incentives (except deductions for promotion of exports) under the Promotion of Investments Act 1986 in respect of the approved business.
INCOME TAX (EXEMPTION) (NO. 12)
ORDER 2006
PU (A) 113

[27 February 2006]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 12) Order 2006.
1(2) This Order is deemed to have effect from the year of assessment 1998.

PARAGRAPH 2 INTERPRETATION
2 In this Order—
“incurred” has the same meaning assigned there to in paragraphs 46 and 55 of Schedule 3 to the Act;

“qualifying capital expenditure” means capital expenditure incurred by the company on an asset in Malaysia for the purpose of the approved business—
(a) in relation to manufacturing or manufacturing-based research, any factory or building used for the activity of research and development, plant and machinery;
(b) in relation to agriculture or agriculture-based research, the clearing and preparation of land, the planting of crops (first planting or planting of trial crops), the provision of irrigation or drainage system, the provision of plant and machinery, the purchase or construction of a building used for the activity of research and development, or the activity of agriculture (including those provided for the welfare or living accommodation of persons who are working in the farm), construction of access roads, bridge and any permanent structure improvement on land which formed as part of the land used for the business;
(c) in relation to information and communication technology or information and communication technology-based research, any multimedia and peripheral equipment (software and hardware), plant and machinery, building and landscaping and greening of the surrounding premises of the building (only applicable to MSC status company); or
(d) in relation to provision of services, any building, plant and machinery used for the activity of provision of services:
Provided that such qualifying capital expenditure shall not include capital expenditure incurred on buildings used as living accommodation, plant and machinery which are provided wholly or partly for the use of a director or an individual who is a member of the management, administrative or clerical staff;

Para 1(1) Commerce Clearing House (Malaysia) Sdn Bhd
“approved business” means any business approved by the Minister under the special
incentive scheme;

“special incentive scheme” means a pre-package incentive scheme approved by the
Minister;

“company” means a company incorporated under the Companies Act 1965 [Act 125].

PARAGRAPH 3 EXEMPTION

3(1) The Minister may exempt a company resident in Malaysia in the basis period for a
year of assessment from the payment of income tax in respect of the statutory income
derived from an approved business which is equivalent to the amount of allowance as
determined in subparagraph (2).

3(2) The amount of allowance referred to in subparagraph (1) shall be—

(a) at a rate as determined by the Minister in the approval letter of the approved
business; and

(b) given in respect of the qualifying capital expenditure incurred in the basis period
for a year of assessment for a period as approved by the Minister.

3(3) The tax exemption on the statutory income of the approved business referred to in
subparagraph (1) is subject to such conditions as stated by the Minister in the approval
letter of the approved business.

3(4) The commencement of the period referred to in subsubparagraph (2)(b) shall be
determined by the Minister or Minister of International Trade and Industry, as the case
may be.

3(5) Nothing in subparagraph (1) shall absolve or is deemed to have absolved that
company from complying with any requirement to submit any return or statement of
accounts or to furnish any other information under the provision of the Act.

PARAGRAPH 4 STATUTORY INCOME

4(1) The statutory income in the basis period for a year of assessment referred to in
subparagraph 3(1) for the period referred to in subsubparagraph 3(2)(b) shall be
determined after deducting allowances which fall to be made under Schedule 3 of the Act
notwithstanding that no claim for such allowances has been made:

Provided that where an asset used for the purpose of the approved business is also
used for the purpose of a business other than that business, then the allowances
which fall to be made under Schedule 3 to the Act shall be deducted as is
reasonable having regard to the extent to which the asset is used for the purpose
of the first-mentioned business.

4(2) The amount of statutory income so exempt referred to in subparagraph 3(1) shall
not exceed seventy percent (or any other rate as determined by the Minister) for each year
of assessment.
4(3) Where, by reason of the absence or insufficiency of the statutory income or restriction of the rate as determined by the Minister in subparagraph (2), effect cannot be given or cannot be given in full to the amount as determined to which the company is entitled under subparagraph 3(1) for that year of assessment, then so much of that amount as cannot be exempt for that year of assessment shall be exempted for the first subsequent year of assessment for the basis period for which there is statutory income from that business, and for subsequent years of assessment until the whole of the amount to which it is so entitled is exempted.

**PARAGRAPH 5 DETERMINATION OF QUALIFYING CAPITAL EXPENDITURE**

5 Where qualifying capital expenditure incurred on an asset is disposed of at any time within two years from the date of acquisition of such asset, the amount of income exempted in respect of the allowance of that asset shall be deemed to have not been exempted to the company to which it would otherwise be entitled.

**PARAGRAPH 6 CAPITAL ALLOWANCE**

6 For the purpose of this Order, Schedule 3 of the Act shall apply.

**PARAGRAPH 7 WITHDRAWAL OF TAX EXEMPTION OF THE APPROVED BUSINESS**

7 The Minister may withdraw the tax exemption on the statutory income of the approved business if the company fails to comply with the conditions as stated by the Minister in the approval letter of the approved business.

**PARAGRAPH 8 SEPARATE ACCOUNT**

8 The company shall maintain a separate account for the income derived from the approved business referred to in subparagraph 3(1) in the basis period for each year of assessment until the business received the whole of allowance or allowances to which it is so entitled.

**PARAGRAPH 9 APPLICATION OF PARAGRAPHS 5 AND 6 OF SCHEDULE 7A**

9 Paragraphs 5 and 6 of Schedule 7A to the Act shall apply, mutatis mutandis, to the amount of statutory income exempted referred to in paragraph 3.

**PARAGRAPH 10 NON-APPLICATION**

10 This Order shall not apply to a company in the basis period for a year of assessment which has been granted—

(a) reinvestment allowance under Schedule 7A of the Act;

(b) reinvestment allowance for service sector under Schedule 7B of the Act;

(c) allowance for increased export under the Income Tax (Allowance for Increased Exports) Rules 1999 [P.U. (A) 128/1999];

(d) exemption on the value for increased export under the Income Tax (Exemption) (No. 17) Order 2005 [P.U. (A) 158/2005];
(e) exemption on the value of increased export of services under the Income Tax (Exemption) (No. 2) Order 2001 [P.U. (A) 154/2001] and the Income Tax (Exemption) (No. 9) Order 2002 [P.U. (A) 57/2002];

(f) deduction under the Income Tax (Deduction for Cost on Acquisition of A Foreign Owned Company) Rules 2003 [P. U. (A) 310/2003]; or

(g) any incentives (except deductions for promotion of exports) under the Promotion of Investments Act 1986 [Act 327] in respect of the approved business.
INCOME TAX (EXEMPTION) (NO. 20)
ORDER 2006
PU (A) 205

[4 May 2006]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 20) Order 2006.
1(2) This Order is deemed to have come into effect on 10 September 2004.

PARAGRAPH 2 INTERPRETATION
2 In this Order—
   “qualifying person” means
   (a) a body of person or a trust body as the meaning assigned to it under section 2 of the Act or a company limited by guarantee which is registered under the Companies Act 1965 [Act 125] whose function is solely for the purposes of establishing and managing an international school;
   (b) a resident in Malaysia; and
   (c) not operated or conducted primarily for profit;
   “international school” means an international school or an expatriate school which is registered under the Education Act 1996 [Act 550] and whose establishment is approved and recognize [sic] as international school or an expatriate school by the Ministry of Education Malaysia.

PARAGRAPH 3 EXEMPTION
3(1) The Minister exempts any qualifying person from the payment of income tax in respect of the statutory income relating to its income received from the management of an international school from 10 September 2004.
3(2) Nothing in subparagraph (1) shall absolve or be deemed to have absolved the qualifying person from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provisions of the Act.

Para 1(1) Commerce Clearing House (Malaysia) Sdn Bhd
INCOME TAX (EXEMPTION) (NO. 21) ORDER 2006

[4 May 2006]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT

1(1) This order may be cited as the Income Tax (Exemption) (No. 21) Order 2006.
1(2) This Order is deemed to have come into operation on 1 October 2005.

PARAGRAPH 2 INTERPRETATION

2 In this Order, unless the context otherwise requires—
``related expert areas'' means music, choreographer, cinematography, prop, set, costume and stage technical.
``crafts'' means any artistic product which is graced with cultural or traditional appeal and outcome of any process which is directly or indirectly solely or partly on manual skill or craftsmanship, and includes any batik product;
``performing arts'' includes stage performing in theatre, music and dance.

PARAGRAPH 3 EXEMPTION

3 The Minister exempts a non-resident expert from payment of income tax in respect of income derived from Malaysia for providing training in the field of related expert areas, crafts and performing arts as verified by the Ministry of Culture Arts and Heritage from 1 October 2005 until 30 September 2010.

PARAGRAPH 4 NON-APPLICATION

4 The provisions of section 109B of the Act shall not apply to the income exempted under this Order.
INCOME TAX (EXEMPTION) (NO. 22)  
ORDER 2006  
PU (A) 207

[4 May 2006]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT

1(1) This order may be cited as the Income Tax (Exemption) (No. 22) Order 2006.
1(2) This Order shall have effect from the year of assessment 2006.

PARAGRAPH 2 EXEMPTION

2(1) The Minister exempts
(a) any person from the payment of income tax in respect of income relating to the allocations given by the Federal Government or the State Government in the form of a grant or a subsidy; and
(b) a statutory authority from the payment of income tax in respect of income derived from—
   (i) the income received in respect of an amount chargeable and collectible from any person in accordance with the provisions of the Act regulating the statutory authority; or
   (ii) any donation or contribution received.
2(2) Nothing in subparagraph (1) shall absolve or be deemed to have absolved the person or the statutory authority from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provisions of the Act.

PARAGRAPH 3 SPECIAL TREATMENT ON DEDUCTIONS AND ALLOWANCES

3(1) Any deduction or allowances to be made or would have been made under the Act or the Promotion of Investments Act 1986 [Act 327] in a basis period for a year of assessment in respect of an expenditure incurred out of the income referred to in subparagraph 2(1) shall be disregarded for that year of assessment and subsequent years of assessment.
3(2) Where the expenditure incurred in a basis period for a year of assessment is reimbursed, in full or in part, by the income referred to in subparagraph 2(1), any deductions or allowances to be made or would have been made under the Act or the Promotion of Investments Act 1986 in relation to that expenditure shall be disregarded for that year of assessment and subsequent years of assessment.

Para 1(1)  
Commerce Clearing House (Malaysia) Sdn Bhd
RULE 4  MAINTAINING SEPARATE RECORD
4  In ascertaining the deductions or allowances in paragraph 3, the person shall maintain a separate record for the income referred to in subparagraph 2(1).

RULE 5  REVOCATION
INCOME TAX (EXEMPTION) ORDER 2007
PU (A) 58

[17 January 2007]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) Order 2007.
1(2) This Order is deemed to have come into operation from 2 September 2006.

PARAGRAPH 2 INTERPRETATION
2 In this Order—
``ship'' means a sea-going ship other than a ferry, barge, tug-boat, supply vessel, crew boat, lighter, dredger, fishing boat or other similar vessel;
``Malaysian ship’’ has the same meaning as in subsection 54A(6) of the Act;
``Malaysian shipping company’’ means a resident company incorporated under the Companies Act 1965 [Act 125], which owns a Malaysian ship and carrying on a business of—
(a) transporting passengers or cargo by sea on a ship; or
(b) letting out a ship.

PARAGRAPH 3 EXEMPTION
3(1) The Minister exempts a non-resident person in Malaysia from payment of income tax in respect of income received from a Malaysian shipping company.
3(2) The income referred to in subparagraph (1) shall be an income under subparagraph 4A(iii) of the Act consisting of rental of a ship on a voyage or time charter basis, or a bare boat made under any agreement or arrangement for the use of that ship.

PARAGRAPH 4 NON-APPLICATION
4 The provision of section 109B to the Act shall not apply to the income exempted under this Order.
INCOME TAX (EXEMPTION) (NO. 3)
ORDER 2007
PU (A) 80

[18 January 2007]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 3) Order 2007.
1(2) This Order comes into operation from the year of assessment 2007.

PARAGRAPH 2 EXEMPTION
2(1) The Minister exempts any non-citizen individual from the payment of income tax in respect of income from fees received by that individual in his capacity as a director of an offshore company from the year of assessment 2007 until the year of assessment 2010.
2(2) For the purpose of subparagraph (1), “offshore company” has the same meaning assigned to it under the Labuan Offshore Business Activity Tax Act 1990 [Act 445].
INCOME TAX (EXEMPTION) (NO. 5) ORDER 2007
PU (A) 82

[18 January 2007]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 5) Order 2007.
1(2) This Order is deemed to have come into operation from the year of assessment 2006.

PARAGRAPH 2 EXEMPTION
2(1) Subject to this paragraph, the Minister exempts a citizen from the payment of income tax on 50% of the gross housing and Labuan Territory allowances received by that citizen from exercising an employment in Labuan with the Federal or State Government, a statutory body or an offshore company from the year of assessment 2006 until the year of assessment 2010.
2(2) For the purpose of exemption under subparagraph (1) ‘‘offshore company’’ has the same meaning assigned to it in the Labuan Offshore Business Activity Tax Act 1990 [Act 445].
INCOME TAX (EXEMPTION) (NO. 6) ORDER 2007
PU (A) 83

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 6) Order 2007.
1(2) This Order is deemed to have come into operation from the year of assessment 2005.

PARAGRAPH 2 EXEMPTION
2(1) The Minister exempts any person from the payment of income tax on 65% of the statutory income from a source consisting of the provision of qualifying professional services rendered in Labuan by that person to an offshore company from the year of assessment 2005 until the year of assessment 2010.
2(2) For the purpose of subparagraph (1)—
“qualifying professional services” means legal, accounting, financial or secretarial services and includes services provided by a trust company as defined in the Labuan Trust Companies Act 1990 [Act 442]; and
“offshore company” has the same meaning as defined in the Labuan Offshore Business Activity Tax Act 1990 [Act 445].

PARAGRAPH 3 APPLICATION OF PARAGRAPHS 5 AND 6 OF SCHEDULE 7A
Where a person referred to in paragraph 2 is a company, paragraphs 5 and 6 of Schedule 7A to the Act shall apply mutatis mutandis to the amount of income exempted under that paragraph.
INCOME TAX (EXEMPTION) (NO. 15)
ORDER 2007
PU (A) 199

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 15) Order 2007.
1(2) This Order comes into operation from the year of assessment 2007 until the year of assessment 2020.

History
Para. 1(2) amended by PU (A) 104/2016, para. 2, in force from 21 April 2016, by substituting “until the year of assessment 2020” for “until 2016”.

PARAGRAPH 2 INTERPRETATION
2 In this Order, unless the context otherwise requires—

“foreign investors” means—
(a) individuals who are not resident in Malaysia or not citizen of Malaysia;
(b) companies where the entire issued share capital is beneficially owned, directly or indirectly by persons who are not resident in Malaysia and not citizen of Malaysia; and
(c) trust funds where the entire interest in the fund is beneficially held, directly or indirectly by foreign investors, where—
   (i) the fund is created in Malaysia or outside Malaysia; and
   (ii) the trustees of the fund are not resident in Malaysia and not citizens of Malaysia;

“Securities Commission” means the Securities Commission established under the Securities Commission Act 1993 [Act 498];
“company” means a fund management company incorporated under the Companies Act 1965 [Act 125] and licensed under the Securities Industry Act 1983 [Act 280].

PARAGRAPH 3 EXEMPTION
3(1) The Minister exempts a company resident in Malaysia in a basis period for a year of assessment from the payment of income tax in respect of statutory income derived from a business of providing fund management services to foreign investors in Malaysia.
3(2) The fund referred to in subparagraph (1) shall be a fund managed in accordance with Syariah principle certified by the Securities Commission for each year of assessment during the exempt period.

Para 1(1) Commerce Clearing House (Malaysia) Sdn Bhd
3(3) Nothing in subparagraph (1) shall absolve or is deemed to absolve the company from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provisions of the Act.

PARAGRAPH 4 SEPARATE ACCOUNT
4 The company shall maintain a separate account for the income derived from the business under subparagraph 3(1) and is deemed to be a separate and distinct business source.

PARAGRAPH 5 APPLICATION OF PARAGRAPHS 5 AND 6 OF SCHEDULE 7A OF THE ACT
5 Paragraphs 5 and 6 of Schedule 7A to the Act shall apply, mutatis mutandis, to the amount of statutory income exempted under subparagraph 3(1).

PARAGRAPH 6 NON-APPLICATION
6 Section 60G of the Act shall not apply to statutory income exempted under this Order.
INCOME TAX (EXEMPTION) (NO. 16)  
ORDER 2007  
PU (A) 278  

[29 June 2007]

IN exercise the power conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1  CITATION AND COMMENCEMENT

1(1)  This order may be cited as the Income Tax (Exemption) (No. 16) Order 2007.
1(2)  This Order is deemed to have come into operation on 2 September 2006.

PARAGRAPH 2  INTERPRETATION

2  In this Order, unless the context otherwise requires—
   “Central Bank of Malaysia” means the Central Bank of Malaysia established under the Central Bank of Malaysia Act 1958 [Act 519];
   “company” means a licensed bank within the meaning of the Banking and Financial Institutions Act 1989 [Act 372] or an Islamic bank within the meaning of the Islamic Banking Act 1983 [Act 276];
   “investee company” means a company where at least twenty per cent of its issued share capital is directly owned by a company referred to in subparagraph 3(1) of this Order.

PARAGRAPH 3  EXEMPTION

3(1)  The Minister exempts for five years a company resident in Malaysia from the payment of income tax in respect of statutory income in relation to sources of income derived from its branch or investee company which—
   (a)  carries or will carry on banking, Islamic banking or any part of the foregoing business; and
   (b)  is located outside Malaysia.

3(2)  To qualify for an exemption under this Order—
   (a)  an application for such exemption is made by the company;
   (b)  the application is received by the Central Bank of Malaysia between 2 September 2006 and 31 December 2009; and
   (c)  The branch or investee company referred to in subparagraph (1) shall commence the banking business within two years from the date of approval issued by the Central Bank of Malaysia.

3(3)  The exemption from payment of income tax in respect of statutory income referred to in subparagraph (1) shall start from the year the branch or investee company commences the banking business.

Para 1(1)  Commerce Clearing House (Malaysia) Sdn Bhd
3(4) Nothing in subparagraph (1) shall absolve or be deemed to have absolved the company from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provisions of the Act.

PARAGRAPH 4 APPLICATION OF PARAGRAPHS 5 AND 6 SCHEDULE 7A

4 Paragraphs 5 and 6 of Schedule 7A to the Act shall apply, mutatis mutandis, to the amount of income exempted under subparagraph 3(1).
INCOME TAX (EXEMPTION) (NO. 17)
ORDER 2007

PU (A) 371

[3 July 2007]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 17) Order 2007.
1(2) This Order is deemed to have come into operation on 1 May 2005.

PARAGRAPH 2 INTERPRETATION
2 In this Order, unless the context otherwise requires—

“incurred” has the same meaning assigned to it in paragraphs 46 and 55 of Schedule 3 of the Act;

“Malaysian Biotechnology Corporation Sdn. Bhd.” means a company incorporated under the Companies Act 1965 [Act 125] whose function is for the purpose of developing the biotechnology industry in Malaysia;

“new business” means the first approved business undertaken by a BioNexus status company;

“expansion project” means a project undertaken by a BioNexus status company in expanding its existing approved business and that business—

(a) has not been granted exemption under this Order and the Income Tax (Exemption) (No. 18) Order 2007 [P.U. (A) 372/2007]; and

(b) involves new investment;

“life sciences” mean any of several branches of science, such as biology, medicine, anthropology or ecology, that deal with living organisms and their organization, life processes, and relationships to each other and their environment;

“BioNexus status company” means a company incorporated under the Companies Act 1965 which is engaged in a business of life sciences.

Para 1(1) Commerce Clearing House (Malaysia) Sdn Bhd
PARAGRAPH 3 EXEMPTION

3(1) Subject to subparagraph (2), the Minister exempts a company resident in Malaysia which has been approved by the Minister as a BioNexus status company from the payment of income tax in relation to—

(a) a new business, for a period of ten consecutive years of assessment, in respect of the statutory income commencing from the first year of assessment in which the company derived the statutory income from the new business; or

(b) an expansion project, for a period of five consecutive years of assessment, in respect of the statutory income from its existing approved business and expansion project, commencing from the first year of assessment in which the company derived the statutory income from the existing approved business and expansion project, and that first year of assessment shall not be earlier that the year of assessment in the basis period in which the date of approval from the Minister falls;

(the ten consecutive years of assessment or five consecutive years of assessment, as the case may be, hereinafter referred to as ‘‘the exempt years of assessment’’).

3(2) The statutory income of the business or project referred to in subsubparagraph (1)(a) or (b), as the case may be, in the basis period for each of the exempt years of assessment shall be determined after deducting allowances which fall to be made under Schedule 3 to the Act notwithstanding that no claim for such allowances has been made:

Provided that where an asset used for the purpose of the business or project referred to in subsubparagraph (1)(a) or (b), as the case may be, is also used for the purpose of a business or project other that (sic) that business or project, then the allowances which fall to be made under Schedule 3 to the Act shall be deducted as is reasonable having regard to the extent to which the asset is used for the purpose of the first-mentioned business or project.

3(3) Nothing in subparagraph (1) shall absolve or is deemed to have absolved the company from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provision of the Act.

PARAGRAPH 4 LOSSES

4(1) Any amount of adjusted loss incurred—

(a) from the year of assessment in the basis period in which the business or project referred to in subsubparagraph 3(1)(a) or (b), as the case may be, has commenced until the year of assessment immediately prior to the exempt years of assessment; and

(b) during the exempt years of assessment,

shall be carried forward and deducted against the statutory income of the business or project referred to in subsubparagraph 3(1)(a) or (b), as the case may be, in its post-exempt year or years of assessment until the business or project, as the case may be, has utilised the whole amount of the adjusted loss to which it is so entitled.
4(2) So mush (sic) of the adjusted loss that was utilised to reduce the statutory income of the business or project referred to in subsubparagraph 3(1)(a) or (b), as the case may be, in its post-exempt year or years of assessment shall be disregarded for the purpose of subsections 43(2) and 44(2) of the Act.

PARAGRAPH 5  APPLICATION OF DEDUCTIONS FOR PROMOTION OF EXPORTS UNDER PROMOTION OF INVESTMENTS ACT 1986

5  For the purpose of computing the adjusted income from the business or project referred to in subsubparagraph 3(1)(a) or (b), as the case may be, an expenditure which would be allowed as a deduction during exempt period under section 41 of the Promotion of Investments Act 1986 [Act 327] shall be accumulated and the aggregate amount of the expenditure shall be allowed as a deduction in the first basis period for a year of assessment after the exempt period.

PARAGRAPH 6  APPLICATION OF DEDUCTION FOR RESEARCH UNDER SECTION 34A OF THE ACT

6(1)  For the purpose of computing the adjusted income from the business or project referred to in subsubparagraph 3(1)(a) or (b), as the case may be, an expenditure which would be allowed as a deduction during exempt period for research under section 34A of the Act shall be accumulated and the aggregate amount of the expenditure shall be allowed as a deduction in the first basis period for a year of assessment after the exempt period.

6(2)  The amount of deduction to be made under subparagraph (1) shall be equal to the amount of expenditure incurred.

6(3)  Where a deduction has been made under this Order in respect of an expenditure referred to in subparagraph (1), such expenditure shall not be eligible for any deduction under the Act.

PARAGRAPH 7  CAPITAL ALLOWANCE

7  For the purpose of this Order, Schedule 3 of the Act shall apply.

PARAGRAPH 8  WITHDRAWAL OF TAX EXEMPTION

8  The Minister may withdraw the tax exemption on the statutory income of the business or project referred to in subsubparagraph 3(1)(a) or (b), as the case may be, if a BioNexus status company fails to comply with the conditions as approved by the Minister.

PARAGRAPH 9  SEPARATE ACCOUNT

9  A BioNexus status company which is exempted under subsubparagraph 3(1) (a) or (b), as the case may be, shall maintain a separate account for the income derived from the business or project referred to in that subsubparagraph.

PARAGRAPH 10  APPLICATION OF PARAGRAPHS 5 AND 6 OF SCHEDULE 7A

10  Paragraphs 5 and 6 of Schedule 7A of the Act shall apply, mutatis mutandis, to the amount of statutory income exempted from the business or project referred to in subsubparagraph 3(1)(a) or (b), as the case may be.

Para 4(2)  Commerce Clearing House (Malaysia) Sdn Bhd
PARAGRAPH 11 NON-APPLICATION

11 This Order shall not apply to—

(a) a new business or an expansion project, as the case may be, that commences after one year from the date of approval or after such extended period approved by the Minister;

(b) a company in the basis period for a year of assessment which has been granted—

(i) deduction under the Income Tax (Allowance for Increased Exports) Rules 1999 [P.U. (A) 128/1999];

(ii) deduction under the Income Tax (Deduction for Cost on Acquisition of a Foreign Owned Company) Rules 2003 [P.U. (A) 310/2003];

(iii) deduction under the Income Tax (Deduction for Investment in an Approved Food Production Project) Rules 2006 [P.U. (A) 55/2006];

(iv) exemption on the value of increased exports under the Income Tax (Exemption) (No. 17) Order 2005 [P.U. (A) 158/2005];

(v) reinvestment allowance under Schedule 7A of the Act;

(vi) any incentives (except deductions for promotion of exports) under the Promotion of Investments Act 1986;

(vii) exemption for an approved food production project under the Income Tax (Exemption) (No. 10) Order 2006 [P.U. (A) 51/2006];

(viii) exemption under the Income Tax (Exemption) (No. 40) Order 2005 [P.U. (A) 307/2005];

(ix) exemption under the Income Tax (Exemption) (No. 41) Order 2005 [P.U. (A) 308/2005];

(x) exemption under the Income Tax (Exemption) (No. 42) Order 2005 [P.U. (A) 309/2005];

(xi) exemption for venture capital company under the Income Tax (Exemption) (No. 11) Order 2005 [P.U. (A) 75/2005];

(xii) deduction under the Income Tax (Deduction for Investment in a Venture Company) Rules 2005 [P.U. (A) 76/2005]; or

INCOME TAX (EXEMPTION) (NO. 18)
ORDER 2007

[3 July 2007]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 18) Order 2007.
1(2) This Order is deemed to have come into operation on 1 May 2005.

PARAGRAPH 2 INTERPRETATION
2 In this Order, unless the context otherwise requires—
“incurred” has the same meaning assigned thereto in paragraphs 46 and 55 of Schedule 3 to the Act;
“Malaysian Biotechnology Corporation Sdn. Bhd.” means a company incorporated under the Companies Act 1965 [Act 125] whose function is for the purpose of developing the biotechnology industry in Malaysia;
“qualifying capital expenditure” means capital expenditure incurred on an asset used in Malaysia for the purpose of a new business or an expansion project, as the case may be—
(a) in relation to manufacturing or manufacturing based research, a factory, a building used for activity of research and development, plant and machinery; or
(b) in relation to agriculture or agriculture based research, the clearing and preparation of land, the planting of crops (first planting or planting of trial crops), the provision of irrigation or drainage system, the provision of plant and machinery, the purchase or construction of a building used for the activity of research and development, or the activity of agriculture (including those provided for the welfare or living accommodation of persons who are working in the farm), construction of access roads, bridge and any permanent structure improvement on land which formed as part of the land used for the business:
Provided that such qualifying capital expenditure shall not include capital expenditure incurred on buildings used as living accommodation, plant and machinery which are provided wholly or partly for the use of a director or an individual who is a member of the management, administrative or clerical staff;
“new business” means the first approved business undertaken by a BioNexus status company;
Para 1(1) Commerce Clearing House (Malaysia) Sdn Bhd
“expansion project” means a project undertaken by a BioNexus status company in expanding its existing approved business and that business—
(a) has not been granted exemption under this Order and the Income Tax (Exemption) (No. 17) Order 2007 [P.U. (A) 371/2007];
(b) involves new investment;

“life sciences” means any of several branches of science, such as biology, medicine, anthropology or ecology, that deal with living organisms and their organization, life processes and relationships to each other and their environment;

“BioNexus status company” means a company incorporated under the Companies Act 1965 which is engaged in a business of life sciences.

PARAGRAPH 3 EXEMPTION

3(1) The Minister exempts a company resident in Malaysia which has been approved by the Minister as a BioNexus status company in the basis period for a year of assessment from the payment of income tax in respect of the statutory income derived from a new business or an expansion project, as the case may be, which is equivalent to the amount of allowance as determined in subparagraph (2).

3(2) The amount of allowance referred to in subparagraph (1) shall be one hundred per cent of the qualifying capital expenditure incurred in the basis period for a year of assessment within a period of five years.

3(3) The date of commencement of the period referred to in subparagraph (2) shall be determined by the Malaysian Biotechnology Corporation Sdn. Bhd. and in relation to—
(a) a new business, on the date the first qualifying capital expenditure has been incurred and that date shall not be earlier than 1 May 2005 or shall be three years from the date of approval as a BioNexus status company whichever is later; or
(b) an expansion project, on the date the first qualifying capital expenditure has been incurred and that date shall not be earlier than the date of application received by the Malaysian Biotechnology Corporation Sdn. Bhd.

3(4) Nothing in subparagraph (1) shall absolve or is deemed to have absolved the company from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provisions of the Act.

PARAGRAPH 4 STATUTORY INCOME

4(1) The statutory income referred to in subparagraph 3(1) shall be determined after deducting allowances which fall to be made under Schedule 3 of the Act notwithstanding that no claim for such allowances has been made:

Provided that where an asset used for the purpose of the new business or the expansion project, as the case may be, is also used for the purpose of a business other than that business or project, then the allowances which fall to be made under Schedule 3 to the Act shall be deducted as is reasonable having regard to the extent to which the asset is used for the purpose of the first-mentioned business or project.

4(2) The amount of allowance so exempt referred to in subparagraph 3(1) shall be equal to the amount of the statutory income for each year of assessment.

Thornton’s Malaysian Tax Commentaries Para 4(2)
4(3) Where, by reason of the absence or insufficiency of the statutory income, effect cannot be given or cannot be given in full to the amount as determined to which the company is entitled under subparagraph 3(1) for that year of assessment, then so much of that amount which cannot be exempted for that year of assessment shall be exempted for the first subsequent year of assessment for the basis period for which there is statutory income from that business or project, as the case may be, and for subsequent years of assessment until the whole of the amount to which it is so entitled is exempted.

**PARAGRAPH 5 DETERMINATION OF QUALIFYING CAPITAL EXPENDITURE**

5 Where qualifying capital expenditure is incurred by a BioNexus status company on an asset used for the purpose of the new business or the expansion project and such asset is disposed of at any time within two years from the date of acquisition of the asset, the amount of income exempted in respect of the allowance of such asset is deemed to have not been exempted to the company to which it would otherwise be entitled.

**PARAGRAPH 6 CAPITAL ALLOWANCE**

6 For the purpose of this Order, Schedule 3 of the Act shall apply.

**PARAGRAPH 7 WITHDRAWAL OF TAX EXEMPTION**

7 The Minister may withdraw the tax exemption on the statutory income of the new business or the expansion project referred to in subparagraph 3(1), as the case may be, if a BioNexus status company fails to comply with the conditions as approved by the Minister.

**PARAGRAPH 8 SEPARATE ACCOUNT**

8 A BioNexus status company shall maintain a separate account for the income derived from the new business or the expansion project referred to in subparagraph 3(1), as the case may be, in the basis period for each year of assessment until that business or project, as the case may be, received the whole of allowance or allowances to which it is so entitled.

**PARAGRAPH 9 APPLICATION OF PARAGRAPHS 5 AND 6 OF SCHEDULE 7A**

9 Paragraphs 5 and 6 of Schedule 7A of the Act shall apply, mutatis mutandis, to the amount of statutory income exempted from the new business or the expansion project referred to in subparagraph 3(1), as the case may be.

**PARAGRAPH 10 NON-APPLICATION**

10 This Order shall not apply to—

(a) a new business or an expansion project, as the case may be, that commences after one year from the date of approval or after such extended period approved by the Minister;

(b) a company in the basis period for a year of assessment which has been granted—

(i) deduction under the Income Tax (Allowance for Increased Exports) Rules 1999 [P.U. (A) 128/1999];
(ii) deduction under the Income Tax (Deduction for Cost on Acquisition of a Foreign Owned Company) Rules 2003 [P.U. (A) 310/2003];

(iii) deduction under the Income Tax (Deduction for Investment in an Approved Food Production Project) Rules 2006 [P.U. (A) 55/2006];

(iv) exemption on the value of increased exports under the Income Tax (Exemption) (No. 17) Order 2005 [P.U. (A) 158/2005];

(v) reinvestment allowance under Schedule 7A of the Act;

(vi) any incentives (except deductions for promotion of exports) under the Promotion of Investments Act 1986 [Act 327];

(vii) exemption for an approved food production project under the Income Tax (Exemption) (No. 10) Order 2006 [P.U. (A) 51/2006];

(viii) exemption under the Income Tax (Exemption) (No. 40) Order 2005 [P.U. (A) 307/2005];

(ix) exemption under the Income Tax (Exemption) (No. 41) Order 2005 [P.U. (A) 308/2005];

(x) exemption under the Income Tax (Exemption) (No. 42) Order 2005 [P.U. (A) 309/2005];

(xi) exemption for venture capital company under the Income Tax (Exemption) (No. 11) Order 2005 [P.U. (A) 75/2005];

(xii) Income Tax (Deduction for Investment in a Venture Company) Rules 2005 [P.U. (A) 76/2005]; or

INCOME TAX (EXEMPTION) (NO. 19)  
ORDER 2007

PU (A) 417

[6 December 2007]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 19) Order 2007.
1(2) This Order is deemed to have come into operation from the year of assessment 2007.

PARAGRAPH 2 INTERPRETATION
2(1) In this Order, unless the context otherwise requires—

“approved node” means a designated area within the Iskandar Development Region as determined by IRDA;

“developer” means a company—
(a) incorporated under the Companies Act 1965 [Act 125] and resident in Malaysia which purchases or acquires any right or rights over part or the whole of the land to undertake development in an approved node in accordance with the master plan for the node; and
(b) approved by the Minister;

“development manager” means a company—
(a) incorporated under the Companies Act 1965 and resident in Malaysia;
(b) appointed by a developer to provide management, supervisory or marketing services in relation to the activity of the developer in an approved node in accordance with the master plan for the said node; and
(c) approved by the Minister;

“Iskandar Regional Development Authority” means an Authority established under the Iskandar Regional Development Authority Act 2007 [Act 664];

“node project development company” means a company—
(a) incorporated under the Companies Act 1965 and resident in Malaysia;
(b) whose functions are to certify, facilitate and coordinate—
(i) the development activities undertaken by a developer; or
(ii) services provided by a development manager,
in any approved node; and
(c) approved by IRDA;

Para 1(1)  
Commerce Clearing House (Malaysia) Sdn Bhd
“Iskandar Development Region” has the same meaning assigned to it under the Iskandar Regional Development Authority Act 2007.

2(2) For the purpose of this Order—

“IDR” is the abbreviation for Iskandar Development Region;

“IRDA” is the abbreviation for Iskandar Regional Development Authority.

PARAGRAPH 3 EXEMPTION

3(1) Subject to subparagraph (2), the Minister exempts—

(a) a developer from the payment of income tax in respect of its statutory income derived from—

(i) the disposal of any right or rights over any land in an approved node commencing from the first year of assessment in which the developer derived statutory income until the year of assessment 2015; and

(ii) rental or disposal of a building located in an approved node commencing from the first year of assessment in which the developer derived statutory income until the year of assessment 2020; or

(b) a development manager from the payment of income tax in respect of its statutory income derived from the provision of management, supervisory or marketing services to the developer referred to in subsubparagraph (1)(a) commencing from the first year of assessment in which the development manager derived its statutory income until the year of assessment 2020.

(hereinafter referred to as “exempt years of assessment”).

3(2) The Minister may withdraw the tax exemption on the statutory income of the activity referred to in subsubparagraph (1)(a) or (b) if a developer or a development manager, as the case may be, fails to comply with any condition in accordance with the approved master plan for the said node.

3(3) The statutory income referred to in subparagraph (1) in the basis period for each exempt year of assessment shall be determined after deducting allowances which fall to be made under Schedule 3 to the Act notwithstanding that no claim for such allowances has been made:

Provided that where an asset used for the purpose of the activity referred to in subparagraph (1) is also used for the purpose of an activity or a business other than that activity, then the allowances which fall to be made under Schedule 3 to the Act shall be deducted as is reasonable having regard to the extent to which the asset is used for the purpose of the first-mentioned activity.

3(4) Nothing in subparagraph (1) shall absolve or be deemed to have absolved the developer and development manager from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provision of the Act.

Thornton’s Malaysian Tax Commentaries Para 3(4)
PARAGRAPH 4 LOSSES

4(1) Any amount of adjusted loss incurred—
   (a) from the year of assessment in the basis period in which the activity referred to in subsubparagraph 3(1)(a) or (b), commences to the year of assessment immediately prior to the exempt years of assessment; and
   (b) during the exempt years of assessment,
shall be carried forward and deducted against the statutory income of the activity in its post-exempt year or years of assessment until that activity has utilized the whole amount of the adjusted loss to which it is so entitled.

4(2) So much of the adjusted loss that was utilized to reduce the statutory income of that activity referred to in subparagraph 3(1), in its post-exempt year or years of assessment, shall be disregarded for the purposes of the subsections 43(2) and 44(1) of the Act.

PARAGRAPH 5 SEPARATE SOURCE AND ACCOUNT

5(1) Where a developer or development manager carries on an activity referred to in subparagraph 3(1), and other activity or business, each of such activity or business shall be treated as a separate and distinct source of activity or business.

5(2) The developer or development manager which is exempted under subsubparagraph 3(1)(a) or (b), shall maintain a separate account for the income derived from the activity referred to in that subsubparagraph.

PARAGRAPH 6 APPLICATION OF PARAGRAPHS 5 AND 6 OF SCHEDULE 7A

6 Paragraphs 5 and 6 of Schedule 7A of the Act shall apply, \textit{mutatis mutandis}, to the amount of statutory income exempted from income tax which is derived from the activity referred to in subparagraph 3(1).

PARAGRAPH 7 NON-APPLICATION

7 This Order shall not apply to a developer or development manager that has not obtained annual certification, in relation to its activity referred to in subparagraph 3(1), from the node project development company.
INCOME TAX (EXEMPTION) (NO. 20)
ORDER 2007

[6 December 2007]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1  CITATION AND COMMENCEMENT

1(1) This order may be cited as the Income Tax (Exemption) (No. 20) Order 2007.
1(2) This Order is deemed to have come into operation from the year of assessment 2007.

PARAGRAPH 2  INTERPRETATION

2(1) In this Order, unless the context otherwise requires—

``qualifying activity'' means an activity determined by the Minister;
``approved node'' means a designated area within the Iskandar Development Region as determined by IRDA;
``Iskandar Regional Development Authority'' means an Authority established under the Iskandar Regional Development Authority Act 2007 [Act 664];
``IDR-status company'' means a company—
(a) incorporated under the Companies Act 1965 [Act 125] and resident in Malaysia which undertakes qualifying activity in an approved node; and
(b) approved by the Minister;
``Iskandar Development Region'' has the same meaning assigned to it under the Iskandar Regional Development Authority Act 2007.
2(2) For the purpose of this Order—
``IDR'' is the abbreviation for Iskandar Development Region;
``IRDA'' is the abbreviation for Iskandar Regional Development Authority.

PARAGRAPH 3  EXEMPTION

3(1) Subject to subparagraph (2), the Minister exempts an IDR-status company from the payment of income tax in respect of its statutory income derived from a qualifying activity provided to any person situated—
(a) both within an approved node and outside Malaysia; or
(b) outside Malaysia only,
for a period of ten years commencing from the date of commencement of that qualifying activity (the ten years hereinafter referred to as “exempt period”).

Thornton’s Malaysian Tax Commentaries  Para 3(1)
3(2) The Minister may withdraw the tax exemption on the statutory income referred to in subparagraph (1) if an IDR-status company fails to undertake such qualifying activity provided to any person referred to in subsubparagraph 3(1)(a) or (b).

3(3) The statutory income of the activity referred to in subparagraph (1) in the basis period for each of the exempt period shall be determined after deducting allowances which fall to be made under Schedule 3 to the Act notwithstanding that no claim for such allowances has been made:

Provided that where an asset used for the purpose of the activity referred to in subparagraph (1) is also used for the purpose of an activity or a business other than that activity, then the allowances which fall to be made under Schedule 3 to the Act shall be deducted as is reasonable having regard to the extent to which the asset is used for the purpose of the first-mentioned activity.

3(4) Nothing in subparagraph (1) shall absolve or be deemed to have absolved the company from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provision of the Act.

PARAGRAPH 4 LOSSES

4(1) Any amount of adjusted loss incurred—

(a) from the year of assessment in the basis period in which the activity referred to in subparagraph 3(1) commences to the year of assessment immediately prior to the exempt years of assessment; and

(b) during the exempt period,

shall be carried forward and deducted against the statutory income of the activity in its post-exempt period until that activity has utilized the whole amount of the adjusted loss to which it is so entitled.

4(2) So much of the adjusted loss that was utilized to reduce the statutory income of that activity referred to in subparagraph 3(1), in its post-exempt period, shall be disregarded for the purposes of the subsections 43(2) and 44(1) of the Act.

PARAGRAPH 5 SEPARATE SOURCE AND ACCOUNT

5(1) Where an IDR-status company carries on a qualifying activity referred to in subparagraph 3(1) and other activity or business, each of such activity or business shall be treated as a separate and distinct source of activity or business.

5(2) The IDR-status company which is exempted under subparagraph 3(1) shall maintain a separate account for the income derived from the qualifying activity referred to in that subparagraph.

Para 3(2) Commerce Clearing House (Malaysia) Sdn Bhd
PARAGRAPH 6 APPLICATION OF PARAGRAPHS 5 AND 6 OF SCHEDULE 7A

Paragraphs 5 and 6 of Schedule 7A of the Act shall apply, mutatis mutandis, to the amount of statutory income exempted from income tax which is derived from the activity referred to in subparagraph 3(1).

PARAGRAPH 7 NON-APPLICATION

This order shall not apply to an IDR-status company which commences its qualifying activity in an approved node after 31 December 2015.
INCOME TAX (EXEMPTION) (NO. 21) ORDER 2007

PU (A) 419

[6 December 2007]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT

1(1) This order may be cited as the Income Tax (Exemption) (No. 21) Order 2007.
1(2) This Order is deemed to have come into operation on 1 September 2007.

PARAGRAPH 2 INTERPRETATION

2(1) In this Order, unless the context otherwise requires—
“qualifying activity” means an activity determined by the Minister;
“approved node” means a designated area within the Iskandar Development Region as determined by IRDA;
“developer” means a company—
(a) incorporated under the Companies Act 1965 [Act 125] and resident in Malaysia which purchases or acquires any right or rights over part or the whole of the land to undertake development in an approved node in accordance with the master plan for the node; and
(b) approved by the Minister;
“development manager” means a company—
(a) incorporated under the Companies Act 1965 and resident in Malaysia;
(b) appointed by a developer to provide management, supervisory or marketing services in relation to the activity of the developer in an approved node in accordance with the master plan for the said node; and
(c) approved by the Minister;
“Iskandar Regional Development Authority” means an Authority established under the Iskandar Regional Development Authority Act 2007 [Act 664];
“IDR-status company” means a company—
(a) incorporated under the Companies Act 1965 and resident in Malaysia which undertakes qualifying activity in an approved node; and
(b) approved by the Minister;
“Iskandar Development Region” has the same meaning assigned to it under the Iskandar Regional Development Authority Act 2007.

Para 1(1) Commerce Clearing House (Malaysia) Sdn Bhd
For the purpose of this Order—

“IDR” is the abbreviation for Iskandar Development Region;

“IRDA” is the abbreviation for Iskandar Regional Development Authority.

**PARAGRAPH 3 EXEMPTION**

3(1) The Minister exempts a non-resident person from the payment of income tax in respect of—

(a) fees for technical advice, assistance or services under paragraph 4A(ii) of the Act received from a developer, development manager or IDR-status company;

(b) interest received from a developer; and

(c) royalty received from a developer or IDR-status company.

3(2) Nothing in subparagraphs (1) shall absolve or be deemed to have absolved the non-resident person from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provisions of the Act.

**PARAGRAPH 4 NON-APPLICATION**

4(1) This Order shall not apply to a non-resident person who receives—

(a) fees for technical advice, assistance or services under paragraph 4A(ii) of the Act referred to in subsubparagraph 3(1)(a) from a developer or development manager after 31 December 2015;

(b) fees for technical advice, assistance or services under paragraph 4A(ii) of the Act and royalty referred to in subsubparagraphs 3(1)(a) and (c) respectively from a IDR-status company after ten years from the date of commencement of his qualifying activity in Malaysia; and

(c) interest and royalty referred to in subsubparagraphs 3(1)(b) and (c) from a developer after 31 December 2015.

4(2) The provisions of sections 109 and 109B of the Act shall not apply to the income referred to in paragraph 3 of this Order.
INCOME TAX (EXEMPTION) (NO. 22)
ORDER 2007
PU (A) 437

[18 December 2007]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT

1(1) This order may be cited as the Income Tax (Exemption) (No. 22) Order 2007.

1(2) This Order shall have effect from the year of assessment 2007 and subsequent years of assessment.

PARAGRAPH 2 INTERPRETATION

2 In this Order, unless the context otherwise requires—

“offshore trust” shall have the meaning assigned thereto by the Labuan Offshore Business Activity Tax Act 1990 [Act 445]; and

“offshore company” has the meaning assigned to it in the Labuan Offshore Business Activity Tax Act 1990.

PARAGRAPH 3 EXEMPTION

3 The Minister exempts from tax—

(a) dividends received by an offshore company;

(b) dividends received from an offshore company which are paid, credited or distributed out of income derived from an offshore business activity or, income exempt from tax;

(c) distributions received from an offshore trust by the beneficiaries;

(d) royalties received from an offshore company by a non-resident person or another offshore company;

(e) interest received from an offshore company by a non-resident person (other than interest accruing to a business carried on by a non-resident person in Malaysia where that non-resident person is licensed to carry on a business under the Banking and Financial Institutions Act 1989 [Act 372], Islamic Banking Act 1983 [Act 276], Insurance Act 1996 [Act. 553] or Takaful Act 1984 [Act 312]) or another offshore company;

Para 1(1) Commerce Clearing House (Malaysia) Sdn Bhd
(f) interest received from an offshore company by a resident person (other than a person licensed to carry on a business under the Banking and Financial Institutions Act 1989, Islamic Banking Act 1983, Insurance Act 1996 or Takaful Act 1984); and

(g) amounts received from an offshore company by a non-resident person or another offshore company, in consideration of services, advice or assistance specified in paragraphs 4A(i) and (ii) of the Act.

PARAGRAPH 4  APPLICATION OF PARAGRAPHS 5 AND 6 OF SCHEDULE 7A OF THE ACT
4 For the purposes of subparagraph 3(b), paragraphs 5 and 6 of Schedule 7A of the Act shall apply, mutatis mutandis, to the amount of income exempted to a company incorporated under the Companies Act 1965 [Act 125] and resident in Malaysia.

PARAGRAPH 5 NON-APPLICATION
5 The following sections of the Act shall not be applicable to the income exempted under this Order—
   (a) section 109 in respect of royalties and interest exempted under subparagraphs 3(d) and (e);
   (b) section 109B in respect of payments exempted under subparagraph 3(g); and
   (c) section 109C in respect of interest exempted under subparagraph 3(f).

PARAGRAPH 6 REVOCATION
INCOME TAX (EXEMPTION) ORDER 2008
PU (A) 18

[11 December 2007]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) Order 2008.
1(2) This Order is deemed to have come into operation from the year of assessment 2007 and shall remain in operation for the subsequent years of assessment.

PARAGRAPH 2 INTERPRETATION
2(1) In this Order, unless the context otherwise requires—
   “individual” means participant of the Malaysian Technical Co-operation Programme who is not a Malaysian citizen and not a resident in Malaysia;
   “Malaysian Technical Co-operation Programme” means a technical co-operation programme approved by the Economic Planning Unit, Prime Minister’s Department of Malaysia.

PARAGRAPH 3 EXEMPTION
3(1) The Minister exempts an individual from payment of income tax in respect of payment received from participating in the Malaysian Technical Co-operation Programme.
3(2) Nothing in subparagraph (1) shall absolve or be deemed to have absolved such individual from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the Act.

Para 1(1) Commerce Clearing House (Malaysia) Sdn Bhd
INCOME TAX (EXEMPTION) (NO. 2) ORDER 2008

PU (A) 101

[29 February 2008]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT

1(1) This order may be cited as the Income Tax (Exemption) (No. 2) Order 2008.

1(2) This Order comes into operation from the year of assessment 2008.

PARAGRAPH 2 INTERPRETATION

2 In this Order, unless the context otherwise requires—

"regional distribution centre company" means a regional distribution centre company approved by the Minister;

"international procurement centre company" means an international procurement centre company approved by the Minister.

PARAGRAPH 3 EXEMPTION

3(1) The Minister exempts a non-citizen individual from the payment of income tax in respect of income derived from an employment with a regional distribution centre company or an international procurement centre company.

3(2) For the purpose of subparagraph (1) and subject to subparagraph (3), the amount of income exempted in respect of the employment exercised outside Malaysia which shall be determined in accordance with the following formula:

\[ A \times \frac{B}{C} \]

where

- A is the chargeable income for a year of assessment attributable to the regional distribution centre company or international procurement centre company;
- B is the number of days in the year of assessment he is in employment with the regional distribution centre company or international procurement centre company exercised outside Malaysia; and
- C is the number of days in the year of assessment he is in employment with the regional distribution centre company or international procurement centre company.

Thornton’s Malaysian Tax Commentaries Para 3(2)
3(3) Where the non-citizen individual has sources of income other than that from employment with the regional distribution centre company or international procurement centre company, the chargeable income referred to in subparagraph (2) shall be determined in accordance with the following formula.

\[ D \times \frac{E}{F} \]

where

- \( D \) is the chargeable income for a year of assessment;
- \( E \) is the gross income from employment with the regional distribution centre company or international procurement centre company for a year of assessment; and
- \( F \) is the total of gross income from all sources for a year of assessment.

3(4) For the purpose of subparagraph (2), a non-citizen individual is deemed to be outside Malaysia for a day if he is outside Malaysia for the whole of that day.
INCOME TAX (EXEMPTION) (NO. 3) ORDER 2008

[2 April 2008]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 3) Order 2008.
1(2) This Order is deemed to have come into operation on 8 September 2007.

PARAGRAPH 2 EXEMPTION
2(1) The Minister exempts a non-resident individual from payment of income tax from 8 September 2007 until 31 December 2016 in respect of his income under paragraph 4A(ii) of the Act received from any person resident in Malaysia.
2(2) In this paragraph, “individual” means a person who is verified by the Malaysia International Islamic Financial Centre Secretariat as an expert in the field of Islamic finance.

PARAGRAPH 3 NON-APPLICATION
3 Section 109B of the Act shall not apply to the income exempted under paragraph 2 of this Order.
INCOME TAX (EXEMPTION) (NO. 5) ORDER 2008
PU (A) 247

[10 June 2008]

IN exercise of the powers conferred by subsubparagraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 5) Order 2008.
1(2) This Order shall have effect from the year of assessment 2008.

PARAGRAPH 2 INTERPRETATION
2 In this Order, unless the context otherwise requires—
“qualifying person” means—
(a) a body of persons or a trust body as defined under section 2 of the Act; or
(b) a company limited by guarantee which is registered under the Companies Act 1965 [Act 125], resident in Malaysia and its function is solely for the purposes of establishing and managing a non-profit oriented school;
“non-profit oriented school” means a school which is—
(a) registered under the Education Act 1996 [Act 550];
(b) approved and recognized by the Ministry of Education of Malaysia; and
(c) not operated or conducted for profit.

PARAGRAPH 3 EXEMPTION
3(1) The Minister exempts any qualifying person from the payment of income tax in respect of the statutory income in relation to any income received from the management of a non-profit oriented school.
3(2) Nothing in subparagraph (1) shall absolve or be deemed to have absolved the qualifying person from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provisions of the Act.

PARAGRAPH 4 NON-APPLICATION
4 This Order shall not apply to a person approved under subsection 44(6) of the Act.
INCOME TAX (EXEMPTION) (NO. 7) ORDER 2008

[18 September 2008]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT

1(1) This order may be cited as the Income Tax (Exemption) (No. 7) Order 2008.

1(2) This Order is deemed to have come into operation on 30 August 2008.

PARAGRAPH 2 EXEMPTION

2(1) The Minister exempts—

(a) a non-resident from payment of income tax on interest paid or credited in the basis year for a year of assessment by Bank Kerjasama Rakyat Malaysia Berhad;

(b) an individual resident in Malaysia from payment of income tax on interest received from—

(i) negotiable certificate of deposit; or

(ii) rediscounting of banker’s acceptance on repurchase agreement or any similar instrument of trade financing which is traded in money market fund; or

(c) an individual resident in Malaysia from payment of income tax on gains or profit, interest or bonus received from money deposited with the following institutions:

(i) a bank or finance company licensed or deemed to be licensed under the Banking and Financial Institutions Act 1989 [Act 372];

(ii) a bank licensed under the Islamic Banking Act 1983 [Act 276];

(iii) a development financial institution prescribed under the Development Financial Institutions Act 2002 [Act 618];

(iv) the Lembaga Tabung Haji established under the Tabung Haji Act 1995 [Act 533];

(v) the Malaysian Building Society Berhad incorporated under the Companies Act 1965 [Act 125];

(vi) the Borneo Housing Mortgage Finance Berhad incorporated under the Companies Act 1965; or

(vii) a co-operative society registered under the Co-operative Societies Act 1993 [Act 502].

Thornton’s Malaysian Tax Commentaries

Para 2(1)
2(2)  For the purpose of sub subparagraph (1)(c), the money shall be deposited—
(a) in any savings deposit, current deposit, fixed deposit or investment deposit; or
(b) in any savings deposit, current deposit or investment deposit under the Islamic banking scheme.

History
Para 2 substituted by PU (A) 211/2009, para 2, deemed to have come into operation on 30 August 2008. Para 2 formerly read:
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The Minister exempts an individual resident in Malaysia from payment of income tax on income in respect of interest received from money deposited with the following institutions:
(a) a bank or a finance company licensed or deemed to be licensed under the Banking and Financial Institutions Act 1989 [Act 372];
(b) a bank licensed under the Islamic Banking Act 1983 [Act 276];
(c) a development financial institution prescribed under the Development Financial Institutions Act 2002 [Act 618];
(d) the Lembaga Tabung Haji established under the Tabung Haji Act 1995 [Act 533];
(e) the Malaysia Building Society Berhad incorporated under the Companies Act 1965 [Act 125]; and
(f) the Borneo Housing Finance Berhad incorporated under the Companies Act 1965 [Act 125].```

PARAGRAPH 3 REVOCATION
2[sic] The following Orders are revoked:
(a) The Income Tax (Exemption) (No. 12) Order 1996 [P.U. (A) 64/1996];
(b) The Income Tax (Exemption) (No. 13) Order 1996 [P.U. (A) 65/1996];
(c) The Income Tax (Exemption) (No. 41) Order 1997 [P.U. (A) 383/1997]; and
INCOME TAX (EXEMPTION) (NO. 8) ORDER 2008
PU (A) 378

[23 September 2008]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 8) Order 2008.
1(2) This Order shall have effect from the year of assessment 2008 until the year of assessment 2010.

PARAGRAPH 2 INTERPRETATION
2 In this Order, unless the context otherwise requires—
   “certified emission reduction” means a Kyoto Protocol unit equal to one metric tonne of carbon dioxide equivalent, calculated in accordance with Kyoto rules and is issued for gas emission reductions from an activity of clean development mechanism project;
   “clean development mechanism project” means a project of clean development mechanism approved by the Ministry of Natural Resources and Environment;
   “Kyoto Protocol” means an international agreement relating to United Nations Framework Convention on Climate Change.

PARAGRAPH 3 EXEMPTION
3(1) The Minister exempts a company incorporated under the Companies Act 1965 [Act 125] and resident in Malaysia in the basis period for a year of assessment from the payment of income tax in respect of income received from the sale of certified emission reduction.
3(2) The income referred to in subparagraph (1) shall be the gross income from the sale of certified emission reduction unit less an amount equal to the expenditure, not being capital expenditure, incurred by the company for the purposes of obtaining certified emission reduction.
3(3) Any expenditure referred to in subparagraph (2) shall be deemed to be incurred in the basis period for a year of assessment in which the income from the sale of certified emission reduction is received by the company.
3(4) Nothing in subparagraph (1) shall absolve or be deemed to have absolved the company from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provision of the Act.

PARAGRAPH 4 MAINTAINING SEPARATE RECORD
4 The company shall maintain a separate record for the income exempted under subparagraph 3(1) of this Order.
INCOME TAX (EXEMPTION) (NO. 9) ORDER 2008
PU (A) 393

[15 October 2008]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 9) Order 2008.
1(2) This Order shall have effect from the year of assessment 2009 until the year of assessment 2011.

PARAGRAPH 2 APPLICATION
2 This Order shall apply to non-ringgit sukuk that originates from Malaysia and issued or guaranteed by the Government of Malaysia or approved by the Securities Commission under the Capital Markets and Services Act 2007 [Act 671].

PARAGRAPH 3 EXEMPTION
3(1) The Minister exempts the following person resident in Malaysia in a basis period for a year of assessment from the payment of income tax in respect of statutory income derived from the regulated activity of dealing in securities under the Capital Markets and Services Act 2007 relating to a business of dealing in sukuk:
   (a) a holder of a Capital Markets Services License granted under section 61 of that Act;
   (b) a registered person under subsubparagraph 76(1)(a) of that Act; and
   (c) a registered person under subsection 76(2) of that Act,
where such dealing is carried on through the proprietary account of such person.
3(2) Nothing in subparagraph (1) shall absolve or be deemed to have absolved the persons specified under that subparagraph from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provisions of the Act.

PARAGRAPH 4 SEPARATE ACCOUNT
4(1) Where a person exempted under subparagraph 3(1) carry on a business referred to in that subparagraph and any other business or activity, each of such business and activity shall be treated as a separate and distinct source of business and activity of that person.
4(2) The person referred to in subparagraph (1) shall maintain a separate account for the income derived from the business and activity referred to in that subparagraph.

Para 1(1) Commerce Clearing House (Malaysia) Sdn Bhd
PARAGRAPH 5 APPLICATION OF PARAGRAPHS 5 AND 6 OF SCHEDULE 7A OF THE ACT

5 Paragraphs 5 and 6 of Schedule 7A to the Act shall apply, mutatis mutandis, to the amount of statutory income exempted under subparagraph 3(1).
INCOME TAX (EXEMPTION) (NO. 10) ORDER 2008
PU (A) 394

[15 October 2008]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 10) Order 2008.
1(2) This Order shall have effect from the year of assessment 2009 until the year of assessment 2011.

PARAGRAPH 2 APPLICATION
2 This Order shall apply to non-ringgit sukuk that originates from Malaysia and issued or guaranteed by the Government of Malaysia or approved by the Securities Commission under the Capital Markets and Services Act 2007 [Act 671].

PARAGRAPH 3 EXEMPTION
3(1) The Minister exempts the person specified in the Schedule resident in Malaysia in a basis period for a year of assessment from the payment of income tax in respect of statutory income derived from the regulated activity of dealing in securities and advising on corporate finance under the Capital Markets and Services Act 2007 relating to the arranging, underwriting and distributing of sukuk.
3(2) Nothing in subparagraph (1) shall absolve or be deemed to have absolved the person specified in that Schedule from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provisions of the Act.

PARAGRAPH 4 SEPARATE ACCOUNT
4(1) Where a person exempted under subparagraph 3(1) carry on an activity referred to in that subparagraph and any other activity or business, each of such activity and business shall be treated as a separate and distinct source of activity and business of that person.
4(2) The person referred to in subparagraph (1) shall maintain a separate account for the income derived from the activity and business referred to in that subparagraph.

PARAGRAPH 5 APPLICATION OF PARAGRAPHS 5 AND 6 OF SCHEDULE 7A OF THE ACT
5 Paragraphs 5 and 6 of Schedule 7A to the Act shall apply, mutatis mutandis, to the amount of statutory income exempted under subparagraph 3(1).

Para 1(1) Commerce Clearing House (Malaysia) Sdn Bhd
SCHEDULE

(1) The regulated activity of dealing in securities and advising on corporate finance under the Capital Markets and Services Act 2007—
   (a) a holder of a Capital Markets Services License granted under section 61 of that Act;
   (b) a registered person under subsubparagraph 76(1)(a) of that Act; and
   (c) a registered person under subsection 76(2) of that Act.

(2) The regulated activity of advising on corporate finance carried on by a specified person under Schedule 3 of the Capital Markets and Services Act 2007 which is solely incidental to the carrying on of its business or the practice of his profession.
INCOME TAX (EXEMPTION) (NO. 11) ORDER 2008

PU (A) 410

[24 October 2008]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 11) Order 2008.
1(2) This Order shall have effect from the year of assessment 2009 until the year of assessment 2013.

PARAGRAPH 2 EXEMPTION
2(1) The Minister exempts the following person, who fulfils the condition in subparagraph (2), from the payment of income tax in respect of statutory income in relation to advisory fees received by that person relating to the structuring and listing of a foreign corporation or the listing of a foreign investment product on a stock exchange that is a body corporate approved by the Minister to be a stock exchange under the Capital Markets and Services Act 2007 [Act 671]:

(a) a holder of a Capital Markets Services License granted under section 61 of the said Act who carries on the regulated activity of advising on corporate finance;
(b) who is a registered person under subsubparagraph 76(1)(a) of the said Act who carries on the regulated activity of “Advising on corporate finance” as specified in Part 1 of Schedule 4 of the said Act; and
(c) a specified person under Schedule 3 of the said Act.
2(2) The person referred to in subparagraph (1) shall be a member of the due diligence working group established under the “Guidelines on Due Diligence Conduct For Corporate Proposal” issued by the Securities Commission pursuant to section 377 of the Capital Markets and Services Act 2007.
2(3) Nothing in subparagraph (1) shall absolve or be deemed to have absolved the person specified under subparagraph (1) from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provisions of the Act.

Para 1(1) Commerce Clearing House (Malaysia) Sdn Bhd
INCOME TAX (EXEMPTION) (NO. 2) ORDER 2009

PU (A) 156

[9 April 2009]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT

1(1) This order may be cited as the Income Tax (Exemption) (No. 2) Order 2009.

1(2) This Order is deemed to have come into operation on 2 September 2006.

PARAGRAPH 2 INTERPRETATION

2 In this Order, unless the context otherwise requires—


``approved company’’ means a Bio Nexus status company that has been given an exemption from the payment of income tax under the Income Tax (Exemption) (No. 17) Order 2007 [P.U. (A) 371/2007] or Income Tax (Exemption) (No. 18) Order 2007 [P.U. (A) 372/2007], as the case may be;

``the exemption year of assessment’’ means the year of assessment where an approved company has been given exemption from the payment of income tax under the Income Tax (Exemption) (No. 17) Order 2007 or the Income Tax (Exemption) (No. 18) Order 2007, as the case may be.

PARAGRAPH 3 EXEMPTION

3(1) The Minister exempts an approved company in the basis period for a year of assessment from the payment of income tax in respect of statutory income derived from an approved business for a period of ten consecutive years of assessment commencing after the exempt year of assessment, relating to the approved company.

Thornton’s Malaysian Tax Commentaries

Para 3(1)
3(2) Subject to paragraph 4, the statutory income referred to in subparagraph (1) shall be determined in accordance with the following formula:

\[
\frac{A}{B} \times C
\]

Where
- \(A\) is the amount of tax charged on the chargeable income of the approved company in respect of its approved business at the prevailing tax rate reduced by the amount of tax charged on such chargeable income at the rate of twenty per cent;
- \(B\) is the amount of tax charged on such chargeable income at the prevailing tax rate; and
- \(C\) is the amount of such chargeable income.

3(3) Nothing in subparagraph (1) shall absolve or is deemed to have absolved the approved company from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provision of the Act.

PARAGRAPH 4  STATUTORY INCOME

4(1) The statutory income referred to in subparagraph 3(1) shall be determined after deducting allowances which fall to be made under Schedule 3 of the Act notwithstanding that no claim for such allowances has been made.

4(2) Where an asset used for the purpose of the approved business is also used for the purpose of a business other than that approved business, then the allowances which fall to be made under Schedule 3 of the Act shall be deducted as is reasonable having regard to the extent to which the asset is used for the purpose of that approved business.

PARAGRAPH 5  CHARGEABLE INCOME

5(1) The chargeable income in relation to the source consisting of an approved business for a year of assessment shall be the statutory income from that source reduced by any deduction falling to be made pursuant to subsection 43(2) of the Act relating to that source.

5(2) The chargeable income in relation to the source or sources other than the source consisting of an approved business for a year of assessment shall be the statutory income from that source or the aggregate of the statutory income from each of those sources, as the case may be, reduced by any deduction falling to be made pursuant to subsections 43(2) and 44(1) of the Act.

5(3) For the purposes of subparagraph (2), in making the deductions under subsections 43(2) and 44(1) of the Act, no regard shall be made to the adjusted loss, if any, from the source consisting of the approved business.
PARAGRAPH 6 SEPARATE SOURCE AND ACCOUNT

6(1) Where an approved company carries on an approved business, the income derived from that approved business shall be treated as a separate and distinct business source of the approved company.

6(2) The approved company which is exempted under subparagraph 3(1) shall maintain a separate account for the income derived from the approved business.
INCOME TAX (EXEMPTION) (NO. 3) ORDER 2009
PU (A) 262

[1 July 2009]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 3) Order 2009.
1(2) This Order has effect from 30 August 2008 until 31 December 2012.

PARAGRAPH 2 EXEMPTION
2(1) The Minister exempts a non-resident person from payment of income tax in respect of income under paragraph 4a(ii) of the Act received in relation to technical training conducted by that person for the purpose of upgrading and developing the technical skills of any employee of a person resident in Malaysia.
2(2) For the purpose of subparagraph (1), “training” means training under the programme of—

(a) post graduate course in information technology and communication, electronics or life sciences;
(b) post basic course in nursing or allied healthcare; or
(c) aircraft maintenance engineering course,
approved by the Minister.

PARAGRAPH 3 NON-APPLICATION
3 The provision of section 109B of the Act shall not apply to the income referred to in paragraph 2 of this Order.
INCOME TAX (EXEMPTION) (NO. 5) ORDER 2009
PU (A) 411

[23 November 2009]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 5) Order 2009.
1(2) This Order is deemed to have come into operation on 24 October 2009 and shall effect subject to paragraph 3.

PARAGRAPH 2 APPLICATION
2 This Order shall apply to a company resident in Malaysia which is—
(a) an insurer licensed under the Insurance Act 1996 [Act 553]; or
(b) a takaful operator registered under the Takaful Act 1984 [Act 312].

History
Para 2(a) amended by PU (A) 88/2010, para (b)(i), by substituting “or” for “and”, effective 1 April 2010.

PARAGRAPH 3 EXEMPTION
3(1) The Minister exempts for five consecutive years of assessment (hereinafter referred to as “exempt period”) the company referred to in paragraph 2 from the payment of income tax in respect of statutory income in relation to sources of income derived from a branch of the company or a company where at least twenty per cent of the issued share capital of such company is directly owned by the company referred to in paragraph (2) (hereinafter referred to as “investee company”—
(a) which carries or will carry on insurance or takaful business, or any part of such insurance or takaful business; and
(b) which is located outside Malaysia.

3(2) To qualify for an exemption under this Order—
(a) an application for such exemption shall be made by the company to the Minister;
(b) the application for approval to carry out insurance or takaful business, or any part of such insurance or takaful business by the branch of the company or investee company is received by the Central Bank of Malaysia on or after 24 October 2009 but not later than 31 December 2015; and
(c) the branch of the company or investee company shall commence insurance or takaful business, or any part such insurance or takaful business within two years from the date of approval issued by the Central Bank of Malaysia.

Thornton’s Malaysian Tax Commentaries Para 3(2)
3(3) Commencement of the exempt period referred to in subparagraph (1) shall be determined by the company but not later than the third year of assessment the branch of the company or investee company commences insurance or takaful business, or any part such insurance or takaful business.

History
Para 3(3) amended by PU (A) 88/2010, para (b)(ii), by inserting "not" after the word "but", effective 1 April 2010.

3(4) Nothing in subparagraph (1) shall absolve or be deemed to have absolved the company from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provisions of the Act.

PARAGRAPH 4 APPLICATION OF PARAGRAPHS 5 AND 6 SCHEDULE 7A
4 Paragraphs 5 and 6 of Schedule 7A to the Act shall apply, mutatis mutandis, to the amount of income exempted under subparagraph 3(1).

PARAGRAPH 5 SEPARATE ACCOUNT
5 The company exempted under subparagraph 3(1) shall maintain a separate account for the income exempted under such subparagraph.
INCOME TAX (EXEMPTION) (NO. 6) ORDER 2009

[23 November 2009]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT

1(1) This order may be cited as the Income Tax (Exemption) (No. 6) Order 2009.

1(2) This Order shall have effect from the year of assessment 2010 until the year of assessment 2014.

PARAGRAPH 2 EXEMPTION

2(1) The Minister exempts a person resident in Malaysia from the payment of income tax in respect of income derived from a healthcare services business which is provided in Malaysia given to a foreign client who is a company, a partnership, an organization or a cooperative society which is incorporated or registered outside Malaysia or non Malaysia citizen individual in the basis period for a year of assessment, in an amount and manner prescribed in paragraph 3.

History
Para 2(1) amended by PU (A) 89/2010, para (b)(i), by inserting "which is provided in Malaysia" after the word "business", effective 1 April 2010.

2(2) A non-Malaysian citizen individual referred to in subparagraph (1) shall not include the individual who is—

(a) a non-Malaysian citizen that participates in Malaysia My Second Home programme and his dependents;

(b) a non-Malaysian citizen holding a Malaysian student pass and his dependents;

(c) a non-Malaysian citizen holding a Malaysian work permit and his dependents; and

(d) a non-resident Malaysian citizen living abroad and his dependents.

PARAGRAPH 3 AMOUNT OF INCOME TO BE EXEMPTED

3(1) The amount of income referred to in subparagraph 2(1) shall be equal to one hundred per cent of the value of increased services which is the difference of the value of the healthcare services provided in Malaysia in the basis period and the immediately preceding basis period (hereinafter referred to as "value of increased services").

3(2) Where an amount of income equivalent to one hundred per cent of the value of increased services has been determined for a year of assessment, so much of the statutory income of the business of that person for that year of assessment as is equal to that value
of increased services (or to the aggregate amount of any such value of increased services as the case may be) but not exceeding seventy per cent of the statutory income, such amount of income shall be exempted from tax.

3(3) The statutory income from the business referred to in subparagraph 2(1) in the basis period for a year of assessment shall be determined after deducting allowances which fall to be made under Schedule 3 of the Act notwithstanding that no claim for such allowances has been made.

3(4) Where an asset used for the purpose of healthcare services business referred to in subparagraph 2(1) is also used for the purpose of a business other than that business, the allowances which fall to be made under Schedule 3 of the Act shall be deducted as is reasonable having regard to the extent to which the asset is used for the purpose of the first mentioned business.

3(5) Nothing in subparagraph (1) shall absolve or is deemed to have absolved the person from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provision of the Act.

**PARAGRAPH 4  INSUFFICIENCY OF INCOME**

4 Where, by reason of the restriction of seventy per cent, as prescribed in subparagraph 3(2), of the statutory income or of an insufficiency or absence of statutory income from a business of the person for the basis period for a year of assessment, exemption cannot be given or cannot be given in full to the amount of the determined value of increased services to which the person is entitled under subparagraph 2(1) for that year of assessment, then so much of that amount or the aggregate amount as cannot be given for that year shall be given to the person for the first subsequent year of assessment for the basis period for which there is statutory income from that business, and for subsequent years of assessment until the person has received the whole of the amount or the aggregate amount to which the person is so entitled.

**History**

Para 4 amended by PU (A) 89/2010, para (b)(ii), by substituting “subparagraph” for “paragraph” after the word “under”, effective 1 April 2010.

**PARAGRAPH 5  SEPARATE ACCOUNT**

5 A person who is exempted under subparagraph 2(1) shall maintain a separate account for the income derived from the healthcare services business referred to in that paragraph.

**History**

Para 5 amended by PU (A) 89/2010, para (b)(iii), by substituting “subparagraph” for “paragraph” after the word “under”, effective 1 April 2010.
PARAGRAPH 6 APPLICATION OF PARAGRAPHS 5 AND 6 OF SCHEDULE 7A

Paragraphs 5 and 6 of Schedule 7A to the Act shall apply *mutatis mutandis* to the amount of income exempted under subparagraph 2(1).

**History**
Para 6 amended by PU (A) 89/2010, para (b)(vi), by substituting “subparagraph” for “paragraph” after the word “under”, effective 1 April 2010.

PARAGRAPH 7 NON-APPLICATION

This Order shall not apply to a person who in the basis period for a year of assessment—

(a) has been granted any incentives (except for deductions for promotion of exports) under the Promotion of Investments Act 1986 [*Act 327*];

(b) has been granted investment allowance in respect of an approved service project under Schedule 7B of the Act;

(c) has been granted an exemption under paragraph 127(3)(b) of the Act or subsection 127(3A) of the Act; or

(d) has been granted an exemption under the Income Tax (Exemption) (No. 9) 2002 [*P.U. (A) 57/2002*].
INCOME TAX (EXEMPTION) (NO. 7) ORDER 2009
PU (A) 413

[23 November 2009]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT

1(1) This order may be cited as the Income Tax (Exemption) (No. 7) Order 2009.
1(2) This Order is deemed to have come into operation on 24 October 2009 and shall have effect subject to paragraph 3.

PARAGRAPH 2 INTERPRETATION

2 In this Order—

“company” means—

(a) a bank licensed under the Banking and Financial Institutions Act 1989 [Act 372]; or
(b) a bank licensed under the Islamic Banking Act 1983 [Act 276];

“investee company” means a company where at least twenty percent of its issued share capital is directly owned by a company referred to in subparagraph 3(1).

PARAGRAPH 3 EXEMPTION

3(1) The Minister exempts for five consecutive years of assessment (hereinafter referred to as “exempt period”) a company resident in Malaysia from the payment of income tax in respect of statutory income in relation to sources of income derived from its branch or investee company—

(a) which carries or will carry on banking, Islamic banking or any part of banking or Islamic banking; and
(b) which is located outside Malaysia.

3(2) To qualify for an exemption under this Order—

(a) an application for such exemption shall be made by the company;
(b) the application under subsubparagraph (a) is received by the Central Bank on or after 24 October 2009 but not later than 31 December 2015; and
(c) the branch or investee company referred to in subparagraph 3(1) shall commence the banking, Islamic banking or any part of the banking or Islamic banking business within two years from the date of approval issued by the Central Bank.

Para 1(1) Commerce Clearing House (Malaysia) Sdn Bhd
3(3) The commencement of the exempt period referred to in subparagraph 3(1) shall be determined by the company but shall not be later than the third year of assessment the branch or investee company commences the banking, Islamic banking or any part of the banking or Islamic banking business.

3(4) Nothing in subparagraph 3(1) shall absolve or be deemed to have absolved the company from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provisions of the Act.

PARAGRAPH 4 APPLICATION OF PARAGRAPHS 5 AND 6 SCHEDULE 7A

4 Paragraphs 5 and 6 of Schedule 7A to the Act shall apply, mutatis mutandis, to the amount of income exempted under subparagraph 3(1).

PARAGRAPH 5 SEPARATE ACCOUNT

5 The branch or investee company shall maintain a separate account for the income exempted from tax under subparagraph 3(1).

PARAGRAPH 6 SAVING

History
Para 6 amended by PU (A) 90/2010, para (b)(i), by substituting “Saving” for “Exemption”, effective 1 April 2010.

6(1) Where a company has been granted an exemption under the Income Tax (Exemption) (No. 16) Order 2007 [P.U. (A) 278/2007], such exemption shall continue to remain in full force and effect and that Order shall be deemed to continue to apply for the remaining years of assessment of the exempt period of that company.

6(2) In relation to a company which has been granted approval by the Central Bank on or before 23 October 2009 to carry on banking, Islamic banking or any part of banking or Islamic banking business under the provisions of the Order referred to in subparagraph 6(1) but has not commenced the business, the exempt period of the company shall commence in accordance with the provisions of this Order.
INCOME TAX (EXEMPTION) (NO. 9) ORDER 2009

[24 November 2009]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPHS 1 CITATION AND COMMENCEMENT

1(1) This order may be cited as the Income Tax (Exemption) (No. 9) Order 2009.

1(2) This Order is deemed to have effect for the year of assessment 2003 and subsequent years of assessment subject to subsubsubparagraph 3(2)(a)(ii).

PARAGRAPHS 2 INTERPRETATION

2 In this order “consolidation of management project” means a consolidation of management of smallholding and idle land projects.

PARAGRAPHS 3 EXEMPTION

3(1) Subject to the qualification under subparagraph (2), the Minister exempts the following persons who are resident in Malaysia and have business sources in Malaysia from the payment of income tax in respect of statutory income derived by such persons from a consolidation of management project:

(a) an individual;

(b) a partnership established under the Partnership Act 1961 [Act 135];

(c) a co-operative society registered under any written law relating to the registration of co-operative societies in Malaysia; and

(d) a company established under the Companies Act 1965 [Act 125].

3(2) To qualify for an exemption under this Order—

(a) relating to the consolidation of management project—

(i) the consolidation of management project shall be approved by the Minister charged with the responsibility of approving such project; and

(ii) the application for the approval to carry out the consolidation of management project is made by the person referred to in subparagraph (1) to the Minister referred to in subsubsubparagraph (i) on or after 21 September 2002 but not later than 31 December 2011; and

(b) an application for such exemption shall be made by the person referred to in subparagraph (1) to the Minister.

3(3) The exemption granted under this Order shall be for a period of five consecutive years of assessment commencing from the basis period for a year of assessment the consolidation of management project commences.

Para 1(1) Commerce Clearing House (Malaysia) Sdn Bhd
3(4) Nothing in subparagraph (1) shall absolve or be deemed to absolve the qualifying person from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provisions of the Act.

PARAGRAPH 4 SEPARATE ACCOUNT

4(1) Where a qualifying person carries out a consolidation of management project and any other project or business, each of such project and business shall be treated as a separate and distinct source of project or business of the qualifying person.

4(2) The qualifying person shall maintain a separate account for the income derived from the consolidation of management project.

PARAGRAPH 5 APPLICATION OF PARAGRAPHS 5 AND 6 OF SCHEDULE 7A OF THE ACT

5 Paragraphs 5 and 6 of Schedule 7A of the Act shall apply, *mutatis mutandis*, to the amount of income exempted under subparagraph 3(1).
INCOME TAX (EXEMPTION) (NO. 10)
ORDER 2009

PU (A) 473

[23 November 2009]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT

1(1) This order may be cited as the Income Tax (Exemption) (No. 10) Order 2009.

1(2) This Order is deemed to have come into operation on 21 May 2003 and shall have effect to the extent of its application for the purposes of subparagraph 3(b) and subparagraph 4(1).

PARAGRAPH 2 INTERPRETATION

2 In this order—

“forest plantation project” means a forest plantation project for species as specified in the Schedule;

“new forest plantation project” means the first approved forest plantation project undertaken by a company;

“expansion forest plantation project” means a project involving new investment undertaken by a company in expanding its approved forest plantation project and the approved forest plantation project has not been granted any tax exemption under this Order or the Income Tax (Exemption) (No. 11) Order 2009;

“approved project” means a project which fulfills the condition in paragraph 3;

“company” means a company—

(a) incorporated under the Companies Act 1965 [Act 125] and resident in Malaysia; and

(b) undertaking a new forest plantation project or an expansion forest plantation project.

History

Para 2(b) amended by PU (A) 246/2010, as corrigendum, by inserting “forest plantation” after the words “undertaking a new” and “an expansion” respectively.

Para 1(1) Commerce Clearing House (Malaysia) Sdn Bhd
PARAGRAPH 3  APPROVED PROJECT

A project undertaken by a company is qualified for an exemption under this Order if such project fulfills the following conditions:

(a) the project is a forest plantation project or an expansion forest plantation project; and

(b) the application for the new forest plantation project or the expansion forest plantation project relating to the project referred to in subparagraph (a) is made to the Minister, through the Minister charged with responsibility for that project, on or after 21 May 2003 but not later than 31 December 2011.
PARAGRAPH 4 EXEMPTION

4(1) Subject to subparagraph (2), the Minister exempts a company from the payment of income tax in relation to—

(a) a new forest plantation project for a period of ten consecutive years of assessment (referred to in this Order as the ‘‘exempt years of assessment’’) in respect of the statutory income, commencing from the first year of assessment in which the company derived statutory income from that new forest plantation project; or

(b) an expansion forest plantation project for a period of five consecutive years of assessment (referred to in this Order as the ‘‘exempt years of assessment’’) in respect of the statutory income from its existing approved project and expansion project, commencing from the first year of assessment in which the company derived statutory income from the existing approved project and expansion project, as the case may be, and that first year of assessment shall not be earlier than the year of assessment in the basis period in which the date of approval from the Minister falls.

4(2) The statutory income of the project referred to in subparagraph (1) in the basis period for each of the exempt years of assessment shall be determined after deducting allowances which fall to be made under Schedule 3 of the Act notwithstanding that no claim for such allowances has been made.

4(3) Where an asset used for the purpose of the project referred to in subparagraph (1) is also used for the purpose of a project or business other than that project, the allowances which fall to be made under Schedule 3 of the Act shall be deducted as is reasonable having regard to the extent to which the asset is used for the purpose of the new forest plantation project or expansion forest plantation project, as the case may be.

Para 4(3) amended by PU (A) 246/2010, as corrigendum, by inserting ‘‘forest plantation’’ after the words ‘‘purpose of the new’’ and ‘‘or expansion’’ respectively.

4(4) Nothing in subparagraph (1) shall absolve or is deemed to have absolved the company from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provision of the Act.

PARAGRAPH 5 LOSSES

5(1) Any amount of adjusted loss incurred—

(a) from the year of assessment in the basis period in which the project referred to in subparagraph 4(1) has commenced to the year of assessment immediately prior to the exempt years of assessment; and

(b) during the exempt years of assessment,

shall be carried forward and deducted against the statutory income of the project referred to in subparagraph 4(1) in its post-exempt year or years of assessment until such project has utilized the whole amount of the adjusted loss to which it is so entitled.

5(2) The amount of the adjusted loss that was utilized to reduce the statutory income of the project referred to in subparagraph 4(1) in its post-exempt year or years of assessment shall be disregarded for the purposes of subsections 43(2) and 44(2) of the Act.

Para 4(1) Commerce Clearing House (Malaysia) Sdn Bhd
PARAGRAPH 6  CAPITAL ALLOWANCE

6  For the purpose of this Order, Schedule 3 of the Act shall apply.

PARAGRAPH 7  WITHDRAWAL OF TAX EXEMPTION

7  The Minister may withdraw the exemption on the statutory income of the project referred to in subparagraph 4(1) if a company fails to comply with the conditions imposed by the Minister.

PARAGRAPH 8  SEPARATE ACCOUNT

8  A company which is exempted under subparagraph 4(1) shall maintain a separate account for the income derived from the project referred to in that subparagraph.

PARAGRAPH 9  APPLICATION OF PARAGRAPHS 5 AND 6 OF SCHEDULE 7A OF THE ACT

9  Paragraphs 5 and 6 of Schedule 7A of the Act shall apply, *mutatis mutandis*, to the amount of statutory income exempted from the project referred to in subparagraph 4(1).

PARAGRAPH 10  NON-APPLICATION

10  This Order shall not apply to—

(a) a new forest plantation project or an expansion forest plantation project, that commences after one year from the date of approval or after such extended period approved by the Minister;

(b) a company in the basis period for a year of assessment if that company for that year of assessment—

(i) has been granted any incentive under the Promotion of Investments Act 1986 [*Act 327*];

(ii) has made a claim for reinvestment allowance under Schedule 7A of the Act;

(iii) has been granted an exemption under paragraph 127(3)(b) or subsection 127(3A) of the Act; or

(iv) has qualified for a deduction under any rules made under section 154 of the Act including any rules that provides higher fraction for an asset for the purpose of qualifying plant expenditure under Schedule 3 of the Act.

*Thornton’s Malaysian Tax Commentaries*  
Para 10
### SCHEDULE

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<td>Acacia</td>
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<td>Damar minyak (Peninsular)/ Bindang (Sarawak)/ Mengilan (Sabah)</td>
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<td>Kenanga</td>
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<td>Kapok (Sabah)/Kekabu</td>
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<td>Surian batu</td>
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17. *Cinnamomum altissimum*, *Cinnamomum iners*,
*Cinnamomum sintoc*, *Cinnamomum javanicum*,
*Cinnamomum porrectum*, *Cinnamomum scortechinii*  
Pokok Teja/Medang
Teja/ Medang
18. *Coelostegia borneensis*, *Coelostegia griffithii*  
Punggai
(Peninsular)/Durian
(hantu (Sarawak)
19. *Cratoxylum arborescens*, *Cratoxylum glaucum*  
Geronggang
20. *Dacyrydium beccarii*, *Dacyrydium comosum*, *Dacyrydium elatum*, *Dacyrydium gibbsiae*  
Sempilor/Ekor
(Peninsular)
21. *Dacrycladus stenostachys*  
Jongkong
22. *Dillenia borneensis*, *Dillenia excelsa*, *Dillenia grandifolia*,
*Dillenia pulchella*, *Dillenia reticulata*  
Simpoh
(Peninsular)/Buan
(Sarawak)
23. *Dipterocarpus acutangulus*, *Dipterocarpus applanatus*,
*Dipterocarpus elongatus*, *Dipterocarpus baudit*,
*Dipterocarpus caudiferus*, *Dipterocarpus chartaceus*,
*Dipterocarpus concavus*, *Dipterocarpus cornutus*,
*Dipterocarpus confertus*, *Dipterocarpus conformis*,
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*Dipterocarpus grandiflorus*, *Dipterocarpus hasseltii*,
*Dipterocarpus humeratus*, *Dipterocarpus kerrii*,
*Dipterocarpus kunstleri*, *Dipterocarpus lamellatus*,
*Dipterocarpus lowii*, *Dipterocarpus obtusifolius*,
*Dipterocarpus oblongifolius*, *Dipterocarpus ochraceus*,
*Dipterocarpus pachyphyllus*, *Dipterocarpus palembanicus*,
*Dipterocarpus pseudafagineus*, *Dipterocarpus rigidus*,
*Dipterocarpus rotundifolius*, *Dipterocarpus sarawakensis*,
*Dipterocarpus semivestitus*, *Dipterocarpus sublamellatus*,
*Dipterocarpus stellatus*, *Dipterocarpus validus*,
*Dipterocarpus verrucosus*  
24. *Dryobalanops aromatica*, *Dryobalanops beccarii*,
*Dryobalanops fusca*, *Dryobalanops keithii*, *Dryobalanops lanceolata*, *Dryobalanops oblongifolia*, *Dryobalanops rappa*
Kapur
25. *Duabanga moluccana*, *Duabanga grandiflora*  
Magasawih/Sawih
(Sarawak) Magas
(Sabah)/Berembang
bukit
(Peninsular)/Tagahas
(Sabah)
*Durio lowianus*, *Durio malaccensis*, *Durio oxleyanus*, *Durio singaporensis*, *Durio wyatt-smithii*, *Durio zibethinus*  
Durian
27. *Dyera costulata*, *Dyera polyphylla*  
Jelutong

Thornton’s Malaysian Tax Commentaries Sch
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<tr>
<th>Item</th>
<th>Specie</th>
<th>Local Name</th>
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<td>28.</td>
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<td>31.</td>
<td><em>Fagraea crenulata</em></td>
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<td><em>Gigantochloa levis</em>, <em>Gigantochloa ligulata</em>, <em>Bambusa blumeana</em>, <em>Dendrocalamus asper</em></td>
<td>Buluh betting/Buluh poring/Buluh tumpat/Buluh duri/Buluh betong</td>
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<td><em>Ilex cissoides</em>, <em>Ilex cymosa</em></td>
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<td>52.</td>
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<td><em>Schima wallichii</em></td>
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<td><em>Shorea acuminata</em>, <em>Shorea albida</em>, <em>Shorea almon</em>, <em>Shorea andulensis</em>, <em>Shorea argentifolia</em>, <em>Shorea assamica</em>, <em>Shorea bracteolata</em>, <em>Shorea dasyphylla</em>, <em>Shorea fallax</em>, <em>Shorea henryana</em>, <em>Shorea hopeifolia</em>, <em>Shorea hypochra</em>, <em>Shorea laxa</em>, <em>Shorea leprosula</em>, <em>Shorea macroptera</em>, <em>Shorea myrionerva</em>, <em>Shorea ochrophloia</em>, <em>Shorea ovalis</em>, <em>Shorea ovata</em>, <em>Shorea parvifolia</em>, <em>Shorea parvistipulata</em>, <em>Shorea pacificola</em>, <em>Shorea platyclados</em>, <em>Shorea polyandra</em>, <em>Shorea quadrinervis</em>, <em>Shorea revolute</em>, <em>Shorea retusa</em>, <em>Shorea roxburghii</em>, <em>Shorea rubra</em>, <em>Shorea rugosa</em>, <em>Shorea scabrida</em>, <em>Shorea slootenii</em>, <em>Shorea smithiana</em>, <em>Shorea talura</em>, <em>Shorea teysmanniana</em>, <em>Shorea waltonii</em></td>
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<td>69.</td>
<td><em>Shorea macrophylla</em>, <em>Shorea pinanga</em>, <em>Shorea palembanica</em>, <em>Shorea splendida</em>, <em>Shorea macrantha</em>, <em>Shorea henssleyana</em>, <em>Shorea stenoptera</em>, <em>Shorea seminis</em>, and other Engkabang</td>
<td>Engkabang jantong, Engkabang langgai bukit, Engkabang asu, Engkabang bintang, Engkabang bungkus, Engkabang gading, Engkabang rusa, Engkabang terendak, Kawang (Sabah) species</td>
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<tr>
<td>Item</td>
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<td>71.</td>
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INCOME TAX (EXEMPTION) (NO. 11) ORDER 2009
PU (A) 474

[23 December 2009]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPh 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 11) Order 2009.
1(2) This Order is deemed to have come into operation from 21 May 2003 and shall have effect subject to its application as prescribed in paragraph 3.

PARAGRAPh 2 INTERPRETATION
2 In this Order, “forest plantation project” means the project referred to in subparagraph 3(2).

PARAGRAPh 3 QUALIFICATION FOR EXEMPTION
3(1) A company incorporated under the Companies Act 1965 [Act 125] and is resident in Malaysia that undertakes a forest plantation project shall qualify for an exemption under this Order where it surrenders its adjusted loss, in full or in part, in the basis period for a year of assessment in respect of a forest plantation project to one or more of its related companies incorporated under the Companies Act 1965 and is resident in Malaysia (referred to in this Order as a “claimant company”), in the basis period for that year of assessment.
3(2) In relation to a forest plantation project referred to in subparagraph (1)—
   (a) the project shall be the first forest plantation project undertaken by a company for the species as specified in the Schedule; and
   (b) the application to undertake the forest plantation project referred to in subparagraph (1) shall be made to the Minister through the Minister charged with the responsibility for that project on or after 21 May 2003 but not later than 31 December 2005.
3(3) For the purpose of this Order, a company is related to a claimant company if at the end of the basis period for a year of assessment at least—
   (a) seventy per cent of the issued share capital of the company are directly owned by the claimant company;

History
Para 3(2)(b) substituted by PU (A) 76/2011, para. 2, in operation on 11 March 2011. Para 3(2)(b) formerly read: “(b) the application to undertake the forest plantation project referred to in subparagraph (1) shall be made to the Minister through the Minister charged with the responsibility for that project on or after 21 May 2003 but not later than 31 December 2005.”

Para 1(1) Commerce Clearing House (Malaysia) Sdn Bhd
(b) seventy per cent of the issued share capital of the claimant company are directly owned by the company; or

(c) seventy per cent of the issued share capital of the company and claimant company are directly owned by another company.

### PARAGRAPH 4 EXEMPTION

4(1) Subject to subparagraph (2), the Minister exempts a company from the payment of income tax in relation to a forest plantation project for a period of ten consecutive years of assessment (referred to in this Order as the ‘‘exempt years of assessment’’) in respect of its statutory income, commencing from the first year of assessment in which the company derived statutory income from that project.

4(2) The statutory income of the forest plantation project referred to in subparagraph (1) in the basis period for each of the exempt years of assessment shall be determined after deducting allowances which fall to be made under Schedule 3 of the Act notwithstanding that no claim for such allowances has been made.

4(3) Where an asset used for the purpose of the forest plantation project referred to in subparagraph (1) is also used for the purpose of a project or business other than that project, the allowances which fall to be made under Schedule 3 of the Act shall be deducted as is reasonable having regard to the extent to which the asset is used for the purpose of the forest plantation project.

4(4) Nothing in subparagraph (1) shall absolve or is deemed to have absolved the company from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provision of the Act.

### PARAGRAPH 5 LOSSES

5(1) The amount of adjusted loss surrendered shall be allowed as a deduction against the aggregate income of the claimant company pursuant to subsection 44(1) of the Act.

5(2) Subject to subparagraph (3), the amount of adjusted loss surrendered by a company in respect of a forest plantation project for any year of assessment shall be adjusted loss from the year of assessment in the basis period in which the forest plantation project commenced to the year of assessment immediately prior to the exempt years of assessment.

5(3) Any amount of adjusted loss in any year of assessment from a forest plantation project that is not surrendered to any claimant company in that year of assessment shall not be available to any claimant company for any subsequent year of assessment.

5(4) Where the basis period of a company does not coincide with the basis period of a claimant company, an adjusted loss from a forest plantation project shall be deemed to have accrued evenly over the basis period of the company and the amount of adjusted loss surrendered shall exceed such amount that is apportioned to the period that coincide with the basis period of the claimant.

5(5) Any claim for a deduction by a claimant under this Order shall be made in a written statement and shall be accompanied by a notice of consent given by a company containing such particulars as to show the amount of adjusted loss being surrendered.
5(6) Where it appears to the Director General that any deduction given to a claimant company ought not to have been so given, the Director General may raise such assessment or additional assessment upon that claimant company as may be necessary in order to make good any loss of tax.

5(7) Any amount of adjusted loss in respect of a forest plantation project that is not surrendered prior to and during the exempt year or years of assessment shall be carried forward and deducted against the statutory income of the forest plantation project in the post-exempt year or years of assessment until that forest plantation project has utilized the whole amount of the adjusted loss to which it is so entitled.

5(8) The amount of the adjusted loss in respect of a forest plantation project that was utilized to reduce the statutory income of that forest plantation project in the post-exempt year or years of assessment shall be disregarded for the purposes of subsections 43(2) and 44(2) of the Act.

PARAGRAPH 6 CAPITAL ALLOWANCE
6 For the purpose of this Order, Schedule 3 of the Act shall apply.

PARAGRAPH 7 WITHDRAWAL OF TAX EXEMPTION
7 The Minister may withdraw the exemption on the statutory income of the project referred to in subparagraph 4(1) if a company fails to comply with the conditions as approved by the Minister.

PARAGRAPH 8 SEPARATE ACCOUNT
8 A company which is exempted under subparagraph 4(1) shall maintain a separate account for the income derived from the project referred to in that subparagraph.

PARAGRAPH 9 APPLICATION OF PARAGRAPHS 5 AND 6 OF SCHEDULE 7A
9 Paragraphs 5 and 6 of Schedule 7A of the Act shall apply, mutatis mutandis, to the amount of statutory income exempted from the project referred to in subparagraph 4(1).

PARAGRAPH 10 NON-APPLICATION
10 This Order shall not apply to—
(a) a forest plantation project that commences after one year from the date of approval or after such extended period approved by the Minister;
(b) a company in the basis period for a year of assessment which—
   (i) has been granted any incentive under the Promotion of Investments Act 1986 [Act 327];
   (ii) has made a claim for reinvestment allowance under Schedule 7A of the Act;
   (iii) has been granted any exemption under paragraph 127(3)(b) or subsection 127(3A) of the Act; or
   (iv) has qualified for a deduction under any rules made under section 154 of the Act including any rules that provides higher fraction for an asset for the purpose of qualifying plant expenditure under Schedule 3 of the Act.
SCHEDULE

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<td>Acacia mangium, Acacia auriculiformis, Acacia hybrids</td>
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<td>Rotan manau</td>
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<td><em>Calamus caesius</em></td>
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<td>11.</td>
<td><em>Campnosperma auriculatum, Campnosperma coriaceum, Campnosperma squamatum</em></td>
<td>Terentang</td>
</tr>
<tr>
<td>12.</td>
<td><em>Cananga odorata</em></td>
<td>Kenanga</td>
</tr>
<tr>
<td>13.</td>
<td><em>Canarium apertum, Canarium littorale, Canarium pseudosumatramum</em></td>
<td>Kedondong</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(Peninsular)/ Seladah</td>
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<tr>
<td></td>
<td></td>
<td>(Sarawak)</td>
</tr>
<tr>
<td>15.</td>
<td><em>Ceiba pentandra, Bombax ceiba, Bombax valettonii</em></td>
<td>Kapok</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(Sabah)/ Kekabu</td>
</tr>
<tr>
<td>16.</td>
<td><em>Chukrasia tabularis</em></td>
<td>Surian batu</td>
</tr>
<tr>
<td>Item</td>
<td>Specie</td>
<td>Local Name</td>
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<tr>
<td>17.</td>
<td><em>Cinnamomum altissimum</em>, <em>Cinnamomum iners</em>, <em>Cinnamomum sintoc</em>, <em>Cinnamomum javanicum</em>, <em>Cinnamomum porrectum</em>, <em>Cinnamomum scortechinii</em></td>
<td>Pokok Teja/Medang</td>
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<td>18.</td>
<td><em>Coelostegia borneensis</em>, <em>Coelostegia griffithii</em></td>
<td>Punggai</td>
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<td></td>
<td></td>
<td>(Peninsular)/Durian hantu (Sarawak)</td>
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<tr>
<td>19.</td>
<td><em>Cratoxylum arborescens</em>, <em>Cratoxylum glaucum</em></td>
<td>Geronggang</td>
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<td>20.</td>
<td><em>Dacrydium beccarii</em>, <em>Dacrydium comosum</em>, <em>Dacrydium elatum</em>, <em>Dacrydium gibbsiae</em></td>
<td>Sempilor/Ekor</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(Peninsular)</td>
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<tr>
<td>21.</td>
<td><em>Dactylocladus stenostachys</em></td>
<td>Jongkong</td>
</tr>
<tr>
<td>22.</td>
<td><em>Dillenia borneensis</em>, <em>Dillenia excelsa</em>, <em>Dillenia grandifolia</em>, <em>Dillenia pulchella</em>, <em>Dillenia reticulata</em></td>
<td>Simpoh</td>
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<tr>
<td></td>
<td></td>
<td>(Peninsular)/Buan (Sarawak)</td>
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<tr>
<td>25.</td>
<td><em>Duabanga moluccana</em>, <em>Duabanga grandiflora</em></td>
<td>Magasawih/Sawih (Sarawak) Magas (Sabah)/Berembang bukit (Peninsular)/Tagahas (Sabah)</td>
</tr>
<tr>
<td>27.</td>
<td><em>Dyera costulata</em>, <em>Dyera polyphylla</em></td>
<td>Jelutong</td>
</tr>
</tbody>
</table>

Sch Commerce Clearing House (Malaysia) Sdn Bhd
28. *Endospermum diadenum, Endospermum peltatum*  
*Specie*  
*Local Name*  
Sesenduk  
(Peninsular)/Senduk-senduk  
mata/Marapangi  
(Sabah)/Terbulan  
(Sarawak)

29. *Eucalyptus deglupta, Eucalyptus grandis, Eucalyptus camadulensis, Eucalyptus pellita, Eucalyptus tereticornis, Eucalyptus hybrids*  
*Specie*  
*Local Name*  
Eucalyptus

30. *Eusideroxylon zwageri*  
*Specie*  
*Local Name*  
Belian

31. *Fagraea crenulata*  
*Specie*  
*Local Name*  
Malabera/Malabira  
(Sabah)

32. *Gigantochloa levis, Gigantochloa ligulata, Bambusa blumeana, Dendrocalamus asper*  
*Specie*  
*Local Name*  
Bulu beting/Buluh poring  
Buluhumpat  
Buluh duri  
Buluh betong

33. *Gmelina arborea*  
*Specie*  
*Local Name*  
Yemane

34. *Gonystylus affinis, Gonystylus bancanus, Gonystylus brunescens, Gonystylus confuses, Gonystylus maingayi*  
*Specie*  
*Local Name*  
Ramin

35. *Hevea brasiliensis*  
*Specie*  
*Local Name*  
Rubber/Getah  
(Timber-Latex Clones)

36. *Heritiera albiflora, Heritiera aurea, Heritiera borneensis, Heritiera globosa, Heritiera javanica, Heritiera littoralis, Heritiera simplicifolia, Heritiera sumatraea*  
*Specie*  
*Local Name*  
Mengkulang/Dungun/  
Kembang (Sabah)

*Specie*  
*Local Name*  
Merawan/Selangan  
(Sabah)

38. *Ilex cissoides, Ilex cymosa*  
*Specie*  
*Local Name*  
Mensirah  
(Peninsular)/Kerdam  
(Sarawak)/Morogis  
(Sabah)

39. *Intsia palembanica, Intsia bijuga*  
*Specie*  
*Local Name*  
Mer bau

40. *Khaya ivorensis, Khaya senegalensis*  
*Specie*  
*Local Name*  
Khaya

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Thorton’s Malaysian Tax Commentaries Sch
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<tr>
<th>Item</th>
<th>Specie</th>
<th>Local Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>41.</td>
<td>Kokoona littoralis, Kokoona ochracea, Kokoona ovatalanceolata, Kokoona reflexa</td>
<td>Mata ulat (Peninsular)/Bajan (Sarawak)/Perupok Kuning (Sabah)</td>
</tr>
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<td>42.</td>
<td>Koompassia malaccensis Koompassia maingay</td>
<td>Kempas (Peninsular)/Menggaris (Sarawak) Tapang(Sarawak)</td>
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<tr>
<td>43.</td>
<td>Macaranga beccariana, Macaranga conifera, Macaranga gigantea, Macaranga hosei, Macaranga hypoleuca, Macaranga lowii, Macaranga pruinosa, Macaranga tanarius, macaranga triloba, Macaranga winkleri</td>
<td>Mahang (Peninsular)/Merkubong (Sarawak)/Merkubong (Sabah)</td>
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<td>44.</td>
<td>Maesopsis eminii</td>
<td>Maesopsis</td>
</tr>
<tr>
<td>45.</td>
<td>Mallotus macrostachyus, Mallotus leucodermis, Mallotus miguelianus, Mallotus muticus, Mallotus penangensis, Mallotus philippensis, Mallotus wrayi</td>
<td>Balek angin, Mallotus dau/ Dahu (Sabah)</td>
</tr>
<tr>
<td>46.</td>
<td>Mangifera applanata, Mangifera caesa, Mangifera foetida, Mangifera griffithii, Mangifera indica, Mangifera longipetolata, Mangifera laurina, Mangifera odorata, Mangifera pajang, Mangifera parviflora, Mangifera quadrifida, Mangifera torquenda</td>
<td>Machang (Peninsular)/ Embang (Sarawak) Beluno/Bambangan/Mangga (Sabah)</td>
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<tr>
<td>47.</td>
<td>Neobalanocarpus heimii</td>
<td>Chengal</td>
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<tr>
<td>48.</td>
<td>Neolamarckia cadamba, Anthocephalus chinensis.</td>
<td>Kelepmpayan (Peninsular)/ Laran (Peninsular, Sabah)/Selimpoh (Sarawak) Binuang</td>
</tr>
<tr>
<td>49.</td>
<td>Octomeles sumatrana</td>
<td>Nyatoh</td>
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<td>50.</td>
<td>Palaquium clarkeanum, Palaquium gutta, Palaquium hexandrum, Palaquium hispidum, Palaquium impressinervium, Palaquium maingayi, Palaquium microphyllum, Palaquium obovatum, Palaquium oxleyanum, Palaquium regina-montium, Palaquium rostratum, Palaquium semaram, Palaquium xanthochymum</td>
<td>Batai/Kayu machis/Kungkur (Sabah)</td>
</tr>
<tr>
<td>51.</td>
<td>Parasenianthes falcata, Albizia falcata, Albizia chinensis, Albizia lebbeck, Albizia acle, Albizia pedicellata, Albizia procera</td>
<td>Urat mata/Gerutu</td>
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<tr>
<td>52.</td>
<td>Parashorea densiflora, Parashorea globosa, Parashorea stellata, Parashorea parvifolia, Parashorea smithsii</td>
<td>Petai/Kupang (Sabah)</td>
</tr>
<tr>
<td>53.</td>
<td>Parkia speciosa, Parkia singularis, Parkia timoriana</td>
<td>Melunak (Peninsular)/Baru (Sarawak)/Takalis (Sabah)</td>
</tr>
<tr>
<td>54.</td>
<td>Pentace adenophora, Pentace curtissii, Pentace laxiflora, Pentace macrophylla, Pentace tritpeta</td>
<td>Pejon/Pelajau</td>
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<tr>
<td>55.</td>
<td>Pentaspadon motleyi, Pentaspadon velutinus</td>
<td>Sungkai</td>
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<td>56.</td>
<td>Peronema canescens</td>
<td></td>
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<tr>
<td>Item</td>
<td>Specie</td>
<td>Local Name</td>
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<tr>
<td>57.</td>
<td>Pinus caribaea, Pinus insularis, Pinus merkusii, Pinus kesiya</td>
<td>Pine</td>
</tr>
<tr>
<td>58.</td>
<td>Pithecellobium splendens</td>
<td>Kungkur</td>
</tr>
<tr>
<td>59.</td>
<td>Pterospermum diversifolium, Pterospermum jackianum, Pterospermum subpeltatum</td>
<td>Bayor</td>
</tr>
<tr>
<td>60.</td>
<td>Pterocarpus dalbergioideus, Pterocarpus indicus, Pterocarpus macrocarpus, Pterocarpus marsupium, Pterocarpus santalinus</td>
<td>Angsana/Sena/Narra</td>
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<td>61.</td>
<td>Pterocymbium tinctorium, Pterocymbium javanicum</td>
<td>Melembu/Teluto</td>
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<tr>
<td>62.</td>
<td>Pterospermum javanicum</td>
<td>Bayor Batu</td>
</tr>
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<td>63.</td>
<td>Sandoricum beccarianum, Sandoricum koetjape</td>
<td>Kelampu (Sarawak)/Sentul (Peninsular, Sabah)</td>
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<tr>
<td>64.</td>
<td>Santiria apiculata, Santiria conferta, Santiria tomentosa</td>
<td>Kedondong (Peninsular)/Seladah (Sarawak)</td>
</tr>
<tr>
<td>65.</td>
<td>Scaphium lineariparum, Scaphium longiflorum, Scaphium macropodum, Scaphium scaphigerum</td>
<td>Kembang semangkok</td>
</tr>
<tr>
<td>66.</td>
<td>Schima wallichii</td>
<td>Gegatal/Gatal-gatal (Sabah)</td>
</tr>
<tr>
<td>67.</td>
<td>Scorodocarpus borneensis</td>
<td>Kulim (Peninsular)/Bawang hutan (Sabah)/Ungsunah (Sarawak)</td>
</tr>
<tr>
<td>Item</td>
<td>Specie</td>
<td>Local Name</td>
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<tr>
<td>69.</td>
<td>Shorea macrophylla</td>
<td>Engkabang jantong</td>
</tr>
<tr>
<td></td>
<td>Shorea pinanga,</td>
<td>Engkabang langgai</td>
</tr>
<tr>
<td></td>
<td>Shorea palembanica</td>
<td>bukit</td>
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<td></td>
<td>Shorea splendida</td>
<td>Engkabang asu</td>
</tr>
<tr>
<td></td>
<td>Shorea macrantha</td>
<td>Engkabang bintang</td>
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<td></td>
<td>Shorea hemsleyana</td>
<td>Engkabang bungkus</td>
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<td>Shorea stenoptera,</td>
<td>Engkabang gading</td>
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<tr>
<td></td>
<td>Shorea seminis,</td>
<td>Engkabang rusa</td>
</tr>
<tr>
<td></td>
<td>and other Engkabang</td>
<td>Engkabang terendak</td>
</tr>
<tr>
<td></td>
<td>Kawang (Sabah)</td>
<td>Kawang (Sabah) species</td>
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<td>70.</td>
<td>Sindora coriacea, Sindora echinocalyx, Sindora siamensis, Sindora velatina, Sindora wallichii</td>
<td>Sepetir (Peninsular)/Tambar hantu (Sarawak)</td>
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<td>71.</td>
<td>Swietenia macrophylla</td>
<td>Mahogany</td>
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<td>72.</td>
<td>Tectona grandis</td>
<td>Teak/Jati</td>
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<tr>
<td>73.</td>
<td>Terminalia bellirica, Terminalia calamansanai, Terminalia catappa, Terminalia citrina, Terminalia copelandii, Terminalia foetidissima, Terminalia phellocarpa, Terminalia subspathulata</td>
<td>Talisai (Sabah)/Jelawai/Jaha (Semenanjung)/Kedandi (Sarawak)</td>
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<td>74.</td>
<td>Tetramerista glabra</td>
<td>Punah (Peninsular)/Kayu hujan (Sarawak)/Tuyot (Sabah)</td>
</tr>
<tr>
<td>75.</td>
<td>Toona calantas, Toona ciliata, Toona sinensis, Toona sureni</td>
<td>Surian/Limpaga/Red cedar</td>
</tr>
</tbody>
</table>
INCOME TAX (EXEMPTION) ORDER 2010
PU (A) 169

[19 May 2010]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1  CITATION AND COMMENCEMENT
1(1)  This order may be cited as the Income Tax (Exemption) Order 2010.
1(2)  This Order shall have effect from the year of assessment 2010.

PARAGRAPH 2  APPLICATION
2  This Order shall apply to sukuk ijarah, other than convertible loan stock, issued in any currency by 1Malaysia Sukuk Global Berhad.

PARAGRAPH 3  EXEMPTION
3(1)  The Minister exempts any person in the basis period for a year of assessment from the payment of income tax in relation to any income derived from the sukuk ijarah.
3(2)  Nothing in subparagraph (1) shall absolve or is deemed to have absolved the person from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provisions of the Act.

PARAGRAPH 4  NON-APPLICATION
4  Sections 109 and 109B of the Act shall not apply to the income exempted under this Order.
INCOME TAX (EXEMPTION) (NO. 2) 
ORDER 2010 
PU (A) 478

[28 December 2010]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 2) Order 2010.
1(2) This Order shall have effect from the year of assessment 2011 until the year of assessment 2012.

PARAGRAPH 2 INTERPRETATION
2 In this Order, unless the context otherwise requires—
``certified emission reduction'' means a Kyoto Protocol unit equal to one metric tonne of carbon dioxide equivalent, calculated in accordance with Kyoto rules and is issued for gas emission reductions from an activity of clean development mechanism project;
``clean development mechanism project'' means a project of clean development mechanism approved by the Ministry of Natural Resources and Environment;
``Kyoto Protocol'' means an international agreement relating to United Nations Framework Convention on Climate Change.

PARAGRAPH 3 EXEMPTION
3(1) The Minister exempts a company incorporated under the Companies Act 1965 [Act 125] and resident in Malaysia in the basis period for a year of assessment from the payment of income tax in respect of income received from the sale of certified emission reduction.
3(2) The income referred to in subparagraph (1) shall be the gross income from the sale of certified emission reduction unit less an amount equal to the expenditure, not being capital expenditure, incurred by the company for the purposes of obtaining certified emission reduction.
3(3) Any expenditure referred to in subparagraph (2) shall be deemed to be incurred in the basis period for a year of assessment in which the income from the sale of certified emission reduction is received by the company.
3(4) Nothing in subparagraph (1) shall absolve or be deemed to have absolved the company from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provision of the Act.

PARAGRAPH 4 MAINTAINING SEPARATE RECORD
4 The company shall maintain a separate record for the income exempted under subparagraph 3(1) of this Order.

Para 1(1) 
Commerce Clearing House (Malaysia) Sdn Bhd
INCOME TAX (EXEMPTION) ORDER 2011

PU (A) 44

[2 February 2011]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT

1(1) This order may be cited as the Income Tax (Exemption) Order 2011.

1(2) This Order shall have effect from the year of assessment 2010 until the year of assessment 2014.

PARAGRAPH 2 INTERPRETATION

2 In this Order, unless the context otherwise requires—

“export sales” means direct export sales from Malaysia of products made by a company but does not include—

(a) export sales to any company in a zone gazetted as free industrial zones or free commercial zones under the Free Trade Zone Act 1990 [Act 438];

(b) export sales to any company which is approved under the Customs Act 1967 [Act 235] as licensed manufacturing warehouse; or

(c) export sales to Langkawi, Labuan, Tioman tax free zones or to any other zone gazetted as tax free zone under the Free Zones Act 1990 or the Customs Act 1967;

“motor vehicles” means motor vehicles which have been classified according to the different classes as provided in subsection 5(1) Road Transport Act 1987 [Act 333];

“value added” means the difference between the sale price of motor vehicles, automobile components or parts at ex-factory price and the total cost of raw materials;

“value of increased export” means the difference between the free on board value of export sales for a product in a basis period and that of the immediately preceding basis period, where the duration of each basis period is twelve months;

“products” means motor vehicles, automobile components or parts manufactured in Malaysia by a company;

“company” means a company which is—

(a) incorporated under the Companies Act 1965 [Act 125]; and

(b) resident in Malaysia.

PARAGRAPH 3 EXEMPTION

3 The Minister exempts a company carrying on activities of manufacturing the products for export sales from the payment of income tax in respect of statutory income derived from export sales in the basis period for a year of assessment.
PARAGRAPHS 4 AMOUNT OF STATUTORY INCOME TO BE EXEMPTED FROM TAX

4(1) The amount of statutory income to be exempted referred to in paragraph 3 shall be an amount equal to—

(a) thirty per cent of the value of increased export where the export sales of products of the company attained at least thirty per cent of value added; or

(b) fifty per cent of the value of increased export where the export sales of products of the company attained at least fifty per cent of value added.

4(2) Where the amount of statutory income to be exempted has been determined under subparagraph (1) for a year of assessment, so much of the statutory income of that business for that year of assessment which is equal to the amount referred to in subsubparagraph (1)(a) or (b) shall be exempted from tax:

Provided that the amount exempted shall not exceed seventy per cent of the statutory income.

4(3) Subject to subparagraph (4), the statutory income referred to in subparagraph (2) shall be determined after deducting any allowance which falls to be made under Schedule 3 of the Act notwithstanding that no claim for such allowance has been made.

4(4) Where an asset used for the purposes of the business of manufacturing the products for export sales is also used for the purpose of a business other than that business, then the allowance which falls to be made under Schedule 3 of the Act shall be deducted as is reasonable having regard to the extent to which the asset is used for the purpose of the first mentioned business.

PARAGRAPHS 5 INSUFFICIENCY OF INCOME

5 Where, by reason of the restriction to seventy per cent of the statutory income or of an insufficiency or absence of statutory income from the business of the company for the basis period for a year of assessment, effect cannot be given or cannot be given in full to the amount as determined to which the company is entitled under subparagraph 4(1) for that year of assessment, then so much of that amount as cannot be exempted for that year shall be exempted for the first subsequent year of assessment for the basis period for which there is statutory income from that business and for subsequent years of assessment, but not exceeding seventy per cent of the statutory income for each year of assessment until the whole of the amount to which it is so entitled is exempted.

PARAGRAPHS 6 APPLICATION OF PARAGRAPHS 5 AND 6 OF SCHEDULE 7A OF THE ACT

6 Paragraphs 5 and 6 of Schedule 7A of the Act shall apply mutatis mutandis to the amount of statutory income derived from export sales of products exempted under paragraph 3.

PARAGRAPHS 7 MAINTAINING SEPARATE RECORD

7 The company shall maintain a separate record for income derived from export sales of products for each year of assessment for the purpose of exemption under paragraph 3.

Para 4(1) Commerce Clearing House (Malaysia) Sdn Bhd
8 This Order shall not apply to a company if, in the basis period for a year of assessment, the company—

(a) has been granted any incentive under the Promotion of Investment Act 1986 [Act 327];

(b) has made a claim for reinvestment allowance under Schedule 7A of the Act;

(c) has been granted investment allowance for service sector under Schedule 7B of the Act;

(d) has been granted an exemption under paragraph 127(3)(b) or subsection 127(3A) of the Act; or

(e) has qualified for a deduction under any rules made under section 154 of the Act including any rules that provides higher fraction for an asset for the purpose of qualifying plant expenditure under Schedule 3 of the Act.
INCOME TAX (EXEMPTION) (NO. 2) ORDER 2011

PU (A) 160

[15 April 2011]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 2) Order 2011.
1(2) This Order is deemed to have effect from the year of assessment 2007 until the year of assessment 2009.

PARAGRAPH 2 APPLICATION
2 This Order applies to Islamic securities, other than convertible loan stock, which are issued in accordance with the principles of Mudharabah, Musyarakah, Ijarah, Istisna’ or any other principle approved by the Shariah Advisory Council established by the Securities Commission under the Capital Markets and Services Act 2007 [Act 671].

PARAGRAPH 3 EXEMPTION
3 The Minister exempts an individual, unit trust or listed close-end fund in the basis period for a year of assessment from the payment of income tax in respect of any gains or profits received from the investment in Islamic securities.

PARAGRAPH 4 NON-APPLICATION
4 Section 109 of the Act shall not apply to any gains or profits received by a non-resident individual, unit trust or listed close-end fund referred to in paragraph 3.
INCOME TAX (EXEMPTION) (NO. 3)
ORDER 2011

PU (A) 166

[29 April 2011]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT

1(1) This order may be cited as the Income Tax (Exemption) (No. 3) Order 2011.
1(2) This Order is deemed to have come into operation on 1 October 2005.

PARAGRAPH 2 INTERPRETATION

2 In this Order, unless the context otherwise requires—

“qualified person” means a company incorporated under the Companies Act 1965 [Act 125], an agro-based co-operative society, an Area Farmers’ Association, a Federal Farmers’ Association, a State Farmers’ Association, an Area Fishermen’s Association, a Federal Fishermen’s Association, a State Fishermen’s Association and sole proprietorship, partnership or association solely engaged in agriculture or fishery;

“new project” means the first project carried out by a qualified person for the purpose of undertaking an approved food production project and the new project is approved by the Minister;

“expansion project” means a project carried out by a qualified person for the purpose of expanding its existing approved food production project where the expansion project—

(a) has not been granted an exemption under this Order;
(b) involves a new area of land; and
(c) is approved by the Minister;

“approved food production project” means a project in relation to—

(a) planting of kenaf, vegetables, fruits, herbs or spices;
(b) aquaculture;
(c) rearing of cows, buffaloes, goats or sheep; or
(d) deep sea fishing,

which is deemed to be as a separate and distinct business.

Thornton’s Malaysian Tax Commentaries Para 2
PARAGRAPH 3 APPLICATION

3 This Order shall apply to a new project or expansion project—

(a) for which the application is made to the Minister through the Minister charged with the responsibility for that project, on or after 1 October 2005 but not later than 31 December 2015;

(b) which has not commenced at the date the application is made to the Minister; and

(c) which commences within a year from the date of approval given by the Minister.

PARAGRAPH 4 EXEMPTION

4(1) Subject to subparagraph (2), the Minister exempts a qualified person resident in Malaysia from the payment of income tax in relation to—

(a) a new project for a period of ten consecutive years of assessment (referred to in this Order as the ‘‘exempt years of assessment’’) in respect of its statutory income, commencing from the first year of assessment in which the qualified person derived statutory income in relation to that project; or

(b) an expansion project for a period of five consecutive years of assessment (referred to in this Order as the ‘‘exempt years of assessment’’) in respect of the statutory income from its existing and expansion projects, commencing from the first year of assessment in which the qualified person derived statutory income in relation to the existing and expansion projects, and the first year of assessment shall not be earlier than the year of assessment in the basis period in which the date of approval from the Minister falls.

4(2) The statutory income of the project referred to in subsubparagraph (1)(a) or (b) in the basis period for each of the exempt years of assessment shall be determined after deducting allowances which fall to be made under Schedule 3 of the Act notwithstanding that no claim for such allowances has been made:

Provided that where an asset used for the purposes of the project referred to in subsubparagraph (1)(a) or (b) is also used for the purposes of a project other than that project, then the allowances which fall to be made under Schedule 3 of the Act shall be deducted as is reasonable having regard to the extent to which the asset is used for the purposes of the first-mentioned project.

4(3) Nothing in subparagraph (1) shall absolve or is deemed to absolve the qualified person from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provision of the Act.

PARAGRAPH 5 LOSSES

5(1) Any amount of adjusted loss incurred—

(a) from the year of assessment in the basis period in which the project referred to in subsubparagraph 4(1)(a) or (b) commenced to the year of assessment immediately prior to the exempt years of assessment; and

(b) during the exempt years of assessment,
shall be carried forward and deducted against the statutory income of the project in its post-exempt year or years of assessment until that project utilized the whole amount of the adjusted loss to which it is so entitled.

5(2) So much of the adjusted loss that was utilized to reduce the statutory income of the project referred to in subsubparagraph 4(1)(a) or (b) in its post-exempt year or years of assessment shall be disregarded for the purposes of the subsections 43(2) and 44(2) of the Act.

PARAGRAPH 6 WITHDRAWAL OF TAX EXEMPTION
6 The Minister may withdraw the exemption on the statutory income of the project referred to in subparagraph 4(1) if the qualified person fails to comply with the conditions imposed by the Minister.

PARAGRAPH 7 APPLICATION OF PARAGRAPHS 5 AND 6 OF SCHEDULE 7A OF THE ACT
7 Paragraphs 5 and 6 of Schedule 7A of the Act shall only apply, mutatis mutandis, to the amount of income exempted from the projects referred to under subsubparagraph 4(1)(a) or (b) for a company incorporated under the Companies Act 1965.

PARAGRAPH 8 MAINTAINING OF SEPARATE ACCOUNTS
8 The qualified person which is exempted under subsubparagraph 4(1)(a) or (b) shall maintain a separate account for the income derived from the projects referred to in that subsubparagraph.

PARAGRAPH 9 NON-APPLICATION
9 This Order shall not apply to a qualified person for a year of assessment in the basis period if the qualified person—
   (a) has been granted any incentive under the Promotion of Investments Act 1986 [Act 327];
   (b) has made a claim for allowance under Schedule 7A or Schedule 7B of the Act;
   (c) has been granted an exemption under paragraph 127(3)(b) or subsection 127(3A) of the Act; or
   (d) has made a claim for deduction under any rules made under section 154 except an allowance under Schedule 3 of the Act.
INCOME TAX (EXEMPTION) (NO. 4) ORDER 2011
PU (A) 205

[27 June 2011]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 4) Order 2011.
1(2) This Order shall have effect from the year of assessment 2011.

PARAGRAPH 2 APPLICATION
2 This Order shall apply to sukuk wakala, other than convertible loan stock, issued in any currency by Wakala Global Sukuk Berhad.

PARAGRAPH 3 EXEMPTION
3(1) The Minister exempts any person in the basis period for a year of assessment from the payment of income tax in relation to gains or profits received, in lieu of interest, derived from the sukuk wakala under the concept of Al-Wakala Bil Istismar.
3(2) Nothing in subparagraph (1) shall absolve or is deemed to have absolved the person from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provisions of the Act.

PARAGRAPH 4 NON-APPLICATION
4 Section 109 of the Act shall not apply to the income exempted under this Order.
INCOME TAX (EXEMPTION) (NO. 5)
ORDER 2011
PU (A) 325

[22 August 2011]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT

1(1) This order may be cited as the Income Tax (Exemption) (No. 5) Order 2011.

1(2) This Order shall have effect from the year of assessment 2009 and subsequent years of assessment, subject to paragraph 3 and subsubparagraph 5(5)(b).

PARAGRAPH 2 INTERPRETATION

2 In this Order—

“Board of Architects Malaysia” means a board which is established under section 3 of the Architects Act 1967 [Act 117];

“person” means a person resident in Malaysia and with respect to a company, refers to a company incorporated under the Companies Act 1965 [Act 125];

“qualifying expenditure” means an additional expenditure incurred in relation to the construction of a building, alteration, renovation, extension or improvement of an existing building, or plant or machinery for the purpose of obtaining greenbuildingindex certificate as certified by the Board of Architects Malaysia.

PARAGRAPH 3 APPLICATION

3 This Order shall apply to a person who has obtained his first greenbuildingindex certificate issued on or after 24 October 2009 but not later than 31 December 2014 by the Board of Architects Malaysia in respect of—

(a) any building constructed, owned and used by the person for the purpose of his business;

(b) any building constructed—

(i) under a privatization project and private financing initiatives approved by the Privatisation/PFI Committee, Public Private Partnership Unit, Prime Minister’s Department; and

(ii) pursuant to an agreement entered into between the person and the Government of Malaysia or a statutory authority on a build-lease-transfer basis, build-lease-maintain-transfer basis or any other similar arrangement and for which no consideration has been paid by the Government of Malaysia or a statutory authority to that person.

Thornton’s Malaysian Tax Commentaries Para 3
PARAGRAPH 4 NON-APPLICATION

This Order shall not apply to a person who has incurred qualifying expenditure on a building, plant or machinery for a basis period for a year of assessment where during that basis period the person has claimed in respect of that building, plant or machinery—

(a) investment tax allowance under the Promotion of Investments Act 1986 [Act 327];
(b) reinvestment allowance under Schedule 7A to the Act;
(c) investment allowance for service sector under Schedule 7B to the Act;
(d) accelerated capital allowance under any rules made under section 154 of the Act except for a building prescribed by the Minister as industrial building under paragraph 80 Schedule 3 to the Act; or
(e) tax exemption under any order made under section 127 of the Act partly or equivalent to the amount of the expenditure incurred.

PARAGRAPH 5 EXEMPTION

5(1) The Minister exempts a person in the basis period for a year of assessment from the payment of income tax in respect of the statutory income from his business.

5(2) The amount of exemption in respect of a business referred to in subparagraph (1) shall be an amount equal to the qualifying expenditure incurred by the person for the purpose of obtaining a greenbuildingindex certificate issued by the Board of Architects Malaysia for a building used for the purpose of that business.

5(3) The qualifying expenditure incurred by the person referred to in subparagraph (2) shall be deemed to have been incurred on the day the greenbuildingindex certificate is issued by the Board of Architects Malaysia.

5(4) Where the qualifying expenditure has been incurred by the person prior to the commencement of his business, the qualifying expenditure shall be claimed in the basis period for a year of assessment that person commences his business.

5(5) Where by reason of an absence or insufficiency of statutory income of a person from his business for the basis period for a year of assessment—

(a) an exemption cannot be given or cannot be given in full to the amount which the person is entitled under subparagraph (1) for that year of assessment; and
(b) the amount, which cannot be given exemption or cannot be given exemption in full as referred to in subsubparagraph (a) for that year of assessment, shall be exempted for the first subsequent year of assessment for the basis period for which there is statutory income from that business, and for subsequent years of assessment until the whole of the amount to which the person is so entitled is exempted.

5(6) Notwithstanding subparagraph (5), where qualifying expenditure is incurred on a building, plant or machinery and such building, plant or machinery is disposed of at any time within a period of two years from the date of acquisition, the exemption which the person would otherwise qualify for, shall be deemed to have not been given to the person and where such exemption has been given, such exemption shall be withdrawn in the basis period the building, plant or machinery is disposed of.
5(7) For the purposes of this paragraph, ‘‘disposed of’’—
(a) in respect of a building, shall have the meaning assigned to it in paragraph 48 of Schedule 3 to the Act; or
(b) in respect of a plant or machinery, shall have the meaning assigned to it in paragraph 61 of Schedule 3 to the Act.

5(8) In the case of a disposal of a building, plant or machinery under paragraph 38 of Schedule 3 to the Act, the acquirer shall be deemed to have incurred qualifying expenditure in relation to the building, plant or machinery of an amount equal to the sum of the disposer’s residual expenditure on the first day of the disposer’s final period.

5(9) Nothing in subparagraph (1) shall absolve or be deemed to have absolved the person from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provision of the Act.

PARAGRAPH 6 QUALIFYING EXPENDITURE UNDER A HIRE-PURCHASE AGREEMENT

6(1) Where the person entitled for an exemption in accordance with subparagraph 5(1) becomes a party to a hire-purchase agreement for the purchase of a plant or machinery for the purpose of his business in relation to a building which is issued with the greenbuildingindex certificate by the Board of Architects Malaysia, the amount of exemption to be given in respect of the qualifying expenditure incurred by the person for the basis period for a year of assessment shall be—
(a) the capital portion of any installment payment made by the person under a hire-purchase agreement; or
(b) where there is more than one payment, the aggregate of those payments made by the person under a hire-purchase agreement.

6(2) For the purpose of this Order, the person shall be deemed to be the owner of the plant or machinery purchased under a hire-purchase agreement.

PARAGRAPH 7 CAPITAL ALLOWANCE AND INDUSTRIAL BUILDING ALLOWANCE

7 For the purpose of this Order, a person who incurs a qualifying expenditure referred to in subparagraph 5(2) shall only be entitled to make a claim for a capital allowance and industrial building allowance under Schedule 3 to the Act if the qualifying expenditure is a qualifying capital expenditure under that Schedule.

PARAGRAPH 8 APPLICATION OF PARAGRAPHS 5 AND 6 OF SCHEDULE 7A

8 Paragraphs 5 and 6 of Schedule 7A to the Act shall apply, mutatis mutandis, to the amount of statutory income exempted from income tax which is derived from the business referred to in paragraph 5.

PARAGRAPH 9 REVOCATION

INCOME TAX (EXEMPTION) (NO. 6) ORDER 2011
PU (A) 418

[19 December 2011]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT

1(1) This order may be cited as the Income Tax (Exemption) (No. 6) Order 2011.
1(2) This Order shall have effect from the year of assessment 2011.

PARAGRAPH 2 EXEMPTION

2(1) The Minister exempts any person from the payment of income tax on 65% of the statutory income derived from a source consisting of the provision of qualifying professional services rendered in Labuan by that person to a Labuan entity from the year of assessment 2011 until the year of assessment 2020.
2(2) For the purpose of subparagraph (1)—
“Labuan entity” means the entity specified in the Schedule to the Labuan Business Activity Tax Act 1990 [Act 445]; and
“qualifying professional services” means legal, accounting, financial or secretarial services.
INCOME TAX (EXEMPTION) (NO. 7) ORDER 2011
PU (A) 419

[19 December 2011]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 7) Order 2011.
1(2) This Order shall have effect from the year of assessment 2011.

PARAGRAPH 2 EXEMPTION
2(1) The Minister exempts any individual who is a non-Malaysian citizen from the payment of income tax in respect of fees received by that individual in his capacity as a director of a Labuan entity from the year of assessment 2011 until the year of assessment 2020.
2(2) For the purpose of subparagraph (1),— “Labuan entity” means the entity specified in the Schedule to the Labuan Business Activity Tax Act 1990 [Act 445].
INCOME TAX (EXEMPTION) (NO. 8) ORDER 2011
PU (A) 420

[19 December 2011]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 8) Order 2011.
1(2) This Order shall have effect from the year of assessment 2011.

PARAGRAPH 2 EXEMPTION
2(1) The Minister exempts an individual non-Malaysian citizen from the payment of income tax on 50% of gross income received by that individual from exercising an employment in a managerial capacity with a Labuan entity in Labuan, co-located office or marketing office from the year of assessment 2011 until the year of assessment 2020.
2(2) For the purpose of subparagraph (1)—
``Labuan entity’’ means the entity specified in the Schedule to the Labuan Business Activity Tax Act 1990 [Act 445];
``Labuan Financial Services Authority’’ means an authority established under the Labuan Financial Services Authority Act 1996 [Act 545];
``co-located office’’ means a co-located office of a Labuan entity approved by the Labuan Financial Services Authority which operates in other parts of Malaysia to perform the functions assigned by the Labuan entity; and
``marketing office’’ means a marketing office of a Labuan entity approved by the Labuan Financial Services Authority which is located in other parts of Malaysia to facilitate meetings with clients and establish contacts with potential clients except exercising trading activities on behalf of the Labuan entity.
INCOME TAX (EXEMPTION) (NO. 9)
ORDER 2011

[19 December 2011]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT

1(1) This order may be cited as the Income Tax (Exemption) (No. 9) Order 2011.
1(2) This Order shall have effect from the year of assessment 2011.

PARAGRAPH 2 EXEMPTION

2(1) The Minister exempts an individual Malaysian citizen from the payment of income tax on 50% of the gross housing allowance and gross Labuan Territory allowance received by that individual from exercising an employment in Labuan with a Labuan entity from the year of assessment 2011 until the year of assessment 2020.
INCOME TAX (EXEMPTION) (NO. 10)
ORDER 2011
PU (A) 444

[30 December 2011]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 10) Order 2011.
1(2) This Order shall have effect from the year of assessment 2012 until the year of assessment 2014.

PARAGRAPH 2 APPLICATION
2 This Order shall apply to non-ringgit sukuk that originates from Malaysia and issued or guaranteed by the Government of Malaysia or approved by the Securities Commission under the Capital Markets and Services Act 2007 [Act 671].

PARAGRAPH 3 EXEMPTION
3(1) The Minister exempts the following persons resident in Malaysia for a basis period for a year of assessment from the payment of income tax in respect of statutory income derived from the regulated activity of dealing in securities under the Capital Markets and Services Act 2007 relating to a business of dealing in sukuk:
   (a) a holder of a Capital Markets Services License for the regulated activity of dealing in securities;
   (b) a person specified to be a registered person under Schedule 4 (paragraph 76(1)(a)) of that Act; and
   (c) a registered person under subsection 76(2) of that Act, where such dealing is carried on through the proprietary account of such person.
3(2) Nothing in subparagraph (1) shall absolve or be deemed to have absolved the persons specified under that subparagraph from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provisions of the Act.

PARAGRAPH 4 SEPARATE ACCOUNT
4(1) Where a person exempted under subparagraph 3(1) carries on a business referred to in that subparagraph and any other business or activity, each of such business or activity shall be treated as a separate and distinct source of business or activity of that person.
4(2) The person referred to in subparagraph (1) shall maintain a separate account for the income derived from the business or activity referred to in that subparagraph.

Para 1(1) Commerce Clearing House (Malaysia) Sdn Bhd
PARAGRAPH 5  APPLICATION OF PARAGRAPHS 5 AND 6 OF SCHEDULE 7A OF THE ACT

5 Paragraphs 5 and 6 of Schedule 7A of the Act shall apply, mutatis mutandis, to the amount of statutory income exempted under subparagraph 3(1).
INCOME TAX (EXEMPTION) (NO. 11)
ORDER 2011
PU (A) 445

[30 December 2011]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPh 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 11) Order 2011.
1(2) This Order shall have effect from the year of assessment 2012 until the year of assessment 2014.

PARAGRAPh 2 APPLICATION
2 This Order shall apply to non-ringgit sukuk that originates from Malaysia and issued or guaranteed by the Government of Malaysia or approved by the Securities Commission under the Capital Markets and Services Act 2007 [Act 671].

PARAGRAPh 3 EXEMPTION
3(1) The Minister exempts the persons specified in the Schedule who are resident in Malaysia for a basis period for a year of assessment from the payment of income tax in respect of statutory income derived from the regulated activity of dealing in securities and advising on corporate finance under the Capital Markets and Services Act 2007 relating to the arranging, underwriting and distributing of sukuk.
3(2) Nothing in subparagraph (1) shall absolve or be deemed to have absolved the person specified in that Schedule from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provisions of the Act.

PARAGRAPh 4 SEPARATE ACCOUNT
4(1) Where a person exempted under subparagraph 3(1) carries on an activity referred to in that subparagraph and any other activity or business, each of such activity or business shall be treated as a separate and distinct source of activity or business of that person.
4(2) The person referred to in subparagraph (1) shall maintain a separate account for the income derived from the activity or business referred to in that subparagraph.

PARAGRAPh 5 APPLICATION OF PARAGRAPHS 5 AND 6 OF SCHEDULE 7A OF THE ACT
5. Paragraphs 5 and 6 of Schedule 7A of the Act shall apply, mutatis mutandis, to the amount of statutory income exempted under subparagraph 3(1).

Para 1(1) Commerce Clearing House (Malaysia) Sdn Bhd
SCHEDULE

[Subparagraph 3(1)]

(1) A person who under the Capital Markets and Services Act 2007—
    (a) is a holder of a Capital Markets Services License granted under section 61 of that Act;
    (b) is specified to be a registered person under Schedule 4 of that Act; or
    (c) is a registered person under subsection 76(2) of that Act,
who carries on the regulated activity of dealing in securities and advising on corporate finance as
provided under that Act.

(2) A person specified under Schedule 3 of the Capital Markets and Services Act 2007 who is
carrying on the regulated activity of advising on corporate finance which is solely incidental to the
carrying on of his business or the practice of his profession.
INCOME TAX (EXEMPTION) ORDER 2012

PU (A) 22

[27 December 2011]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPh 1 CITATION AND COMMENCEMENT

1(1) This order may be cited as the Income Tax (Exemption) Order 2012.

1(2) This Order shall have effect from 1 January 2010 until 31 December 2014.

PARAGRAPh 2 INTERPRETATION

2 In this Order—

“incurred” has the same meaning assigned to it in paragraphs 46 and 55 of Schedule 3 to the Act;

“private healthcare facility” has the same meaning assigned to it under section 2 of the Private Healthcare Facilities and Services Act 1998 [Act 586];

“new private healthcare facility” means an approved private healthcare facility establishment undertaken by a qualifying company;

“Malaysian Industrial Development Authority” means a body corporate established under section 3 of the Malaysian Industrial Development Authority (Incorporation) Act 1965 [Act 397];

“Malaysian Healthcare Travel Council” means a council established under the Ministry of Health Malaysia for the purpose of developing and promoting the healthcare travel industry in Malaysia;

“healthcare traveller” means—

(a) a non-Malaysian citizen who participates in the Malaysia My Second Home Programme;

(b) an expatriate who is a non-Malaysian citizen holding a Malaysian work permit and his dependents; or

(c) a non-Malaysian citizen who visits and receives treatment from private healthcare facilities in Malaysia;

Para 1(1) Commerce Clearing House (Malaysia) Sdn Bhd
“qualifying capital expenditure” means capital expenditure incurred by a qualifying company on an asset used in Malaysia solely for the purpose of qualifying project—

(a) in relation to a building, the cost of purchasing or constructing new building of an approved standard and that building—

(i) has been licensed with the Ministry of Health; and
(ii) has been registered with the Malaysian Healthcare Travel Council; and

(b) in relation to plant and machinery, the medical devices or other facilities used for the purpose of the qualifying project shall be verified by the Ministry of Health and approved by the Minister:

Provided that such qualifying capital expenditure shall not include capital expenditure incurred on building used as living accommodation which are provided wholly or partly for the use of a director or an individual who is a member of the management or administration, or an employee, of the qualifying company;

“expansion, modernization or refurbishment project” means a project undertaken by a qualifying company in expanding, modernizing or refurbishing its existing private healthcare facility business, including infrastructure and functional services, and that business—

(a) has not been granted any exemption under this Order; and
(b) involves new investment;

“qualifying project” means—

(a) any new private healthcare facilities business; or
(b) any project for the expansion, modernization or refurbishment of existing private healthcare facility business,

approved by the Ministry of Health and verified by the Malaysian Healthcare Travel Council; and

“qualifying company” means a company which—

(a) is incorporated under the Companies Act 1965 [Act 125];
(b) is a resident in Malaysia; and
(c) undertakes a qualifying project.

PARAGRAPH 3 APPLICATION

3 This Order applies to—

(a) a qualifying company which has not commenced its business or a new private healthcare facility business on the date an application is made to the Malaysian Industrial Development Authority; or

(b) a qualifying company which has not incurred any qualifying capital expenditure on expansion, modernization or refurbishment project on the date an application is made to the Malaysian Industrial Development Authority; and
PARAGRAPH 4 EXEMPTION

4(1) The Minister exempts a qualifying company in the basis period for a year of assessment from the payment of income tax in respect of statutory income derived from a qualifying project which is equivalent to the amount of allowance as determined in subparagraph (2).

4(2) The amount of allowance referred to in subparagraph (1) shall be one hundred per cent of the qualifying capital expenditure incurred in the basis period for a year of assessment within a period of five years.

4(3) The date of commencement of the period referred to in subparagraph (2) shall be determined by the Malaysian Industrial Development Authority and, in relation to—

(a) a new private healthcare facility business, on the date the first qualifying capital expenditure has been incurred and that date shall not be earlier than 1 January 2010 or shall be three years from the date of approval as a private healthcare facility business for healthcare travel, whichever is the later; or

(b) an expansion, modernization or refurbishment project, on the date the first qualifying capital expenditure has been incurred and that date shall not be earlier than the date of application received by the Malaysian Industrial Development Authority.

4(4) Nothing in subparagraph (1) shall absolve or deemed to have absolved the qualifying company from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provision of the Act.

PARAGRAPH 5 STATUTORY INCOME

5(1) The statutory income referred to in subparagraph 4(1) in the basis period for each of the exempted period shall be determined after deduction of allowances which fall to be made under Schedule 3 to the Act notwithstanding that no claim for such allowances has been made:

Provided that where an asset used for the purpose of the qualifying project, is also used for the purpose of a business other than that qualifying project, then the allowance which falls to be made under Schedule 3 to the Act shall be deducted as is reasonable having regard to the extent to which the asset is used for the purpose of the qualifying project.

5(2) The amount of allowance so exempt referred to in subparagraph 4(1) shall be equal to the amount of the statutory income for each year of assessment.
5(3) Where by reason of the absence or insufficiency of the statutory income effect cannot be given or cannot be given in full to the amount as determined to which the qualifying company is entitled under subparagraph 4(1) for that year of assessment, then so much of that amount which cannot be exempted for that year shall be exempted for the first subsequent year of assessment for the basis period for which there is statutory income from that qualifying project, and for subsequent years of assessment until the whole of the amount to which it is so entitled is exempted.

PARAGRAPH 6 DETERMINATION OF QUALIFYING CAPITAL EXPENDITURE

6(1) For the purpose of this Order, a qualifying company which incurs a qualifying expenditure shall only be entitled to make a claim for a capital allowance under Schedule 3 to the Act if the qualifying expenditure is a qualifying capital expenditure under that Schedule.

6(2) Where qualifying capital expenditure is incurred by a qualifying company on an asset used for the purpose of qualifying project and such asset is disposed of at any time within five years from the date of acquisition of the asset, the amount of income exempted in respect of the allowance of such asset is deemed to have not been exempted to the company to which it would otherwise be entitled.

PARAGRAPH 7 WITHDRAWAL OF TAX EXEMPTION

7 The Minister may withdraw the tax exemption on the statutory income of the qualifying project referred to in subparagraph 4(1) if the qualifying company fails to comply with the conditions as approved by the Minister.

PARAGRAPH 8 SEPARATE ACCOUNT

8 A qualifying company shall maintain a separate account for the income derived from the qualifying project in a basis year for each year of assessment until that qualifying project received the whole allowance or allowances to which it is so entitled.

PARAGRAPH 9 NON-APPLICATION

9 This Order shall not apply to a qualifying company in the basis period for a year of assessment if that qualifying company for that year of assessment has—

(a) made a claim for reinvestment allowance under Schedule 7A or investment allowance under Schedule 7B to the Act;
(b) been granted any incentive under the Promotion of Industrial Act 1986 [Act 327];
(c) been granted an exemption under paragraph 127(3)(b) or subsection 127(3A) to the Act; or
(d) made a claim for a deduction under any Rules made under section 154 of the Act except for allowance under Schedule 3 to the Act.
INCOME TAX (EXEMPTION) (NO. 2)
ORDER 2012
PU (A) 167

[29 May 2012]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 2) Order 2012.
1(2) This Order shall have effect from the year of assessment 2012 until the year of assessment 2013.

PARAGRAPH 2 APPLICATION
2 This Order shall apply to a person who carries on the business of—
   (a) transporting passengers or cargo by sea on a Malaysian ship; or
   (b) letting out on charter a Malaysian ship owned by him on a voyage or time charter basis.

PARAGRAPH 3 EXEMPTION
3(1) The Minister exempts any person resident in Malaysia in the basis period for a year of assessment from the provisions of subsections 54A(1) and (2) of the Act and the payment of income tax in respect of the statutory income derived from a source of business consisting of a Malaysian ship.
3(2) Nothing in subparagraph (1) shall absolve or is deemed to have absolved the person specified under that subparagraph from complying with any requirement to submit any return or statement of account or to furnish any other information under the provision of the Act.
INCOME TAX (EXEMPTION) (NO. 3)
ORDER 2012

PU (A) 184

[15 June 2012]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT

1(1) This order may be cited as the Income Tax (Exemption) (No. 3) Order 2012.

1(2) This Order shall have effect from the year of assessment 2012.

PARAGRAPH 2 INTERPRETATION

2 In this Order—

“treasury management centre” means a company which is—

(a) incorporated under the Companies Act 1965 [Act 125] and resident in Malaysia;

(b) carrying on a business of providing qualifying financial and fund management services in Malaysia as specified by the Minister; and

(c) approved by the Minister upon fulfilling the conditions specified by him.

PARAGRAPH 3 EXEMPTION

3(1) The Minister exempts a non-citizen individual from the payment of income tax in respect of income derived from an employment with a treasury management centre.

3(2) Subject to subparagraph (3), the amount of income exempted under subparagraph (1) is in respect of the employment exercised outside Malaysia shall be determined in accordance with the following formula:

\[
\frac{A \times B}{C}
\]

where

A is the chargeable income for a year of assessment attributable to a treasury management centre;

B is the number of days in the year of assessment that the individual is in employment with the treasury management centre exercised outside Malaysia; and

C is the number of days in the year of assessment that the individual is in employment with the treasury management centre.

Thornton’s Malaysian Tax Commentaries Para 3(2)
3(3) Where the non-citizen individual has sources of income other than that of employment with the treasury management centre, the chargeable income referred to in subparagraph (2) shall be determined in accordance with the following formula:

\[ D \times \frac{E}{F} \]

where

- \( D \) is the chargeable income for a year of assessment;
- \( E \) is the gross income from employment with the treasury management centre (sic) for a year of assessment; and
- \( F \) is the total of gross income from all sources of income for a year of assessment.

3(4) For the purpose of subparagraph (2), a non-citizen individual is deemed to be outside Malaysia for a day if that individual is outside Malaysia for the whole of that day.
INCOME TAX (EXEMPTION) (NO. 4)
ORDER 2012
PU (A) 209

[21 June 2012]
IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 4) Order 2012.
1(2) This Order is deemed to have come into operation on 11 February 2010.

PARAGRAPH 2 EXEMPTION
2(1) The Minister exempts from tax any gains or profit falling under paragraph 4(f) of the Act received by a non-resident from a Labuan entity.
2(2) For the purposes of this paragraph, “Labuan entity” has the same meaning assigned to it under the Labuan Business Activity Tax Act 1990 [Act 445].

PARAGRAPH 3 NON-APPLICATION
3 The provisions of section 109F of the Act shall not apply to the income exempted under this Order.

PARAGRAPH 4 REVOCATION
INCOME TAX (EXEMPTION) (NO. 5)
ORDER 2012
PU (A) 240

[30 July 2012]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 5) Order 2012.
1(2) This Order shall have effect from the year of assessment 2012.

PARAGRAPH 2 INTERPRETATION
2 In this Order—
   “treasury management centre” means a company which is—
   (a) incorporated under the Companies Act 1965 [Act 125] and resident in Malaysia;
   (b) carrying on a business of providing qualifying services in Malaysia as specified by the Minister;
   (c) approved by the Minister upon fulfilling conditions specified by him;
   “related company” has the same meaning as defined under section 2 of the Promotion of Investments Act 1986 [Act 327];

PARAGRAPH 3 EXEMPTION
3(1) The Minister exempts a treasury management centre from the payment of income tax for five consecutive years of assessment in respect of the statutory income from the provision of qualifying services to its related companies located outside Malaysia and its related companies located in Malaysia (hereinafter referred to as the “exempt years of assessment”).
3(2) For the purpose of subparagraph (1), the provision of qualifying services by the treasury management centre shall be made at least to three of its related companies located outside Malaysia in a basis period for each exempt years of assessment.
3(3) The commencement of the exempt years of assessment shall be determined by the Minister.

Para 1(1) Commerce Clearing House (Malaysia) Sdn Bhd
3(4) The statutory income exempted as referred to in subparagraph (1) shall be on—

(a) 70% the statutory income from the provision of qualifying services to its related companies located outside Malaysia; and

(b) a part of the income from the provision of qualifying services to its related companies located in Malaysia and shall be determined in accordance with the following formula:

\[
\frac{A}{B} \times C
\]

where,

A is the amount as determined in accordance with the following formula:

\[
\frac{20}{80} \times \text{the amount of all income from the provision of qualifying services};
\]

B is the amount of gross income from the provision of qualifying services to its related companies in Malaysia; and

C is the amount of statutory income from the provision of qualifying services to its related companies in Malaysia.

3(5) The statutory income of the exempt business in the basis period for the year of assessment in the exempt period shall be determined after deducting allowances which should have been made under Schedule 3 of the Act notwithstanding that no claim for any allowances has been made.

PARAGRAPH 4 SPECIAL PROVISION FOR TREASURY MANAGEMENT CENTRE

4(1) Where the treasury management centre carries on its business in Malaysia—

(a) any payment in relation to the provision of qualifying services received, or paid by the centre from, or to any of its related companies located outside Malaysia or in Malaysia, shall be at arm’s length;

(b) any interest charged, or paid by the centre from, or to any of its related companies located outside Malaysia or in Malaysia, shall be at market rate.

4(2) Where the Director General is of the opinion that in the basis period for a year of assessment—

(a) any payment in relation to the provision of qualifying services under subparagraph (1)(a), is less than or greater than the arm’s length price; or

(b) any interest charged, or paid under subparagraph (1)(b) is excessive,

he may substitute the price in respect of the provision of qualifying services, or disallow the excessive amount of interest charged or paid, in determining of the adjusted income of the centre.
PARAGRAPH 5  SEPARATE SOURCE
5 Where the treasury management centre carries on a business of providing qualifying services to its office or related company located outside Malaysia or located in Malaysia, the business of providing qualifying services in Malaysia shall be treated as a separate and distinct source of business.

PARAGRAPH 6  TAX TREATMENT FOR TREASURY MANAGEMENT CENTRE THAT HAS SUFFERED LOSSES
6(1) Where the treasury management centre is ascertained to have an adjusted loss under subsection 44(2) of the Act for the basis period for a year of assessment during any exempt years of assessment in respect of a business source consisting of the provision of qualifying services to its related companies located outside Malaysia, the amount of adjusted loss shall be disregarded from the source consisting of the provision of qualifying services in Malaysia and other businesses.

6(2) Where the treasury management centre is ascertained to have a loss under subsection 43(2) of the Act for the basis period for a year of assessment during any exempt years of assessment in respect of a business source consisting of the provision of qualifying services to its related companies located outside Malaysia, the amount of adjusted loss shall be disregarded from the source consisting of the provision of qualifying services in Malaysia and other businesses.

6(3) Any balance of adjusted loss ascertained pursuant to subsections 43(2) and 44(2) of the Act in respect of a business source consisting of the provision of qualifying services to its related companies located outside Malaysia shall be disregarded for the purposes of this Act in the subsequent year or years of assessment after the exempt years of assessment, as the case may be.

PARAGRAPH 7  NON-APPLICATION
7 This Order shall not apply—
(a) to the treasury management centre in the basis period for the year of assessment if the centre, for that year of assessment—
   (i) has made a claim for reinvestment allowance under Schedule 7A or investment allowance under Schedule 7B of the Act;
   (ii) has been granted any incentive under the Promotion of Investment Act 1986 [Act 327];
   (iii) has been granted an exemption under section 127 of the Act;
   (iv) has made a claim for a deduction under any Rules made under section 154 of the Act except allowance under Schedule 3 of the Act; or
   (v) fails to satisfy the conditions as specified by the Minister.
(b) any application made to the Malaysia Investment Development Authority on or after 1 January 2017.
INCOME TAX (EXEMPTION) (NO. 6) ORDER 2012

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 6) Order 2012.
1(2) This Order is shall have effect from the year of assessment 2012.

PARAGRAPH 2 INTERPRETATION
2 In this Order—
“non-resident person” means a related company of the treasury management centre or a financial institution who is not resident in Malaysia within the meaning of section 8 of the Act;
“treasury management centre” means a company which is—
(a) incorporated under the Companies Act 1965 [Act 125] and resident in Malaysia;
(b) carrying on a business of providing qualifying services in Malaysia as specified by the Minister;
(c) approved by the Minister upon fulfilling the conditions specified by him.
“related company” has the same meaning as defined under section 2 of the Promotion of Investments Act 1986 [Act 327];
“exempt years of assessment” means five consecutive years of assessment where the statutory income of a treasury management centre is exempt from income tax under the Income Tax (Exemption) (No. 5) 2012 in relation to its business of providing qualifying services.

PARAGRAPH 3 EXEMPTION
3 The Minister exempts a non-resident person from the payment of income tax in respect of interest on borrowings to the treasury management centre for the purpose of providing qualifying services by that centre during the exempt years of assessment.

PARAGRAPH 4 NON-APPLICATION
4 The provisions of section 109 of the Act shall not apply to the income exempted under this Order.
INCOME TAX (EXEMPTION) (NO. 7) ORDER 2012
PU (A) 420

[14 November 2012]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 7) Order 2012.
1(2) This Order is deemed to have come into operation on 8 October 2011 and shall have effect subject to paragraph 3.

PARAGRAPH 2 INTERPRETATION
2 In this Order—
“incurred” has the same meaning assigned to it in paragraphs 46 and 55 of Schedule 3 to the Act;
“Malaysian Investment Development Authority” means a body corporate established under the Malaysian Investment Development Authority (Incorporation) Act 1965 (Revised – 1989) [Act 397];
“qualifying person” means—
(a) a society which is established under the Societies Act 1966 [Act 335] prior to 8 October 2011 or a company which is incorporated under the Companies Act 1965 [Act 125];
(b) resident in Malaysia;
(c) registered with the Ministry of Education Malaysia and has complied with terms and regulations as determined by that Ministry under the Education Act 1996 to carry on the business of private school; and
(d) approved by the Minister;
“pre-school education” has the meaning assigned to it in the Education Act 1996 [Act 550];
“qualifying capital expenditure” means capital expenditure incurred by a qualifying person on a building, plant or machinery used in Malaysia in connection with and for the purpose of an activity relating to teaching and training in a private school:
Provided that such qualifying capital expenditure shall not include capital expenditure incurred on any building used as living accommodation, plant and machinery which are provided wholly or partly for the use of a director or an individual who is a member of the management, administrative or clerical staff;

Para 1(1) Commerce Clearing House (Malaysia) Sdn Bhd
“private school” means a school which is not a government school that provides—
(a) private primary or secondary education or both, that comply with the requirements of the National Curriculum and examinations prescribed under the Education Act 1996 together with the provision of private pre-school education therein, if any;
(b) private religious primary or secondary education or both, that comply with the requirement of the National Curriculum prescribed under the Education Act 1996 together with the provision of private pre-school education therein, if any; or
(c) private Chinese primary or secondary education or both, together with the provision of private pre-school education therein, if any, that comply with guidelines issued by the Ministry of Education,
but shall not include a school which provides solely pre-school education;
“related company” has the same meaning as defined under section 2 of the Promotion of Investments Act 1986 [Act 327].

PARAGRAPH 3 APPLICATION
3 This Order shall apply to a qualifying person—
(a) who has made an application to the Malaysian Investment Development Authority on or after 8 October 2011 but not later than 31 December 2015; and
(b) who has not commenced its business of private school prior to the application referred to in subparagraph (a).

PARAGRAPH 4 EXEMPTION
4(1) The Minister exempts a qualifying person from the payment of income tax in a basis period for a year of assessment in respect of the statutory income derived from a business of private school in Malaysia which is equivalent to the amount of allowance as determined in subparagraph (2).
4(2) The amount of allowance referred to in subparagraph (1) shall be—
(a) at a rate of one hundred per cent of the qualifying capital expenditure; and
(b) given in respect of the qualifying capital expenditure incurred in the basis period for a year of assessment for a period of five years commencing from a date determined by the Malaysian Investment Development Authority.
4(3) The tax exemption on the statutory income of the business referred to in subparagraph (1) is subject to conditions as stated by the Minister in the approval letter of the business.
4(4) Nothing in subparagraph (1) shall absolve or is deemed to have absolved that qualifying person from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provision of the Act.

PARAGRAPH 5 STATUTORY INCOME
5(1) The statutory income in the basis period for a year of assessment referred to in subparagraph 4(1) for the period referred to in subsubparagraph 4(2)(b) shall be determined after deducting allowances which may be made according to Schedule 3 to the Act although no claim for such allowances has been made:
Provided that where an asset used for the purpose of the business of a private school in Malaysia is also used for the purpose of a business other than that business, then the allowances which may be made under Schedule 3 to the Act shall be deducted as is reasonable having regard to the extent to which the asset is used for the purpose of the first-mentioned business.

5(2) The amount of statutory income so exempt referred to in subparagraph 4(1) shall not exceed seventy per cent for each year of assessment.

5(3) Where, by reason of the absence or insufficiency of the statutory income or restriction of the rate as determined by the Minister in subparagraph (2), the exemption cannot be given or cannot be given in full to the amount as determined to which the qualifying person is entitled under subparagraph 4(1) for that year of assessment, then so much of that amount as cannot be exempt for that year of assessment shall be exempted for the first subsequent year of assessment for the basis period for which there is statutory income from that business, and for subsequent years of assessment until the whole of the amount to which it is so entitled is exempted.

PARAGRAPH 6 DETERMINATION OF QUALIFYING CAPITAL EXPENDITURE THAT IS SUBJECT TO CONTROL TRANSFER

6 Where paragraphs 39 and 40 of Schedule 3 to the Act applies on the disposal of a building, plant or machinery to its related company in which an allowance under subparagraph 4(2) has been made on the asset, then the amount of qualifying capital expenditure to be taken by the related company shall be equal to the disposer’s residual expenditure on the first day of the disposer’s final period.

PARAGRAPH 7 WITHDRAWAL OF TAX EXEMPTION

7 Where the qualifying person disposes of the asset at any time within two years from the date of acquisition of such asset, the amount of income exempted in respect of the allowance of that asset shall be deemed to have not been exempted to the qualifying person to which it would otherwise be entitled.

PARAGRAPH 8 SEPARATE ACCOUNT

8 The qualifying person shall maintain a separate account for the income derived from the business referred to in subparagraph 4(1) in the basis period for each year of assessment until the business received the whole of allowance or allowances to which it is so entitled.

PARAGRAPH 9 NON-APPLICATION

9 This Order shall not apply to a qualifying person in the basis period for the year of assessment if that qualifying person for that year of assessment—

(a) has made a claim for reinvestment allowance under Schedule 7A or investment allowance under Schedule 7B to the Act;

(b) has been granted any incentive under the Promotion of Investments Act 1986;

Para 5(2) Commerce Clearing House (Malaysia) Sdn Bhd
(c) has been granted an exemption under section 127 of the Act;
(d) has made a claim for deductions under any Rules made under section 154 of the Act except for allowance under Schedule 3 to the Act; or
(e) fails to satisfy the conditions as specified by the Minister in his approval letter referred to in subparagraph 4(3).
INCOME TAX (EXEMPTION) (NO. 8) ORDER 2012
PU (A) 421

[14 November 2012]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT

1(1) This order may be cited as the Income Tax (Exemption) (No. 8) Order 2012.

1(2) This Order is deemed to have come into operation on 8 October 2011 and shall have effect subject to paragraph 3.

PARAGRAPH 2 INTERPRETATION

2 In this Order—

“Malaysian Investment Development Authority” means a body corporate established under the Malaysian Investment Development Authority (Incorporation) Act 1965 (Revised – 1989) [Act 397];

“qualifying person” means—

(a) a society which is established under the Societies Act 1966 [Act 335] prior to 8 October 2011 or a company which is incorporated under the Companies Act 1965 [Act 125];

(b) resident in Malaysia;

(c) registered with the Ministry of Education Malaysia and has complied with terms and regulations as determined by that Ministry under the Education Act 1996 to carry on the business of private school or international school on or after 8 October 2011; and

(d) approved by the Minister;

“pre-school education” has the meaning assigned to it in the Education Act 1996 [Act 550];

“international school” means a school which is not a government school that provides pre-school education until the A-Level programme but shall not include a school which provides solely pre-school education;

“private school” means a school which is not a government school that provides—

(a) private primary or secondary education or both, that comply with the requirements of the National Curriculum and examinations prescribed under the Education Act 1996 together with the provision of private pre-school education therein, if any;

(b) private religious primary or secondary education or both, that comply with the requirement of the National Curriculum prescribed under the Education Act 1996 together with the provision of private pre-school education therein, if any; or

Para 1(1) Commerce Clearing House (Malaysia) Sdn Bhd
(c) private chinese primary or secondary education or both, together with the provision of private pre-school education therein, if any, that comply with guidelines issued by Ministry of Education,

but shall not include a school which provides solely pre-school education.

**PARAGRAPH 3 APPLICATION**

3 This Order shall apply to a qualifying person—

(a) who has made an application to the Malaysian Investment Development Authority on or after 8 October 2011 but not later than 31 December 2015; and

(b) who has not commenced its business of private school or international school prior to the application referred to in subparagraph (a).

**PARAGRAPH 4 EXEMPTION**

4(1) The Minister exempts a qualifying person from the payment of income tax in a basis period for a year of assessment in respect of the statutory income derived from a business of private school or international school in Malaysia.

4(2) The statutory income as referred to in subparagraph (1) shall be exempt for a period of five years (hereinafter referred to as “exempt period”) commencing from a date as determined by the Malaysian Investment Development Authority and computed in the manner prescribed under paragraph 5.

4(3) The tax exemption on the statutory income of the business referred to in subparagraph (1) is subject to conditions as stated by the Minister in the approval letter of the business.

4(4) Nothing in subparagraph (1) shall absolve or is deemed to have absolved the qualifying person from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the Act.

**PARAGRAPH 5 STATUTORY INCOME**

5(1) The statutory income from the business of private school or international school in Malaysia in the basis period for a year of assessment during the exempt period shall be determined after deducting allowances which may be made according to Schedule 3 to the Act although no claim for such allowances has been made:

Provided that where an asset used for the purposes of the business referred to in subparagraph (1) is also used for the purposes of a business other than that business, then the allowances which may be made under Schedule 3 to the Act shall be deducted as is reasonable having regard to the extent to which the asset is used for the purposes of the first-mentioned business.

**Thornton’s Malaysian Tax Commentaries**

Para 5(1)
5(2) The amount of statutory income of the business of private school or international school in Malaysia to be exempt in the basis period for a year of assessment during the exempt period shall be determined according to the following manner:

(a) seventy per cent of the statutory income; and

(b) the amount of statutory income referred to in subsubparagraph (2)(a) shall be reduced—

(i) first, by current year adjusted loss from a business or businesses other than the business of private school or international school in Malaysia, as the case may be; and

(ii) next, by any unabsorbed adjusted loss or current year adjusted loss from the business of private school or international school in Malaysia exempted under this Order, as the case may be.

5(3) So much of the adjusted loss referred to in subsubsubparagraphs (2)(b)(i) and (ii) which was utilised to reduce the statutory income of the business of private school or international school in Malaysia for a year of assessment shall not be taken into account for the purposes of subsections 43(2) and 44(2) of the Act.

5(4) Any amount of statutory income of a qualifying person for a year of assessment from a source consisting of a business of private school or international school in Malaysia which is not exempt under this Order shall be deemed to be the total income of that person.

5(5) Any amount of unabsorbed adjusted loss and current year adjusted loss from a business of private school or international school in Malaysia that are not utilised to reduce the statutory income during the exempt period referred to in subsubparagraph (2)(b), shall be available to reduce the statutory income or total income of that person in accordance with subsections 43(2) and 44(2) of the Act in the basis period following the cessation of that exempt period for the year of assessment and subsequent years of assessment, as the case may be.

PARAGRAPH 6 CAPITAL ALLOWANCE

6 For the purpose of this Order, notwithstanding the provisions of Schedule 3 to the Act—

(a) the residual expenditure of an asset used prior to the date of commencement of the exempt period where that asset continues to be in use in the basis period for the year of assessment in which the day of commencement of the exempt period falls shall be deemed to be the residual expenditure of that asset on the day of commencement of that exempt period;

(b) any capital expenditure incurred in respect of an asset in the basis period prior to the date of commencement of the exempt period and that asset continues to be in use in the basis period for the year of assessment in which the exempt period falls shall be deemed to have been incurred on the day of commencement of that exempt period;

Para 5(2) Commerce Clearing House (Malaysia) Sdn Bhd
(c) the residual expenditure of an asset used in the exempt period and that asset continues to be in use in the basis period for the year of assessment in which the date of cessation of the exempt period falls shall be deemed to be the residual expenditure of that asset on the day following the cessation of that exempt period;

(d) any capital expenditure incurred in respect of an asset during the exempt period and that asset continues to be in use in the basis period for a year of assessment in which the date of cessation of exempt period falls shall be deemed to have been incurred on the day following the cessation of that exempt period;

(e) where an asset used for the purposes of the business of private school or international school in Malaysia is also used for other purposes than that business—

(i) then, the allowances which may be made under Schedule 3 to the Act shall be deducted as is reasonable having regard to the extent to which the asset is used for the purpose of the first-mentioned business; and

(ii) the residual expenditure arrived at under subparagraphs (a) or (c), shall be reduced by the amount of any deduction made under subsubparagraph (i);

(f) unabsorbed capital allowance prior to the commencement of the exempt period shall be utilised to reduce the statutory income of the business of private school or international school in Malaysia in the basis period for the year of assessment of the exempt period; and

(g) unabsorbed capital allowance during the exempt period of the business of private school or international school in Malaysia shall be utilised to reduce the statutory income of that business in the basis period following the cessation of that exempt period for the year of assessment and any subsequent years of assessment.

PARAGRAPH 7 SEPARATE SOURCE

7 Where a qualifying person carries on a business of private school or international school in Malaysia and other business or businesses, each of such businesses shall be treated as a separate and distinct source of business.

PARAGRAPH 8 NON-APPLICATION

8 This Order shall not apply to a qualifying person in the basis period for the year of assessment if that person for that year of assessment—

(a) has made a claim for reinvestment allowance under Schedule 7A or investment allowance under Schedule 7B to the Act;

(b) has been granted any incentive under the Promotion of Investments Act 1986 [Act 327];

(c) has been granted an exemption under section 127 of the Act;

(d) has made a claim for a deductions under any Rules made under section 154 of the Act except for allowance under Schedule 3 to the Act; or

(e) fails to satisfy the conditions as specified by the Minister in his approval letter referred to in subparagraph 4(3).
INCOME TAX (EXEMPTION) (NO. 9) 
ORDER 2012
PU (A) 422

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT

1(1) This order may be cited as the Income Tax (Exemption) (No. 9) Order 2012.

1(2) This Order is deemed to have come into operation on 14 July 2010 and shall have effect subject to paragraph 3.

PARAGRAPH 2 INTERPRETATION

2 In this Order—

“incurred” has the same meaning assigned to it in paragraphs 46 and 55 of Schedule 3 to the Act;

“Malaysian Investment Development Authority” means a body corporate established under the Malaysian Investment Development Authority (Incorporation) Act 1965 (Revised - 1989) [Act 397];

“qualifying person” means—

(a) a society which is established under the Societies Act 1966 [Act 335] prior to 14 July 2010 or a company which is incorporated under the Companies Act 1965 [Act 125];

(b) resident in Malaysia;

(c) registered with the Ministry of Education Malaysia and has complied with terms and regulations as determined by that Ministry under the Education Act 1996 to carry on the business of international school; and

(d) approved by the Minister;

“pre-school education” has the meaning assigned to it in the Education Act 1996 [Act 550];

Para 1(1) Commerce Clearing House (Malaysia) Sdn Bhd
“qualifying capital expenditure” means capital expenditure incurred by a qualifying person for the purpose of the business of international school—

(a) in relation to a new school which commences its business after the application referred to in subparagraph 3(a), on a building, plant or machinery used in Malaysia in connection with and for the purpose of an activity relating to teaching and training in an international school; or

(b) in relation to an existing school which has commenced its business before the application referred to in subparagraph 3(a), on a building, plant or machinery used in Malaysia in connection with and for the purpose of an activity relating to teaching and training in an international school for the improvement of the existing school facilities or any new investment in a location other than the existing school:

Provided that such qualifying capital expenditure shall not include capital expenditure incurred on any building used as living accommodation, plant and machinery which are provided wholly or partly for the use of a director or an individual who is a member of the management, administrative or clerical staff;

“international school” means a school which is not a government school that provides pre-school education until the A-Level programme but shall not include a school which provides solely pre-school education;

“related company” has the same meaning as defined under section 2 of the Promotion of Investments Act 1986 [Act 327].

PARAGRAPH 3 APPLICATION

3 This Order shall apply to—

(a) a qualifying person who has made an application to the Malaysian Investment Development Authority on or after 14 July 2010 but not later than 31 December 2015; and

(b) qualifying capital expenditure incurred from the year of assessment 2010.

PARAGRAPH 4 EXEMPTION

4(1) The Minister exempts a qualifying person from the payment of income tax in a basis period for a year of assessment in respect of the statutory income derived from a business of international school in Malaysia which is equivalent to the amount of allowance as determined in subparagraph (2).

4(2) The amount of allowance referred to in subparagraph (1) shall be—

(a) at a rate of one hundred per cent of the qualifying capital expenditure; and

(b) given in respect of the qualifying capital expenditure incurred in the basis period for a year of assessment for a period of five years commencing from a date determined by the Malaysian Investment Development Authority.

4(3) The tax exemption on the statutory income of the business referred to in subparagraph (1) is subject to conditions as stated by the Minister in the approval letter of the business.
4(4) Nothing in subparagraph (1) shall absolve or is deemed to have absolved that qualifying person from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provision of the Act.

PARAGRAPH 5 STATUTORY INCOME

5(1) The statutory income in the basis period for a year of assessment referred to in subparagraph 4(1) for the period referred to in subsubparagraph 4(2)(b) shall be determined after deducting allowances which may be made according to Schedule 3 to the Act although no claim for such allowances has been made:

Provided that where an asset used for the purpose of the business of an international school in Malaysia is also used for the purpose of a business other than that business, then the allowances which may be made under Schedule 3 to the Act shall be deducted as is reasonable having regard to the extent to which the asset is used for the purpose of the first-mentioned business.

5(2) The amount of statutory income so exempt referred to in subparagraph 4(1) shall not exceed seventy per cent for each year of assessment.

5(3) Where, by reason of the absence or insufficiency of the statutory income or restriction of the rate as determined by the Minister in subparagraph (2), the exemption cannot be given or cannot be given in full to the amount as determined to which the qualifying person is entitled under subparagraph 4(1) for that year of assessment, then so much of that amount as cannot be exempt for that year of assessment shall be exempted for the first subsequent year of assessment for the basis period for which there is statutory income from that business, and for subsequent years of assessment until the whole of the amount to which it is so entitled is exempted.

PARAGRAPH 6 DETERMINATION OF QUALIFYING CAPITAL EXPENDITURE THAT IS SUBJECT TO CONTROL TRANSFER

6 Where paragraphs 39 and 40 of Schedule 3 to the Act applies on the disposal of a building, plant or machinery to its related company in which an allowance under subparagraph 4(2) has been made on the asset, then the amount of qualifying capital expenditure to be taken by the related company shall be equal to the disposer's residual expenditure on the first day of the disposer's final period.

PARAGRAPH 7 WITHDRAWAL OF TAX EXEMPTION

7 Where the qualifying person disposes of the asset at any time within two years from the date of acquisition of such asset, the amount of income exempted in respect of the allowance of that asset shall be deemed to have not been exempted to the qualifying person to which it would otherwise be entitled.

PARAGRAPH 8 SEPARATE ACCOUNT

8 The qualifying person shall maintain a separate account for the income derived from the business referred to in subparagraph 4(1) in the basis period for each year of assessment until the business received the whole of allowance or allowances to which it is so entitled.

Para 4(4) Commerce Clearing House (Malaysia) Sdn Bhd
PARAGRAPH 9 NON-APPLICATION

This Order shall not apply to a qualifying person in the basis period for the year of assessment if that qualifying person for that year of assessment—

(a) has made a claim for reinvestment allowance under Schedule 7A or investment allowance under Schedule 7B to the Act;
(b) has been granted any incentive under the Promotion of Investments Act 1986;
(c) has been granted an exemption under section 127 of the Act;
(d) has made a claim for a deductions under any Rules made under section 154 of the Act except for allowance under Schedule 3 to the Act; or
(e) fails to satisfy the conditions as specified by the Minister in his approval letter referred to in subparagraph 4(3).
INCOME TAX (EXEMPTION) (NO. 10) ORDER 2012
PU (A) 447

[17 December 2012]

IN exercise of the powers conferred by paragraph 127(3A) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT

1(1) This order may be cited as the Income Tax (Exemption) (No. 10) Order 2012.

1(2) This Order is deemed to have come into operation on 24 April 2012.

PARAGRAPH 2 EXEMPTION

2 The Minister exempts—
(a) the ASEAN Infrastructure Fund Limited from all provisions of the Act; and
(b) a non-resident employee from payment of income tax on all gains or profits derived from his employment with the ASEAN Infrastructure Fund Limited.
INCOME TAX (EXEMPTION) (NO. 11) ORDER 2012
PU (A) 451

[10 December 2012]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 11) Order 2012.
1(2) This Order has effect from the year of assessment 2013 until the year of assessment 2015.

PARAGRAPH 2 INTERPRETATION
2 In this Order, unless the context otherwise requires—
``domestic tour’’ means a tour package for travel within Malaysia undertaken by local tourists inclusive of transportation by air, land or sea and accommodation;
``local tourists’’ means individuals who are Malaysian citizens or residing in Malaysia;
``tour operating business’’ has the same meaning assigned to it under subsection 2(1) of the Tourism Industry Act 1992 [Act 482].

PARAGRAPH 3 EXEMPTION
3(1) Subject to subparagraph (2), the Minister exempts a company resident in Malaysia which is licensed under the Tourism Industry Act 1992 to carry on a tour operating business from the payment of income tax in respect of the statutory income derived from domestic tours.
3(2) The exemption in subparagraph (1) shall only apply if the total number of local tourists on domestic tours relating to the company is not less than one thousand five hundred in the basis period for a year of assessment which is certified by a letter from the Ministry of Tourism Malaysia.

PARAGRAPH 4 MAINTAINING SEPARATE ACCOUNT
4 A company seeking exemption under paragraph 3 shall maintain a separate account for the income derived from domestic tours.

PARAGRAPH 5 APPLICATION OF PARAGRAPHS 5 AND 6 OF SCHEDULE 7A
5 Paragraphs 5 and 6 of Schedule 7A to the Act shall apply, subject to such modifications and adaptations as may be necessary, to the amount of income exempted under paragraph 3.
INCOME TAX (EXEMPTION) ORDER 2013

PU (A) 3

[28 December 2012]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1  CITATION AND COMMENCEMENT

1(1)  This order may be cited as the Income Tax (Exemption) Order 2013.

1(2)  This Order has effect from the year of assessment 2013.

PARAGRAPH 2  APPLICATION

2  This Order shall apply to a person in respect of a business of his for the provision and maintenance of a child care centre registered with the Department of Social Welfare under the Child Care Centre Act 1984 [Act 308].

PARAGRAPH 3  EXEMPTION

3(1)  The Minister exempts a person referred to in paragraph 2 from the payment of income tax in respect of a statutory income derived from the business in respect of the provision and maintenance of a child care centre for the period of five consecutive years of assessment (the exempt years of assessment) commencing from—

(a)  the year of assessment 2013 in relation to an existing child care centre; or

(b)  the first invoice issued by a child care centre that commences its business from the year of assessment 2013.

3(2)  The statutory income referred to in subparagraph (1) in the basis period for each of the exempt years of assessment shall be determined after deducting allowances which fall to be made under Schedule 3 to the Act notwithstanding that no claim for such allowances has been made.

3(3)  Where an asset used for the purpose of that statutory income is also used for the purpose of ascertaining other business incomes or other sources of income, then the allowances which fall to be made under Schedule 3 to the Act shall be deducted as is reasonable having regard to the extent to which the asset is used for the purpose of the statutory income.

3(4)  Nothing in subparagraph (1) shall absolve or is deemed to absolve the person from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provision of the Act.

Para 1(1)  Commerce Clearing House (Malaysia) Sdn Bhd
PARAGRAPH 4 LOSSES

4(1) Any amount of adjusted loss incurred—
   (a) from the year of assessment in the basis period in which the income referred to in paragraph 3 has commenced until the year of assessment immediately prior to the exempt years of assessment; and
   (b) during the exempt years of assessment,

shall be carried forward and deducted against the statutory income of that source of income referred to in paragraph 3 in its post-exempt years of assessment until the whole amount of the adjusted loss to which it is so entitled is utilized.

4(2) Such adjusted loss that was utilized to reduce the statutory income shall be disregarded for the purposes of subsections 43(2) and 44(2) of the Act.

PARAGRAPH 5 SEPARATE SOURCE AND ACCOUNT

5(1) Where the person who is exempted under paragraph 3 carries on the business other than the provision and maintenance of a child care centre, the income derived from that business shall be treated as a separate and distinct business source of that person.

5(2) The person who is exempted under paragraph 3 shall maintain a separate account for—
   (a) the income derived from the business in respect of the provision and maintenance of a child care centre referred to in paragraph 3; and
   (b) the income derived from the business other than the provision and maintenance of a child care centre.
INCOME TAX (EXEMPTION) (NO. 2) ORDER 2013
PU (A) 7

[17 December 2012]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This Order may be cited as the Income Tax (Exemption) (No. 2) Order 2013.
1(2) This Order has effect from the year of assessment 2013 until the year of assessment 2015.

PARAGRAPH 2 INTERPRETATION
2 In this Order—
   “tour operating business” has the same meaning assigned to it under subsection 2(1) of the Tourism Industry Act 1992 [Act 482];
   “group inclusive tour” means a tour package to or of Malaysia or any place within Malaysia undertaken by tourists from outside Malaysia, inclusive of transportation by air, land or sea and accommodation.

PARAGRAPH 3 EXEMPTION
3(1) Subject to subparagraph (2), the Minister exempts a company resident in Malaysia which is licensed under the Tourism Industry Act 1992 to carry on a tour operating business from the payment of income tax in respect of the statutory income derived from group inclusive tours.
3(2) The exemption in subparagraph (1) shall only apply if the total number of tourists from outside Malaysia in group inclusive tours relating to the company is not less than seven hundred and fifty in the basis period for a year of assessment which is certified by a letter from the Ministry of Tourism Malaysia.

PARAGRAPH 4 MAINTAINING SEPARATE ACCOUNT
4 A company seeking exemption under paragraph 3 shall maintain a separate account for the income derived from group inclusive tours.

PARAGRAPH 5 APPLICATION OF PARAGRAPHS 5 AND 6 OF SCHEDULE 7A
5 Paragraphs 5 and 6 of Schedule 7A of the Act shall apply, subject to such modifications and adaptations as may be necessary, to the amount of income exempted under paragraph 3.

Para 1(1) Commerce Clearing House (Malaysia) Sdn Bhd
INCOME TAX (EXEMPTION) (NO. 3) ORDER 2013
PU (A) 13

[11 January 2013]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT

1(1) This order may be cited as the Income Tax (Exemption) (No. 3) Order 2013.
1(2) This Order has effect from the year of assessment 2013.

PARAGRAPH 2 APPLICATION

2 This Order shall apply to a person in respect of business of his is in relation to the provision and maintenance of a kindergarten registered with the Ministry of Education Malaysia.

PARAGRAPH 3 NON-APPLICATION

3 This Order shall not apply to a kindergarten which is integrated with a private primary school.

PARAGRAPH 4 EXEMPTION

4(1) The Minister exempts a person referred to in paragraph 2 from the payment of income tax in respect of a statutory income derived from the business of a kindergarten for the period of five consecutive years of assessment (the exempt years of assessment) commencing from—

(a) the year of assessment 2013 in relation to an existing kindergarten; or
(b) the first invoice issued by a kindergarten that commences its business from the year of assessment 2013.

4(2) The statutory income referred to in subparagraph (1) in the basis period for each of the exempt year of assessment shall be determined after deducting allowances which fall to be made under Schedule 3 to the Act notwithstanding that no claim for such allowances has been made.

4(3) Where an asset used for the purpose of that statutory income is also used for the purpose of ascertaining other business income or other sources of income, then the allowances which fall to be made under Schedule 3 to the Act shall be deducted as is reasonable having regard to the extent to which the asset is used for the purpose of the statutory income.

4(4) Nothing in subparagraph (1) shall absolve or is deemed to absolve the person from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provision of the Act.

Thornton’s Malaysian Tax Commentaries Para 4(4)
PARAGRAPH 5  LOSSES

5(1)  Any amount of adjusted loss incurred—
   (a) from the year of assessment in the basis period in which the income referred to in paragraph 4 has commenced until the year of assessment immediately prior to the exempt years of assessment; and
   (b) during the exempt years of assessment,
shall be carried forward and deducted against the statutory income of that source of income referred to in paragraph 4 in its post-exempt years of assessment until utilized the whole amount of the adjusted loss to which it is so entitled.

5(2)  Such adjusted loss that was utilized to reduce the statutory income shall be disregarded for the purposes of subsections 43(2) and 44(2) of the Act.

PARAGRAPH 6  SEPARATE SOURCE AND ACCOUNT

6(1)  Where the person who is exempted under paragraph 4 carries on the business other than the provision and maintenance of a kindergarten, the income derived from that business shall be treated as a separate and distinct business source of that person.

6(2)  The person who is exempted under paragraph 4 shall maintain a separate account for—
   (a) the income derived from the business in respect of the provision and maintenance of a kindergarten referred to in paragraph 4; and
   (b) the income derived from the business other than the provision and maintenance of a kindergarten.
INCOME TAX (EXEMPTION) (NO. 4) ORDER 2013

PU (A) 28

[30 January 2013]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPHS 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 4) Order 2013.
1(2) This Order shall have effect from the year of assessment 2013.

PARAGRAPHS 2 INTERPRETATION
2(1) In this Order—
``building'' means a building located within the Tun Razak Exchange which is constructed by the approved developer in accordance with the development plan for the Tun Razak Exchange;
``disposal'' includes withdrawal of stock in trade pursuant to subsection 24(2) of the Act;
``approved developer'' means—
(a) a company incorporated under the Companies Act, 1965 [Act 125] and resident in Malaysia which undertakes development within the Tun Razak Exchange in accordance with the Tun Razak Exchange approved master plan; and
(b) a company approved by the Minister;

PARAGRAPHS 3 TUN RAZAK EXCHANGE
3 Tun Razak Exchange means the area referred to in the approved development plan for the Tun Razak Exchange on part of Lot 1164, Lot 1207, Lot 1209, Lot 1210, Lot 1217, PT 122 Section 62, Lot 205 – lot 208, part of Lot 209, Lot 733, Lot 956, Lot 1309 – Lot 1311, Lot 1313, Lot 1314, Lot 1393, Lot 1364, PT 86, PT 109 – PT 121, PT 123 Section 67 at Jalan Tun Razak/Jalan Davis, Wilayah Persekutuan, Kuala Lumpur including any subsequent changes thereto as approved by Dewan Bandaraya Kuala Lumpur.

PARAGRAPHS 4 EXEMPTION
4(1) The Minister exempts an approved developer from the payment of income tax in respect of seventy percent of its statutory income derived from—
(a) the disposal of any building or rights over any building or part of a building up to the year of assessment 2022, subject to a maximum five (5) consecutive years of assessment commencing from the year of assessment in which the approved developer first derives statutory income from such disposal (hereinafter referred to as “exempt years of assessment’’); and
(b) the rental of a building or part of a building up to the year of assessment 2027, subject to a maximum five (5) consecutive years of assessment commencing from the first year of assessment in which the approved developer first derives statutory income from the rental activity (hereinafter referred to as “exempt years of assessment”).

4(2) Any amount of statutory income of an approved developer for a year of assessment from a source consisting of a business referred to in subsubparagraph 3(1)(a) or (b) which is not exempt under this Order shall be deemed to be the total income of that approved developer.

4(3) The Minister shall withdraw the tax exemption on the statutory income referred to in subparagraph (1) if the approved developer fails to undertake the development activity in accordance with the Tun Razak Exchange master plan or fails to comply with any approval conditions as determined by the Minister.

4(4) The statutory income referred to in subparagraph (1) in the basis period for each exempt year of assessment shall be determined after deducting allowances which fall to be made under Schedule 3 of the Act notwithstanding that no claim for such allowances has been made.

4(5) Provided that where an asset used for the purpose of the activity referred to in subparagraph (1) is also used for the purpose of an activity or a business other than the first-mentioned activity, then the allowances which fall to be made under Schedule 3 of the Act shall be deducted as is reasonable having regard to the extent to which the asset is used for the purpose of the first-mentioned activity.

4(6) Nothing in subparagraph (1) shall absolve or be deemed to have absolved the approved developer from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provision of the Act.

PARAGRAPH 5 SPECIAL PROVISION FOR APPROVED DEVELOPER

5 For the purpose of this Order the income from the approved developer for the activity referred to in subparagraph 3(1)(a) shall apply to—

(a) the Income Tax (Property Development) Regulations 2007 [P.U.(A) 277/2007] in relation to the sell-then-build method; or

(b) the Income Tax (Property Development) Regulations 2007 [P.U. (A) 277/2007] except for regulation 6, in relation to the build-then-sell method.

PARAGRAPH 6 SEPARATE SOURCE AND ACCOUNT

6(1) Where the approved developer carries on an activity referred to in paragraph 3(1)(a) or (b), and other activity or business, each of such activity or business shall be treated as a separate and distinct source of activity or business.

6(2) The approved developer shall maintain separate accounts for the income derived from each of the activities referred to in paragraphs 3(1)(a) or (b) and other activity or business.
PARAGRAPH 7 DISPOSAL OF BUILDING
7 Any disposal of a building which is held for investment by the approved developer for which rental income has been exempted under this Order shall be taxed under the Real Property Gains Tax Act 1976 [Act 169].

PARAGRAPH 8 LOSSES
8 In relation to subsubparagraph 3(1)(b)—
  (a) any amount of adjusted loss incurred prior and during the exempt years of assessment arising from that activity referred to in paragraphs 3(1)(b) shall be carried forward and deducted against the statutory income of that activity in the post-exempt year or years of assessment until the whole amount of the adjusted loss has been utilised against the statutory income of that respective activity; and
  (b) so much of the adjusted loss that was utilised to reduce the statutory income of that activity referred to in subsubparagraph 3(1)(b) in the post-exempt year or years of assessment, shall be disregarded for the purposes of the subsections 43(2) and 44(1) of the Act.

PARAGRAPH 9 NON-APPLICATION
9 This Order shall not apply to an approved developer which in the basis period for a year of assessment has claimed for a deduction under the Income Tax (Industrial Building Allowance) (Tun Razak Exchange Marquee Status Company) Rules 2013 [P.U. (A) 27/2013].
INCOME TAX (EXEMPTION) (NO. 5) 
ORDER 2013 
PU (A) 39 

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 5) Order 2013.
1(2) This Order is deemed to have come into operation from 10 October 2011 until 31 December 2021.

PARAGRAPH 2 INTERPRETATION
2(1) In this Order—
``qualifying activity’’ means any of the following activity carried out by a qualifying person in RAPID Complex:
(a) blending, processing or cracking of crude, condensates, feedstock or intermediate feedstock;
(b) production, manufacturing or product development of petroleum, petrochemical, chemicals, intermediate, final products or its related by-products;
(c) storing, formulating, blending, distributing or marketing of petroleum, petrochemical, chemicals, intermediate, final products or its related by-products;
(d) re-gasification of LNG to gas and relevant distribution; or
(e) generation, distribution or sales of all forms of utilities including but not limited to electricity, water, steam, gases, hydrogen, air or waste treatment;
``RAPID Complex’’ means a complex which consists of liquid cracker plants, refinery plants, petrochemical or chemical production plants and all support and auxiliary facilities including but not limited to liquid natural gas (LNG), Receiving and Regasification Terminal (RGT), COGEN power plant, storage facilities or waste disposal facilities, and located in Pengerang, Johor;
``qualifying person’’ means—
(a) Petroliam Nasional Berhad;
(b) any other company incorporated under the Companies Act 1965 [Act 125] where Petroliam Nasional Berhad holds at least 51 per cent paid up capital in respect of ordinary shares; or
(c) any other company incorporated under the Companies Act 1965 which carries out qualifying activity within the RAPID Complex where Petroliam Nasional Berhad holds, either directly or indirectly, ordinary shares in that company.

Para 1(1) Commerce Clearing House (Malaysia) Sdn Bhd
2(2) For the purpose of this Order, “RAPID” is an abbreviation for Refinery and Petrochemical Integrated Development.

PARAGRAPH 3 EXEMPTION
3(1) The Minister exempts a non-resident person from the payment of income tax in respect of—
   (a) any payment under paragraph 4A of the Act;
   (b) interest;
   (c) royalty;
   (d) contract payment under section 107A of the Act; and
   (e) other gains or profit falling under paragraph 4(f) of the Act, received from a qualifying person in relation to qualifying activity.
3(2) Nothing in subparagraph (1) shall absolved or be deemed to have absolved the non-resident person from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provisions of the Act.

PARAGRAPH 4 NON-APPLICATION
4 The provisions of sections 107A, 109, 109B and 109F of the Act shall not apply to the income exempted under this Order.
INCOME TAX (EXEMPTION) (NO. 6) ORDER 2013

[29 January 2013]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT

1(1) This order may be cited as the Income Tax (Exemption) (No. 6) Order 2013.

1(2) This Order is deemed to have come into operation from the year of assessment 2011.

PARAGRAPH 2 INTERPRETATION

2(1) In this Order—

“qualifying activity” means any of the following activity carried out by a qualifying person in RAPID Complex:

(a) blending, processing or cracking of crude, condensates, feedstock or intermediate feedstock;

(b) production, manufacturing or product development of petroleum, petrochemical, chemicals, intermediate, final products or its related by-products;

(c) storing, formulating, blending, distributing or marketing of petroleum, petrochemical, chemicals, intermediate, final products or its related by-products;

(d) re-gasification of LNG to gas and its relevant distribution; or

(e) generation, distribution or sales of all forms of utilities including but not limited to electricity, water, steam, gases, hydrogen, air or waste treatment;

“incurred” has the same meaning assigned to it in paragraphs 46 and 55 of Schedule 3 to the Act;

“disposed of” means sold, discarded, destroyed or if it ceases to be used for the purpose of qualifying activity;

“RAPID Complex” means a complex which consists of liquid cracker plants, refinery plants, petrochemical or chemical production plants and all support and auxiliary facilities including but not limited to liquid natural gas (LNG), Receiving and Regasification Terminal (RGT), COGEN power plant, storage facilities or waste disposal facilities, and located in Pengerang, Johor;
“qualifying person” means—

(a)  Petroliam Nasional Berhad;

(b)  any other company incorporated under the Companies Act 1965 [Act 125] where Petroliam Nasional Berhad holds at least fifty-one per cent paid up capital in ordinary shares; or

(c)  any other company incorporated under the Companies Act 1965 which carries out qualifying activity within the RAPID Complex where Petroliam Nasional Berhad holds, either directly or indirectly, ordinary shares in that company.

“qualifying capital expenditure” in relation to manufacturing or processing, means capital expenditure incurred on—

(a)  the provision of any plant and machinery and construction of a factory used in Malaysia in connection with and for the purpose of the qualifying activity; or

(b)  the provision of any plant and machinery and construction of a building used in Malaysia in connection with and for the purposes of the qualifying activity relating to in-house research,

provided that such qualifying capital expenditure shall not include capital expenditure incurred on building which are used as living accommodation for person, plant and machinery which are provided wholly or partly for the use of a director or an individual who is a member of the management, administration or clerical staff of that qualifying person;

“related company” has the same meaning as defined in section 2 of the Promotion of Investments Act 1986 [Act 327].

2(2)  For the purpose of this Order, “RAPID” is an abbreviation for Refinery and Petrochemical Integrated Development.

PARAGRAPH 3  APPLICATION

3  This Order shall apply to a qualifying person who has made an application to the Malaysian Investment Development Authority Minister on or after 10 October 2011.

PARAGRAPH 4  EXEMPTION

4(1)  The Minister exempts a qualifying person resident in Malaysia in the basis period for a year of assessment from the payment of income tax in respect of statutory income derived from a qualifying activity which is equivalent to the amount of allowance as determined in subparagraph (2).

4(2)  The amount of allowance referred to in subparagraph (1) shall be one hundred per cent of the qualifying capital expenditure incurred in the basis period for a year of assessment for ten consecutive years of assessment (hereinafter referred to as the “exempt years of assessment”).

Thornton’s Malaysian Tax Commentaries  Para 4(2)
4(3) The commencement of the exempt years of assessment referred to in subparagraph (2)—

(a) shall be in the basis period for a year of assessment where the first qualifying capital expenditure is incurred by that qualifying person falls as determined by Malaysian Investment Development Authority; and

(b) shall not be earlier than three years of assessment in the basis period the date of application referred to paragraph 3 is received,

but not earlier than the year of assessment 2011.

4(4) Where a qualifying person incurs its first qualifying capital expenditure in relation to the qualifying activity referred to in subparagraph (1) which is about to carry on, then that expenditure shall be deemed to be incurred in the basis period for a year of assessment in which the qualifying person commences to carry on that activity.

4(5) Nothing in subparagraph (1) shall absolve or is deemed to have absolved the qualifying person from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provision of the Act.

PARAGRAPH 5 STATUTORY INCOME

5(1) The statutory income referred to in subparagraph 4(1) in the basis period for each of the exempt years of assessment shall be determined after deduction of allowances which fall to be made under Schedule 3 to the Act although no claim for such allowances has been made.

5(2) Provided that where an asset used for the purpose of the qualifying activity, is also used for the purpose of an activity or business other than that qualifying activity, then the allowance which falls to made under Schedule 3 to the Act shall be deducted as is reasonable having regard to the extent to which the asset is used for the purpose of the qualifying activity.

5(3) Where an allowance is given to a qualifying person under subparagraph 4(1) for each of the exempt years of assessment, so much of the statutory income of the activity of that person for each exempt year of assessment as is equal to the amount of the allowance shall be exempted from tax for each exempt year of assessment.

5(4) Where, by reason of the absence or insufficiency of the statutory income, effect cannot be given or cannot be given in full to the amount as determined to which the qualifying person is entitled under subparagraph 4(1) for each of that exempt years of assessment, then so much of that amount which cannot be exempted for that year of assessment shall be exempted for the first subsequent year of assessment for the basis period for which there is statutory income from that qualifying activity, and for subsequent years of assessment until the whole of the amount to which it is so entitled is exempted.

Para 4(3) Commerce Clearing House (Malaysia) Sdn Bhd
PARAGRAPH 6 WITHDRAWAL OF QUALIFYING CAPITAL EXPENDITURE

6 Where qualifying capital expenditure is incurred by a qualifying person on an asset used for the purpose of qualifying activity and such asset is disposed of at any time within two years from the date of acquisition of the asset, the amount of income exempted in respect of the allowance of such asset is deemed to have not been exempted to that person to which it would otherwise be entitled.

PARAGRAPH 7 DETERMINATION OF QUALIFYING CAPITAL EXPENDITURE ON DISPOSAL OF ASSET TO A RELATED COMPANY

7 Any disposal of a factory, building, plant or machinery by a qualifying person to its related company in which allowance has been made on the asset under subparagraph 4(2), then the amount of qualifying capital expenditure to be taken by the related company shall be deemed for a sum equal to zero.

PARAGRAPH 8 SEPARATE ACCOUNT

8 A qualifying person shall maintain a separate account for the income derived from the qualifying activity in a basis year for each year of assessment until that qualifying activity utilized the whole allowance or allowances to which it is so entitled.

PARAGRAPH 9 NON-APPLICATION

9 This Order shall not apply to a qualifying person who in the basis period for each exempt year of assessment—

(a) has made a claim for reinvestment allowance under Schedule 7A or investment allowance under Schedule 7B of the Act;

(b) has been granted any incentive under the Promotion of Investment Act 1986 [Act 327] except under section 41 of the Promotion of Investment Act 1986;

(c) has been granted any other exemption under section 127 of the Act except for Income Tax (Exemption) (No. 5) Order 2013 [P.U. (A) 39/2013];
INCOME TAX (EXEMPTION) (NO. 7) ORDER 2013
PU (A) 41

[29 January 2013]

IN exercise of the powers conferred by subsection 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 7) Order 2013.
1(2) This Order shall have effect from the year of assessment 2011.

PARAGRAPH 2 INTERPRETATION
2(1) In this Order—
   “qualifying activity” means any of the following activity carried out by a qualifying person in RAPID Complex:
   (a) blending, processing or cracking of crude, condensates, feedstock or intermediate feedstock;
   (b) production, manufacturing or product development of petroleum, petrochemical, chemicals, intermediate, final products or its related by-products;
   (c) storing, formulating, blending, distributing or marketing of petroleum, petrochemical, chemicals, intermediate, final products or its related by-products;
   (d) re-gasification of LNG to gas and relevant distribution; or
   (e) generation, distribution or sales of all forms of utilities including but not limited to electricity, water, steam, gases, hydrogen, air or waste treatment;

   “RAPID Complex” means a complex which consists of liquid cracker plants, refinery plants, petrochemical or chemical production plants and all support and auxiliary facilities including but not limited to liquid natural gas (LNG), Receiving and Regasification Terminal (RGT), COGEN power plant, storage facilities or waste disposal facilities, and located in Pengerang, Johor;

   “qualifying person” means—
   (a) Petroliam Nasional Berhad;
   (b) any other company incorporated under the Companies Act 1965 [Act 125] where Petroliam Nasional Berhad holds at least 51 per cent paid up capital in respect of ordinary shares; or
   (c) any other company incorporated under the Companies Act 1965 which carries out qualifying activity within the RAPID Complex where Petroliam Nasional Berhad holds, either directly or indirectly, ordinary shares in that company.

2(2) For the purpose of this Order, “RAPID” is an abbreviation for Refinery and Petrochemical Integrated Development.

Para 1(1) Commerce Clearing House (Malaysia) Sdn Bhd
PARAGRAPH 3 APPLICATION
3 This Order shall apply to a qualifying person who has made an application to the Malaysian Investment Development Authority Minister on or after 10 October 2011.

PARAGRAPH 4 EXEMPTION
4(1) Subject to subparagraph (2), the Minister exempts a qualifying person resident in Malaysia from the payment of income tax in respect of its statutory income derived from a qualifying activity in RAPID Complex for a period of fifteen consecutive years of assessment commencing from the first year of assessment in the basis period which the qualifying person derives statutory income from the qualifying activity (hereinafter referred to as the “exempt years of assessment”).

4(2) The statutory income referred to in subparagraph (1) in the basis period for each year of assessment shall be determined after deducting allowances which fall to be made under Schedule 3 of the Act notwithstanding that no claim of such allowances have been made.

4(3) Provided that where an asset used for the purpose of qualifying activity referred to in the subparagraph (1) is also used for the purpose of an activity other than that qualifying activity, then the allowances which fall to be made under Schedule 3 to the Act shall be deducted as is reasonable having regard to the extent to which the asset is used for the purpose of the first-mentioned activity.

4(4) Nothing in subparagraph (1) shall absolve or is deemed to have absolved the qualifying person from complying with any requirement to submit any return or statement of account or to furnish any other information under the provision of the Act.

PARAGRAPH 5 LOSSES
5(1) Any amount of adjusted loss incurred prior or during the exempt years of assessment shall be carried forward and deducted against the statutory income of the qualifying activity referred to in subparagraph 4(1) in its post-exempt years of assessment until that activity has utilized the whole amount of the adjusted loss to which it is so entitled.

5(2) So much of the adjusted loss that was utilized to reduce the statutory income of that activity referred to in subparagraph 4(1), in its post-exempt years shall be disregarded for the purposes of the subsections 43(2) and 44(2) of the Act.

PARAGRAPH 6 APPLICATION OF DEDUCTIONS FOR PROMOTION OF EXPORTS UNDER THE PROMOTION OF INVESTMENT ACT 1986
6 For the purpose of computing the adjusted income from the qualifying activity referred to in subparagraph 4(1), an expenditure which would be allowed as a deduction during the exempt years of assessment under the section 41 Promotion of Investment Act 1986 [Act 327], shall be accumulated and the aggregate amount of the expenditure shall be allowed as a deduction in the first basis period for a year of assessment after the exempt years of assessment.
PARAGRAPH 7 APPLICATION OF DEDUCTION FOR RESEARCH UNDER SECTION 34B OF THE ACT

7 For the purpose of computing the adjusted income from the qualifying activity referred to in subparagraph 4(1), an expenditure which would be allowed as a deduction during the exempt years of assessment under section 34B of the Act shall be accumulated and the aggregate amount of the expenditure shall be allowed as a deduction in the first basis period for a year of assessment after the exempt years of assessment.

PARAGRAPH 8 APPLICATION OF DEDUCTIONS FOR APPROVED TRAINING

8 For the purpose of computing the adjusted income from the qualifying activity referred to in subparagraph 4(1), an expenditure which would be allowed as a deduction during the exempt years of assessment under the Income Tax (Deduction of Approved Training) Rules 1992 [P.U. (A) 61/1992] and Income Tax (Deductions for Approved Training) (Amendment) Rules 1995 [P.U. (A) 111/1995], shall be accumulated and the aggregate amount of the expenditure shall be allowed as a deduction in the first basis period for a year of assessment after the exempt years of assessment.

PARAGRAPH 9 SEPARATE SOURCE AND ACCOUNT

9(1) Where a qualifying person carries on a qualifying activity referred to in subparagraph 4(1) and other activity or business within or outside RAPID Complex, each of such activity or business shall be treated as a separate and distinct source of activity or business.

9(2) The qualifying person who is exempted under subparagraph 4(1) shall maintain a separate account for the income derived from the qualifying activity referred to in that paragraph.

PARAGRAPH 10 NON-APPLICATION

10 This Order shall not apply to a qualifying person who in the basis period for each exempt year of assessment—

(a) has made a claim for reinvestment allowance under Schedule 7A or investment allowance under Schedule 7B of the Act;

(b) has been granted any incentive under the Promotion of Investment Act 1986 [Act 327] except for the Income Tax (Promotion of Exports) Rules 1986;

(c) has been granted any other exemption under section 127 of the Act except for Income Tax (Exemption) (No. 5) Order 2013 [P.U. (A) 39/2013];
INCOME TAX (EXEMPTION) (NO. 8)
ORDER 2013

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPh 1  CITATION AND COMMENCEMENT

1(1) This order may be cited as the Income Tax (Exemption) (No. 8) Order 2013.

1(2) This Order is deemed to have come into operation from the year of assessment 2011.

PARAGRAPh 2  INTERPRETATION

2(1) In this Order—

“qualifying activity” means any of the following activity carried out by a qualifying person in RAPID Complex:

(a) blending, processing or cracking of crude, condensates, feedstock or intermediate feedstock;

(b) production, manufacturing or product development of petroleum, petrochemical, chemicals, intermediate, final products or its related by-products;

(c) storing, formulating, blending, distributing or marketing of petroleum, petrochemical, chemicals, intermediate, final products or its related by-products;

(d) re-gasification of LNG to gas and relevant distribution; or

(e) generation, distribution or sales of all forms of utilities including but not limited to electricity, water, steam, gases, hydrogen, air or waste treatment;

“incurred” has the same meaning assigned there to in paragraphs 46 and 55 of Schedule 3 to the Act;

“disposed of” means sold, discarded, destroyed or if it ceases to be used for the purpose of qualifying activity;

“RAPID Complex” means a complex which consists of liquid cracker plants, refinery plants, petrochemical or chemical production plants and all support and auxiliary facilities including but not limited to liquid natural gas (LNG), Receiving and Regassification Terminal (RGT), COGEN power plant, storage facilities or waste disposal facilities, and located in Pengerang, Johor;

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Para 2(1)
“qualifying person” means—

(a) Petroliam Nasional Berhad;
(b) any other company incorporated under the Companies Act 1965 [Act 125] where Petroliam Nasional Berhad holds at least fifty-one per cent paid up capital in respect of ordinary shares; or
(c) any other company incorporated under the Companies Act 1965 which carries out qualifying activity within the RAPID Complex where Petroliam Nasional Berhad holds, either directly or indirectly, ordinary shares in that company.

“qualifying project” means project undertaken by a qualifying person, in expanding modernizing, automating or in diversifying its existing qualifying activity which is exempted under the Income Tax (Exemption) (No. 6) Order 2013 [P.U. (A) 40/2013] within the same industry and carried out by a qualifying person in RAPID Complex for RAPID;

“qualifying capital expenditure” in relation to manufacturing or processing, means capital expenditure incurred on—

(a) the provision of any plant and machinery and construction of a factory used in Malaysia in connection with and for the purpose of the qualifying project; or
(b) the provision of any plant and machinery and construction of a building used in Malaysia in connection with and for the purposes of the qualifying project relating to in-house research,

provided that such qualifying capital expenditure shall not include capital expenditure incurred on building which are used as living accommodation for person, plant and machinery which are provided wholly or partly for the use of a director or an individual who is a member of the management, administration or clerical staff of that qualifying person;

“related company” has the same meaning as defined under section 2 of the Promotion of Investments Act 1986 [Act 327].

2(2) For the purpose of this Order, “RAPID” is an abbreviation for Refinery and Petrochemical Integrated Development.

PARAGRAPh 3 APPLICATION

3 This Order shall apply to a qualifying person who has made an application in writing in respect of its qualifying project to the Malaysian Investment Development Authority within ninety days before the expiry of the exemption period under the Income Tax (Exemption) (No. 6) Order 2013 [P.U. (A) 40/2013].

PARAGRAPh 4 EXEMPTION

4(1) The Minister exempts a qualifying person resident in Malaysia in the basis period for a year of assessment from the payment of income tax in respect of statutory income derived from a qualifying project which is equivalent to the amount of allowance as determined in subparagraph (2).
4(2) The amount of allowance referred to in subparagraph (1) shall be one hundred per cent of the qualifying capital expenditure incurred in the basis period for a year of assessment for five consecutive years of assessment (hereinafter referred to as the “exempt years of assessment”).

4(3) The commencement of the exempt years of assessment referred to in subparagraph (2) shall be in the basis period for a year of assessment where the first qualifying capital expenditure is incurred by that qualifying person falls.

4(4) Where a qualifying person incurs its first qualifying capital expenditure in relation to the qualifying project referred to in subparagraph (1) which is about to carry on, then that expenditure shall be deemed to be incurred in the basis period for a year of assessment in which the qualifying person commences to carry on that activity.

4(5) Nothing in subparagraph (1) shall absolve or is deemed to have absolved the qualifying person from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provision of the Act.

PARAGRAPH 5 STATUTORY INCOME

5(1) The statutory income referred to in subparagraph 4(1) in the basis period for each of the exempt years of assessment shall be determined after deduction of allowances which fall to be made under Schedule 3 to the Act notwithstanding that no claim for such allowances has been made.

5(2) Provided that where an asset used for the purpose of the qualifying project, is also used for the purpose of an activity or business other than that qualifying project, then the allowance which falls to made under Schedule 3 to the Act shall be deducted as is reasonable having regard to the extent to which the asset is used for the purpose of the qualifying project.

5(3) Where an allowance is given to a qualifying person under paragraph 4(1) for each of the exempt years of assessment, so much of the statutory income of the activity of that person for each exempt year of assessment as is equal to the amount of the allowance shall be exempt from tax for each exempt year of assessment.

5(4) Where, by reason of the absence or insufficiency of the statutory income, effect cannot be given or cannot be given in full to the amount as determined to which the qualifying person is entitled under subparagraph 4(1) for each of that exempt years of assessment, then so much of that amount which cannot be exempted for that year shall be exempted for the first subsequent year of assessment for the basis period for which there is statutory income from that qualifying project, and for subsequent years of assessment until the whole of the amount to which it is so entitled is exempted.

PARAGRAPH 6 WITHDRAWAL OF QUALIFYING CAPITAL EXPENDITURE

6 Where qualifying capital expenditure is incurred by a qualifying person on an asset used for the purpose of qualifying project and such asset is disposed of at any time within two years from the date of acquisition of the asset, the amount of income exempted in respect of the allowance of such asset is deemed to have not been exempted to that person to which it would otherwise be entitled.
PARAGRAPH 7 DETERMINATION OF QUALIFYING CAPITAL EXPENDITURE ON DISPOSAL OF ASSET TO A RELATED COMPANY

7 Any disposal of a factory, building, plant or machinery by a qualifying person to its related company in which such allowance has been made on the asset, then the amount of qualifying capital expenditure to be taken by the related company shall be deemed for a sum equal to zero.

PARAGRAPH 8 SEPARATE ACCOUNT

8 A qualifying person shall maintain a separate account for the income derived from the qualifying project in a basis year for each year of assessment until that qualifying project utilized the whole allowance or allowances to which it is so entitled.

PARAGRAPH 9 NON-APPLICATION

9 This Order shall not apply to a qualifying person who in the basis period for each exempt year of assessment—

(a) has made a claim for reinvestment allowance under Schedule 7A or investment allowance under Schedule 7B of the Act;

(b) has been granted any incentive under the Promotion of Investment Act 1986 [Act 327] except under section 41 of the Promotion of Investment Act 1986;

(c) has been granted any other exemption under section 127 of the Act except for Income Tax (Exemption) (No. 5) Order 2013 [P.U. (A) 39/2013].
INCOME TAX (EXEMPTION) (NO. 9) ORDER 2013

PU (A) 88

[27 February 2013]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT

1(1) This order may be cited as the Income Tax (Exemption) (No. 9) Order 2013.

1(2) This Order has effect from the year of assessment 2013 and subsequent years of assessment.

PARAGRAPH 2 INTERPRETATION

2 In this Order—

“qualifying person” means a person resident in Malaysia who is—

(a) a bank or finance company licensed or deemed to be licensed under the Banking and Financial Institutions Act 1989 [Act 372];

(b) a bank licensed under the Islamic Banking Act 1983 [Act 276];

(c) a development financial institution prescribed under the Development Financial Institutions Act 2002 [Act 618];

(d) an insurance business licensed under Insurance Act 1996 [Act 553]; or

(e) a takaful operator licensed under the Takaful Act 1984 [Act 312];

“rescuing contractor or developer” means a contractor or developer who is appointed or approved by the Minister of Housing and Local Government to carry on rehabilitation works for the abandoned project;

“loan” means a loan granted by a bank or a financial institution to finance the abandoned project;

“abandoned project” means a project which is certified by the Minister of Housing and Local Government as abandoned project pursuant to paragraph 11(1)(ca) of the Housing Development (Control and Licensing) Act 1966 [Act 118].

PARAGRAPH 3 EXEMPTION

3(1) The Minister exempts a qualifying person from the payment of income tax in respect of a statutory income derived from interest which is related to the business of giving loan to the rescuing contractor or developer for a period of three consecutive years of assessment (the exempt years of assessment) commencing from the first year of assessment in which the interest income is accrued to that qualifying person.
3(2) The statutory income referred to in subparagraph (1) in the basis period for each of the exempt years of assessment shall be determined after deducting allowances which fall to be made under Schedule 3 to the Act notwithstanding that no claim for such allowances has been made.

3(3) Where an asset used for the purpose of the business referred to in subparagraph (1) is also used for the purpose of a business other than that business, then the allowances which fall to be made under Schedule 3 of the Act shall be deducted as is reasonable having regard to the extent to which the asset is used for the purpose of the business of giving loan to the rescuing contractor or developer.

3(4) The amount of the statutory income derived from interest which is related to the business of giving loan to the rescuing contractor or developer to be exempt in the basis period for a year of assessment during the exempt period shall be determined in the following manner:

(a) one hundred percent of the statutory income;

(b) the amount of statutory income referred to in subsubparagraph (a) shall be reduced by—

(i) first, current year adjusted loss from a business or businesses other than the business of giving loan to the rescuing contractor or developer exempted under this Order; and

(ii) next, any unabsorbed adjusted loss or current year adjusted loss from the business of giving loan to the rescuing contractor or developer exempted under this Order;

(c) so much of the adjusted loss referred to in subsubsubparagraphs (b)(i) and (ii) which was utilised to reduce the statutory income of the business of giving loan to the rescuing contractor or developer for a year of assessment shall not be taken into account for the purposes of subsections 43(2) and 44(2) of the Act in determining the income of a business other than the business of giving loan to the rescuing contractor or developer under this Order; and

(d) any amount of unabsorbed adjusted loss and current year adjusted loss from the business of giving loan to the rescuing contractor or developer that are not utilised to reduce the statutory income during the exempt period referred to in subsubsubparagraph (b)(ii) shall not be available to reduce the total income of the qualifying person.

3(5) Notwithstanding subsubparagraph (4), where the exempt period of the business of giving loan to the rescuing contractor or developer ceases, any amount of unabsorbed adjusted loss and current year adjusted loss from the business of giving loan to the rescuing contractor or developer that are not utilised to reduce the statutory income during the exempt period referred to in subsubsubparagraph (b)(ii) shall be available to reduce the total income of the qualifying person in accordance with subsections 43(2) and 44(2) of the Act in the basis period following the cessation of that exempt period for the year of assessment and subsequent years of assessment.

3(6) Subject to subparagraph (1), the application for the loan shall be made by the rescuing contractor or developer on or after 1 January 2013 but not later than 31 December 2015.
3(7) Nothing in subparagraph (1) shall absolve or is deemed to have absolved the qualifying person from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provisions of the Act.

PARAGRAPH 4 SEPARATE ACCOUNT

4 The qualifying person which is exempted under paragraph 3 shall maintain a separate account for the income derived from the business of giving loan to the rescuing contractor or developer for each year of assessment of the exempt period.
INCOME TAX (EXEMPTION) (NO. 10)
ORDER 2013
PU (A) 262

[6 August 2013]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1  CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 10) Order 2013.
1(2) This Order comes into operation on 12 August 2013.

PARAGRAPH 2  EXEMPTION
2(1) The Minister exempts BNM Kijang Berhad or any holder of Sukuk Kijang from the payment of income tax in the basis period for a year of assessment in relation to any income derived from Sukuk Kijang.

2(2) Nothing in subparagraph (1) shall absolve or is deemed to have absolved BNM Kijang Berhad or the holder of Sukuk Kijang from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provisions of the Act.

2(3) For the purpose of this Order, “Sukuk Kijang” means the Islamic securities of nominal value of up to two hundred and fifty million United States dollars (USD$250,000,000) issued or to be issued in accordance with the Shariah principle of Ijarah by BNM Kijang Berhad.

PARAGRAPH 3  NON-APPLICATION
3 The provisions of sections 109 and 109B of the Act shall not apply to the income exempted under this Order.
INCOME TAX (EXEMPTION) (NO. 11)
ORDER 2013

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 11) Order 2013.
1(2) This Order is deemed to have come into operation from the year of assessment 2012.

PARAGRAPH 2 APPLICATION
2 This Order applies to a qualifying company—
(a) which carries on a business of qualifying services;
(b) which is established pursuant to a scheme of merger;
(c) whose scheme of merger has been verified by the Small and Medium Enterprises Corporation Malaysia; and
(d) whose merger is completed on or after 3 July 2012 but not later than 2 July 2015.

PARAGRAPH 3 INTERPRETATION
3 In this Order—
“business of qualifying services” means a business in relation to services as specified in the Schedule;
“small and medium enterprises” has the same meaning assigned to it under section 2 of the Small and Medium Enterprises Corporation Malaysia Act 1995 [Act 539];
“scheme of merger” means a scheme involving a merger of small and medium enterprises which carries on a same business of qualifying services in accordance with generally accepted practice in Malaysia;
“qualifying company” means—
(a) a small and medium enterprise incorporated as a company under the Companies Act 1965 [Act 125]; and
(b) resident in Malaysia.

PARAGRAPH 4 EXEMPTION
4(1) Subject to paragraph 8, the Minister exempts a qualifying company, in respect of statutory income derived from the carrying on of business of qualifying services for the basis period for a year of assessment, from the payment of income tax for a period of five consecutive years of assessment commencing from the date the merger is completed.
Subject to paragraphs 5 and 6, the statutory income referred to in subparagraph (1) shall be determined in accordance with the following formula:

(a) in relation to a qualifying company which has a paid-up capital in respect of its ordinary shares of two million five hundred thousand ringgit and less after the merger is completed—

(i) for every ringgit of the first RM500,000.00 of the chargeable income, the prevailing tax rate for the said amount as provided for in paragraph 2A of Part I of Schedule 1 to the Act applies;

(ii) for every ringgit exceeding RM500,000.00 of the chargeable income, the statutory income shall be calculated in accordance with the following formula:

\[
\frac{A}{B} \times C
\]

Where

\(A\) is the amount of tax charged for every ringgit exceeding RM500,000.00 of the chargeable income of the qualifying company at the prevailing tax rate as provided for in paragraph 2A of Part I of Schedule 1 to the Act reduced by the amount of tax charged on such chargeable income for every ringgit exceeding RM500,000.00 at the rate of twenty per cent;

\(B\) is the amount of tax charged for every ringgit exceeding RM500,000.00 of such chargeable income at the prevailing tax rate as provided for in paragraph 2A of Part I of Schedule 1 to the Act; and

\(C\) is the amount of such chargeable income exceeding RM500,000.00.

(b) in relation to a qualifying company which has a paid-up capital in respect of its ordinary shares of more than two million five hundred thousand ringgit after the merger is completed—

\[
\frac{A}{B} \times C
\]

Where

\(A\) is the amount of tax charged on the chargeable income of the qualifying company at the prevailing tax rate as provided for in paragraph 2 of Part I of Schedule 1 to the Act reduced by the amount of tax charged on such chargeable income at the rate of twenty per cent;

\(B\) is the amount of tax charged on such chargeable income at the prevailing tax rate as provided for in paragraph 2 of Part I of Schedule 1 to the Act; and

\(C\) is the amount of such chargeable income.

Nothing in subparagraph (1) shall absolve or is deemed to have absolved the qualifying company from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provisions of the Act.
PARAGRAPH 5  TOTAL STATUTORY INCOME OF THE QUALIFYING COMPANY

5(1) For the purpose of paragraph 4, the total statutory income of the qualifying company shall be determined after deducting the allowances which fall to be made under Schedule 3 to the Act notwithstanding that no claim for such allowances has been made.

5(2) Where an asset used for the purpose of a business of qualifying services referred to in subparagraph 4(1) is also used for the purpose of a business other than that business of qualifying services, then the allowances which fall to be made under Schedule 3 to the Act shall be deducted as is reasonable having regard to the extent to which the asset is used for the purpose of that business of qualifying services.

PARAGRAPH 6  CHARGEABLE INCOME

6(1) For the purpose of paragraph 4, the chargeable income of a qualifying company from its source consisting of business of qualifying services and any other source consisting of any other activity or business in the basis period for a year of assessment where the scheme of merger falls, shall be the statutory income from that sources and no regard shall be made to any deduction falling to be made pursuant to subsection 43(2) of the Act.

6(2) The chargeable income of a qualifying company from its source consisting of business of qualifying services and any other source consisting of any other activity or business in the subsequent years of assessment following the year of assessment where the scheme of merger falls, shall be the statutory income from that source or the aggregate of the statutory income from each of the other sources, as the case may be, reduced by any deduction falling to be made pursuant to subsections 43(2) and 44(1) of the Act.

PARAGRAPH 7  SEPARATE SOURCE AND ACCOUNT

7(1) If a qualifying company carries on business of qualifying services and any other activity or business, the income derived from the business of qualifying services and each of such other activity or business shall be treated as a separate and distinct source of activity or business of that qualifying company.

7(2) The qualifying company which is exempted under subparagraph 4(1) shall maintain a separate account for the income derived from the business of qualifying services referred to in that subparagraph.

PARAGRAPH 8  DISQUALIFICATION FROM EXEMPTION

8 A qualifying company in the basis period for the year of assessment shall not qualify to be exempted under this Order where, for that year of assessment, the qualifying company—

(a) has made a claim for reinvestment allowance under Schedule 7A or investment allowance under Schedule 7B to the Act;

(b) has been granted any incentive under the Promotion of Investments Act 1986 [Act 327];
(c) has been granted an exemption under section 127 of the Act; or

(d) has made a claim for deduction under any rules made under section 154 of the Act except for allowances under Schedule 3 to the Act.

**SCHEDULE**

1. Professional services—
   (a) accounting and taxation
   (b) medical and dental specialists
   (c) architectural
   (d) engineering

2. Courier services

3. Technical and vocational secondary education services (generic and special needs) as certified by the Ministry charged with the responsibility for technical and vocational secondary education

4. Skills training services as certified by the Ministry charged with the responsibility for skills training
INCOME TAX (EXEMPTION) (NO. 12) ORDER 2013

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT

1(1) This order may be cited as the Income Tax (Exemption) (No. 12) Order 2013.

1(2) This Order is deemed to have come into operation from the year of assessment 2012.

PARAGRAPH 2 APPLICATION

2 This Order applies to a qualifying company—

(a) which carries on a business of qualifying services;
(b) which acquires a small and medium enterprise carrying on a business of same qualifying services pursuant to a scheme of acquisition;
(c) whose scheme of acquisition has been verified by the Small and Medium Enterprises Corporation Malaysia; and
(d) whose acquisition is completed on or after 3 July 2012 but not later than 2 July 2015.

PARAGRAPH 3 INTERPRETATION

3 In this Order—

“business of qualifying services” means a business in relation to services as specified in the Schedule;

“small and medium enterprises” has the same meaning assigned to it under section 2 of the Small and Medium Enterprises Corporation Malaysia Act 1995 [Act 539];

“scheme of acquisition” means a scheme involving an acquisition of a small and medium enterprise by another small and medium enterprise in accordance with generally accepted practice in Malaysia;

“qualifying company” means—

(a) a small and medium enterprise incorporated as a company under the Companies Act 1965 [Act 125]; and
(b) resident in Malaysia.
PARAGRAPHS 4 EXEMPTION

4(1) Subject to paragraphs 8, the Minister exempts a qualifying company, in respect of statutory income derived from the carrying on of business of qualifying services for the basis period for a year of assessment, from the payment of income tax for a period of five consecutive years of assessment commencing from the date the acquisition is completed.

4(2) Subject to paragraphs 5 and 6, the statutory income referred to in subparagraph (1) shall be determined in accordance with the following formula:

(a) in relation to a qualifying company which has a paid-up capital in respect of its ordinary shares of two million five hundred thousand ringgit and less after the acquisition is completed—

(i) for every ringgit of the first RM500,000.00 of the chargeable income, the prevailing tax rate for the said amount as provided for in paragraph 2A of Part I of Schedule 1 to the Act applies;

(ii) for every ringgit exceeding RM500,000.00 of the chargeable income, the statutory income shall be calculated in accordance with the following formula:

\[
\frac{A}{B} \times C
\]

where

- A is the amount of tax charged for every ringgit exceeding RM500,000.00 of the chargeable income of the qualifying company at the prevailing tax rate as provided for in paragraph 2A of Part I of Schedule 1 to the Act reduced by the amount of tax charged on such chargeable income for every ringgit exceeding RM500,000.00 at the rate of twenty per cent;
- B is the amount of tax charged for every ringgit exceeding RM500,000.00 of such chargeable income at the prevailing tax rate as provided for in paragraph 2A of Part I of Schedule 1 to the Act; and
- C is the amount of such chargeable income exceeding RM500,000.00.

(b) in relation to a qualifying company which has a paid-up capital in respect of its ordinary shares of more than two million five hundred thousand ringgit after the acquisition is completed—

\[
\frac{A}{B} \times C
\]

where

- A is the amount of tax charged on the chargeable income of the qualifying company at the prevailing tax rate as provided for in paragraph 2 of Part I of Schedule 1 to the Act reduced by the amount of tax charged on such chargeable income at the rate of twenty per cent;

Para 4(1) Commerce Clearing House (Malaysia) Sdn Bhd
B is the amount of tax charged on such chargeable income at the prevailing tax rate as provided for in paragraph 2 of Part I of Schedule 1 to the Act; and

C is the amount of such chargeable income.

4(3) Nothing in subparagraph (1) shall absolve or is deemed to have absolved the qualifying company from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provisions of the Act.

PARAGRAPH 5 TOTAL STATUTORY INCOME OF THE QUALIFYING COMPANY

5(1) For the purpose of paragraph 4, the total statutory income of the qualifying company shall be determined after deducting the allowances which fall to be made under Schedule 3 to the Act notwithstanding that no claim for such allowances has been made.

5(2) Where an asset used for the purpose of a business of qualifying services referred to in subparagraph 4(1) is also used for the purpose of a business other than that business of qualifying services, then the allowances which fall to be made under Schedule 3 to the Act shall be deducted as is reasonable having regard to the extent to which the asset is used for the purpose of that business of qualifying services.

PARAGRAPH 6 CHARGEABLE INCOME

6(1) For the purpose of paragraph 4, the chargeable income of a qualifying company from its source consisting of business of qualifying services and any other source consisting of any other activity or business for a year of assessment, shall be the statutory income from that source reduced by any deduction falling to be made pursuant to subsections 43(2) and 44(1) of the Act relating to that source:

Provided that the shareholders of that qualifying company, on the last day of the basis period for the year of assessment where the scheme of acquisition falls in which the amount of adjusted loss is ascertained, shall be substantially the same as the shareholders of that company on the first day of the basis period for the year of assessment in which such amount would otherwise be deductible under that subsection, and such amount disregarded shall not be allowed as a deduction in subsequent years of assessment pursuant to subsections 44(5A), (5B) and (5C) of the Act.

6(2) For the purpose of subparagraph (1), in making the deduction under subsection 43(2) of the Act, no regard shall be made to the adjusted loss, if any, from the source of the business of the small and medium enterprise which is acquired by the qualifying company.

PARAGRAPH 7 SEPARATE SOURCE AND ACCOUNT

7(1) If a qualifying company carries on business of qualifying services and any other activity or business, the income derived from the business of qualifying services and each of such other activity or business shall be treated as a separate and distinct source of activity or business of that qualifying company.
7(2) The qualifying company which is exempted under subparagraph 4(1) shall maintain a separate account for the income derived from the business of qualifying services referred to in that subparagraph.

PARAGRAPH 8  DISQUALIFICATION FROM EXEMPTION

8  A qualifying company in the basis period for the year of assessment shall not qualify to be exempted under this Order where, for that year of assessment, the qualifying company—

(a) has made a claim for reinvestment allowance under Schedule 7A or investment allowance under Schedule 7B to the Act;
(b) has been granted any incentive under the Promotion of Investments Act 1986 [Act 327];
(c) has been granted an exemption under section 127 of the Act; or
(d) has made a claim for deduction under any rules made under section 154 of the Act except for allowances under Schedule 3 to the Act.

SCHEDULE

1. Professional services—
   (a) accounting and taxation
   (b) medical and dental specialists
   (c) architectural
   (d) engineering
2. Courier services
3. Technical and vocational secondary education services (generic and special needs) as certified by the Ministry charged with the responsibility for technical and vocational secondary education
4. Skills training services as certified by the Ministry charged with the responsibility for skills training
INCOME TAX (EXEMPTION) (NO. 13) ORDER 2013

PU (A) 294

[30 August 2013]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT

1(1) This order may be cited as the Income Tax (Exemption) (No. 13) Order 2013.

1(2) This Order has effect from the year of assessment 2013 and subsequent years of assessment.

PARAGRAPH 2 INTERPRETATION

2 In this Order—

“research and development findings” means research and development findings for the non-resource based activity or product listed in the Schedule and wholly owned by a public research institute or public institute of higher learning in Malaysia;

“incurred” has the same meaning assigned to it in subsection 33(1) and in paragraphs 46 and 55 of Schedule 3 to the Act;

“investment” means an investment in the form of cash in a qualifying company for which the qualifying company has no obligation to repay, or the holding of paid-up share capital in respect of ordinary shares in a qualifying company;

“commercialisation” means a process of transforming research and development findings into a product or process that has an industrial application or that is marketable;

“investor company” means a company incorporated under the Companies Act 1965 [Act 125]—

(a) which has made an investment for the purpose of a commercialisation project in a qualifying company;

(b) which directly owns at least seventy (70) per centum of paid-up share capital in respect of ordinary shares of the qualifying company;

“qualifying company” means a company incorporated under the Companies Act 1965—

(a) where at least seventy (70) per centum of its paid-up shares capital in respect of ordinary shares are directly owned by an investor company that has made an investment in the qualifying company for the purpose of a commercialisation project; and

(b) which carries on a commercialisation project.
PARAGRAPH 3 EXEMPTION

3(1) Subject to subparagraph (2), the Minister exempts a qualifying company resident in Malaysia from the payment of income tax in respect of statutory income derived from a business in relation to the carrying on a commercialisation project for a period of ten consecutive years of assessment (exempt years of assessment).

3(2) The tax exemption on the statutory income derived from a business in relation to the carrying on a commercialisation project referred to in subparagraph (1) is subject to such conditions as stated by the Minister in the approval letter for the commercialisation project.

3(3) The commencement of the exempt years of assessment shall be determined by the Minister or the Minister of International Trade and Industry, as the case may be.

3(4) Interest income derived by the qualifying company from the depositing of excess investment received from the investor company in any bank or financial institution temporarily before utilization for the commercialization project shall be treated as income under paragraph 4(c) of the Act.

3(5) The statutory income of the business referred to in subparagraph (1) in the basis period for each of the exempt years of assessment shall be determined after deducting allowances which fall to be made under Schedule 3 to the Act notwithstanding that no claim for such allowances has been made.

3(6) Where an asset used for the purpose of the business is also used for the purpose of a business other than that business, then the allowances which fall to be made under Schedule 3 to the Act shall be deducted as is reasonable having regard to the extent to which the asset is used for the purpose of the business in relation to the carrying on a commercialisation project.

3(7) Nothing in subparagraph (1) shall absolve or is deemed to have absolved the qualifying company from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the Act.

PARAGRAPH 4 TAX TREATMENT FOR A QUALIFYING COMPANY THAT HAS SUFFERED LOSSES

4(1) Where a qualifying company is ascertained to have an adjusted loss under subsection 44(2) of the Act for the basis period for a year of assessment during any exempt years of assessment in respect of a business source in relation to the carrying on a commercialisation project, the amount of adjusted loss shall be disregarded from the source consisting of the business or businesses other than the business in relation to the carrying on a commercialisation project.

4(2) Where a qualifying company is ascertained to have a loss under subsection 43(2) of the Act for the basis period for a year of assessment during any exempt years of assessment in respect of a business source consisting of the business in relation to the carrying on a commercialisation project, the amount of adjusted loss shall be disregarded from the source consisting of the business or businesses other than the business in relation to the carrying on the commercialisation project.

Para 3(1) Commerce Clearing House (Malaysia) Sdn Bhd
Any balance of adjusted loss ascertained pursuant to subsections 43(2) and 44(2) of the Act in respect of a business source consisting of the business in relation to the carrying on a commercialisation project shall be disregarded for the purposes of this Act in the subsequent year or years of assessment after the exempt years of assessment, as the case may be.

**PARAGRAPH 5 APPLICATION OF DEDUCTIONS FOR PROMOTION OF EXPORTS UNDER THE PROMOTION OF INVESTMENTS ACT 1986**

For the purpose of computing the adjusted income from the business or project referred to in subparagraph 3(1), an expenditure which would be allowed as a deduction during the exempt years of assessment under section 41 of the Promotion of Investments Act 1986 [Act 327] shall be accumulated and the aggregate amount of the expenditure shall be allowed as a deduction in the first basis period for a year of assessment after the exempt years of assessment.

**PARAGRAPH 6 APPLICATION OF DEDUCTION FOR RESEARCH UNDER SECTION 34A OF THE ACT**

For the purpose of computing the adjusted income from the business or project referred to in subparagraph 3(1), an expenditure which would be allowed as a deduction during the exempt years of assessment for research under section 34A of the Act shall be accumulated and the aggregate amount of the expenditure shall be allowed as a deduction in the first basis period for a year of assessment after the exempt years of assessment.

The amount of deduction to be made under subparagraph (1) shall be equal to the amount of expenditure incurred.

Where a deduction has been made under this Order in respect of an expenditure referred to in subparagraph (1), such expenditure shall not be eligible for any deduction under the Act.

**PARAGRAPH 7 CAPITAL ALLOWANCE**

For the purpose of this Order, Schedule 3 to the Act shall apply.

**PARAGRAPH 8 WITHDRAWAL OF TAX EXEMPTION**

The Minister or the Minister of International Trade and Industry, as the case may be, may withdraw the tax exemption on the statutory income of the business or project referred to in subparagraph 3(1), if the qualifying company fails to comply with the conditions as determined by the Minister referred to in subparagraph 3(2).

**PARAGRAPH 9 MAINTAINING OF SEPARATE ACCOUNT**

The qualifying company which is exempted under paragraph 3 shall maintain a separate account for the income derived from the business or project referred to in subparagraph 3(1) for the basis period for each year of assessment of the exempt years of assessment and that income shall be treated as a separate and distinct business source of the qualifying company.
PARAGRAPH 10  APPLICATION OF PARAGRAPHS 5 AND 6 OF SCHEDULE 7A

Paragraphs 5 and 6 of Schedule 7A to the Act shall apply, mutatis mutandis, to the amount of statutory income exempted from the business or project referred to in subparagraph 3(1).

PARAGRAPH 11  NON-APPLICATION

This Order shall not apply to a qualifying company in the basis period for a year of assessment which has been granted—

(a) a deduction under the Income Tax (Allowance for Increased Exports) Rules 1999 [P.U. (A) 128/1999];

(b) a deduction under the Income Tax (Deduction for Cost of Acquisition of Foreign Owned Company) Rules 2013 [P.U. (A) 218/2013];

(c) a deduction under the Income Tax (Deduction for Investment in an Approved Food Production Project) Rules 2006 [P.U. (A) 55/2006];

(d) an exemption on the value of increased exports under the Income Tax (Exemption) (No. 17) Order 2005 [P.U. (A) 158/2005];

(e) a reinvestment allowance under Schedule 7A to the Act;

(f) any incentives (except deductions for promotion of exports) under the Promotion of Investments Act 1986;

(g) an exemption for an approved food production project under the Income Tax (Exemption) (No. 10) Order 2006 [P.U. (A) 51/2006];

(h) an exemption under the Income Tax (Exemption) (No. 40) Order 2005 [P.U. (A) 307/2005];

(i) an exemption under the Income Tax (Exemption) (No. 41) Order 2005 [P.U. (A) 308/2005];

(j) an exemption under the Income Tax (Exemption) (No. 42) Order 2005 [P.U. (A) 309/2005];

(k) an exemption for venture capital company under the Income Tax (Exemption) (No. 11) Order 2005 [P.U. (A) 75/2005];

(l) a deduction under the Income Tax (Deduction for Investment in a Venture Company) Rules 2005 [P.U. (A) 76/2005]; or

(m) a deduction under the Income Tax (Deduction for Investment in a BioNexus Status Company) Rules 2007 [P.U. (A) 373/2007].
SCHEDULE
[Rule 2]

1. Electrical and electronics;
2. Medical devices;
3. Technical or functional textiles;
4. Machinery and equipment;
5. Metals; and
6. Transport equipment.
INCOME TAX (TAX AGENTS APPLICATION FEE) ORDER 2013
PU (A) 301

[25 September 2013]

IN exercise of the powers conferred by subsection 153(5) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Tax Agents Application Fee) Order 2013.
1(2) This Order comes into operation on 1 October 2013.

PARAGRAPH 2 APPLICATION FEE
2 The application fee for an approval or renewal of an approval under section 153 of the Act shall be two hundred ringgit.

PARAGRAPH 3 REVOCATION
INCOME TAX (EXEMPTION) (NO. 14)
ORDER 2013
PU (A) 361

[12 December 2013]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1  CITATION AND APPLICATION
1(1)  This order may be cited as the Income Tax (Exemption) (No. 14) Order 2013.
1(2)  This Order shall apply for the year of assessment 2013.

PARAGRAPH 2  EXEMPTION
2(1)  The Minister exempts an individual resident in Malaysia from the payment of income tax in the basis period for the year of assessment in respect of his chargeable income provided that his total aggregate income in the basis period for that year of assessment shall not exceed ninety six thousand ringgit.
2(2)  The amount of chargeable income to be exempted under subparagraph (1) is two thousand ringgit.
INCOME TAX (EXEMPTION) ORDER 2014

PU (A) 150

[15 May 2014]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) Order 2014.
1(2) This Order has effect from the year of assessment 2014 until the year of assessment 2020.

History
Para. 1(2) amended by PU (A) 106/2016, para. 2, in force from 21 April 2016, by substituting “2020” for “2016”.

PARAGRAPH 2 QUALIFYING COMPANY
2 In this Order, “qualifying company” means a company which—
   (a) is incorporated under the Companies Act 1965 [Act 125];
   (b) is resident in Malaysia; and
   (c) holds a Capital Markets Services Licence under the Capital Markets and Services Act 2007 [Act 671] to carry on the business referred to in subparagraph 3(1).

PARAGRAPH 3 EXEMPTION
3(1) The Minister exempts a qualifying company for the basis period for a year of assessment from the payment of income tax in respect of its statutory income derived from a business of providing fund management services to business trust or real estate investment trust in Malaysia which is managed in accordance with Syariah principles and certified by the Securities Commission.
3(2) In subparagraph (1)—
   (a) a fund management has the same meaning assigned to it in the Capital Markets and Services Act 2007
   (b) a business trust has the same meaning assigned to it in the Capital Markets and Services Act 2007; and
   (c) a real estate investment trust has the same meaning as provided in the guidelines relating to real estate investment trust issued by the Securities Commission under the Capital Markets and Services Act 2007.
3(3) Nothing in subparagraph (1) shall absolve or be deemed to have absolved the qualifying company from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provisions of the Act.

Para 1(1) Commerce Clearing House (Malaysia) Sdn Bhd
PARAGRAPH 4  SEPARATE ACCOUNT
4 The qualifying company shall maintain a separate account for the income derived from the business referred to in subparagraph 3(1) for the basis period for each year of assessment and that income shall be treated as a separate and distinct business source of the qualifying company.
INCOME TAX (EXEMPTION) (NO. 2)
ORDER 2014
PU (A) 166

[14 March 2014]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 2) Order 2014.
1(2) This Order is deemed to have come into operation from the year of assessment 2011.

PARAGRAPH 2 INTERPRETATION
2(1) In this Order—

“qualifying activity” means any of the following activity, carried out by a qualifying person in RAPID Complex:

(a) blending, processing or cracking of crude, condensates, feedstock or intermediate feedstock;
(b) production, manufacturing or product development of petroleum, petrochemical, chemicals, intermediate, final products or its related by-products;
(c) storing, formulating, blending, distributing or marketing of petroleum, petrochemical, chemicals, intermediate, final products or its related by-products;
(d) re-gasification of LNG to gas and its relevant distribution; or
(e) generation, distribution or sales of all forms of utilities including but not limited to electricity, water, steam, gases, hydrogen, air or waste treatment;

“RAPID Complex” means a complex which consists of liquid cracker plants, refinery plants, petrochemical or chemical production plants and all support and auxiliary facilities including but not limited to liquid natural gas (LNG), Receiving and Regasification Terminal (RGT), COGEN power plant, storage facilities or waste disposal facilities, and located in Pengerang, Johor;

“qualifying person” means—

(a) Petroliam Nasional Berhad;
(b) any other company incorporated under the Companies Act 1965 [Act 125] where Petroliam Nasional Berhad holds at least fifty-one per cent paid up capital in ordinary shares; or
(c) any other company incorporated under the Companies Act 1965 which carries out qualifying activity within the RAPID Complex where Petroliam Nasional Berhad holds, either directly or indirectly, ordinary shares in that company;

Para 1(1)
“exemption period” means the period where a qualifying person has been given exemption from payment of income tax under the Income Tax (Exemption) (No. 7) Order 2013 [P.U. (A) 41/2013].

2(2) For the purpose of this Order, “RAPID” is an abbreviation for Refinery and Petrochemical Integrated Development.

PARAGRAPH 3 APPLICATION

3 This Order shall apply to a qualifying person who has made an application in writing in respect of its qualifying activity to the Malaysian Investment Development Authority within ninety days before the expiry of the exemption period under the Income Tax (Exemption) (No. 7) Order 2013.

PARAGRAPH 4 EXEMPTION

4(1) Subject to subparagraph (2), the Minister exempts a qualifying person resident in Malaysia from the payment of income tax in respect of fifty percent of its statutory income derived from a qualifying activity for a period of five consecutive years of assessment commencing from the year of assessment in the basis period immediately after the exemption period (hereinafter referred to as the “exempt years of assessment”).

4(2) The statutory income referred to in subparagraph (1) in the basis period for each year of assessment shall be determined after deducting allowances which fall to be made under Schedule 3 of the Act notwithstanding that no claim of such allowances have been made.

4(3) Provided that where an asset used for the purpose of qualifying activity referred to in the subparagraph (1) is also used for the purpose of an activity or project, as the case maybe, other than that qualifying activity, then the allowances which fall to be made under Schedule 3 to the Act shall be deducted as is reasonable having regard to the extent to which the asset is used for the purpose of the first-mentioned activity.

4(4) Nothing in subparagraph (1) shall absolve or is deemed to have absolved the qualifying person from complying with any requirement to submit any return or statement of account or to furnish any other information under the provision of the Act.

PARAGRAPH 5 LOSSES

5(1) Any amount of adjusted loss incurred from the qualifying activity prior or during the exempt years of assessment under the Income Tax (Exemption) (No. 7) Order 2013 and this Order, shall be carried forward and deducted against the statutory income of the qualifying activity referred to in subparagraph 4(1) in the years following the exempt years of assessment until that activity has utilized the whole amount of the adjusted loss to which it is so entitled.

5(2) So much of the adjusted loss that was utilized to reduce the statutory income of that activity referred to in subparagraph 4(1), in its post-exempt years shall be disregarded for the purposes of the subsections 43(2) and 44(2) of the Act.
PARAGRAPH 6 SEPARATE SOURCE AND ACCOUNT
6(1) Where a qualifying carries on a qualifying activity referred to in subparagraph 4(1) and other activity or project within or outside RAPID Complex, each of such activity or project shall be treated as a separate and distinct source of activity or business.
6(2) The qualifying person who is exempted under subparagraph 4(1) shall maintain a separate account for the income derived from the qualifying activity referred to in that paragraph.

PARAGRAPH 7 CONDITION
7 The tax exemption on the statutory income of the qualifying activity referred to in subparagraph 4(1) is subject to such conditions as stated by the Malaysian Investment Development Authority in the approval letter for the application referred to in paragraph 3.

PARAGRAPH 8 NON-APPLICATION
8 This Order shall not apply to a qualifying person who in the basis period for each exempt year of assessment the person—
(a) has made a claim for reinvestment allowance under Schedule 7A or investment allowance under Schedule 7B of the Act;
(b) has been granted any incentive under the Promotion of Investment Act 1986 [Act 327];
(c) has made a claim for a deduction under any Rules made under section 154 of the Act except—
   (i) the Income Tax (Deduction for Pre-Commencement Expenses in relation to Refinery and Petrochemical Integrated Development) Rules 2013 [P.U. (A) 43/2013]; or
   (ii) where the Minister has prescribed a building as industrial building under paragraph 80 of Schedule 3 to the Act or the amount of allowances which fall to be made under Schedule 3 of the Act; or
(d) fails to comply with the approval conditions specified by the Malaysian Investment Development Authority.
INCOME TAX (EXEMPTION) (NO. 3) ORDER 2014

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT

1(1) This order may be cited as the Income Tax (Exemption) (No. 3) Order 2014.
1(2) This Order is deemed to have come into operation on 1 January 2013.

PARAGRAPH 2 INTERPRETATION

2 In this Order—

“investment” means a holding of shares, which is paid in cash, in respect of ordinary shares in an investee company;

“angel investor” means an individual referred to in subsubparagraph 5(a);

“investee company” means a company referred to in subsubparagraph 5(b).

PARAGRAPH 3 EXEMPTION

3(1) Subject to subparagraphs (2), (3) and (4), the Minister exempts an angel investor, in respect of his aggregate income for the basis period for a year of assessment, from the payment of income tax in the second year of assessment following the year of assessment in which an investment is made by the angel investor in an investee company.

3(2) The amount of aggregate income which is referred to in subparagraph (1) shall be the amount equal to the amount of investment made by the angel investor in that investee company.

History
Para. 3(2) substituted by PU (A) 42/2015, para. 2, in force of investment made by the angel investor in that investee company from 1 January 2013. Para. 3(2) formerly read:

“3(2) The amount of income tax exempted under subparagraph (1) shall be an amount equal to the amount

3(3) Where the amount of investment referred to in subparagraph (2) exceeds the aggregate income of the angel investor for the basis period for the year of assessment referred to in that subparagraph, the excess amount shall not be refunded to that angel investor or be available as a credit to set off his tax liability for that year of assessment or any subsequent years of assessment.
3(4) The exemption under this paragraph is subject to—
(a) the investment is not disposed of, either in full or in part, within two years from the
date the investment is made; and
(b) the conditions specified by the Minister in the approval letter for the investment
have been complied with.
3(5) Nothing in subparagraph (1) shall absolve or be deemed to have absolved an angel
investor from complying with any requirement to submit any return or statement of
accounts or to furnish any other information under the provisions of the Act.

PARAGRAPH 4 WITHDRAWAL OF TAX EXEMPTION
The Minister may withdraw the tax exemption given under paragraph 3 if the angel
investor fails to comply with the conditions specified by the Minister in the approval
letter for the investment.

PARAGRAPH 5 APPLICATION
5 This Order applies to—
(a) an angel investor—
   (i) who is a resident in Malaysia and whose sources of income is not derived
   solely from business;
   (ii) who has made an application to the Minister on or after 1 January 2013 but not
   later than 31 December 2017 to make an investment in an investee company;
   (iii) who does not have a parent, including a parent in law, a child, including a step
   child, or child adopted in accordance with any law, a brother or sister, or a
   grandparent or grandchild, or a spouse, who makes any investment in the
   investee company;
   (iv) whose investment is for the sole purpose of financing the activities of the
   investee company as approved by the Minister; and
   (v) whose investment shall not be more than thirty per cent of the total paid-up
   share capital of the investee company; and
(b) an investee company—
   (i) incorporated under the Companies Act 1965 [Act 125] and a resident in
   Malaysia;
   (ii) which at least fifty one per cent of its issued ordinary share capital is directly
   owned by a shareholder (other than an angel investor) who is a citizen; and
   (iii) which carries on activities as approved by the Minister.

PARAGRAPH 6 NON-APPLICATION
This Order shall not apply to an angel investor who has made a claim for a deduction
under the Income Tax (Deduction for Investment In a Venture Company) Rules 2005
[P.U. (A) 76/2005].
INCOME TAX (EXEMPTION) ORDER 2015

[18 February 2015]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) Order 2015.
1(2) This Order is deemed to have come into operation from the year of assessment 2014.

PARAGRAPH 2 EXEMPTION
2 The Minister exempts an individual from the payment of income tax in respect of deferred annuity withdrawn by the individual before reaching the age of fifty-five, which was contracted for by the individual with an insurer carrying on life business and licensed under the Financial Services Act 2013 [Act 758] or a takaful operator carrying on family takaful business and licensed under the Islamic Financial Services Act 2013 [Act 759], for the period from 1 January 2014 until 31 May 2014.

PARAGRAPH 3 NON-APPLICATION
3 Section 109G of the Act shall not apply to the income exempted under this Order.
INCOME TAX (EXEMPTION) (NO. 2) ORDER 2015

PU (A) 50

[11 March 2015]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT

1(1) This order may be cited as the Income Tax (Exemption) (No. 2) Order 2015.
1(2) This Order has effect from the year of assessment 2015.

PARAGRAPH 2 INTERPRETATION

2 In this Order—
   “qualifying activity” means any activity to which the award of the status of a Multimedia Super Corridor company relates, and—
   (a) which is carried out by the qualifying company outside an area that is determined by the Government of Malaysia as the Multimedia Super Corridor cyber city or cyber centre, within the exemption period as specified in subparagraph 3(1); or
   (b) which is carried out by the qualifying company within an area that is determined by the Government of Malaysia as the Multimedia Super Corridor cyber city or cyber centre within the extended exemption period granted under paragraph 4;
   “pioneer business” has the same meaning assigned to it in subsection 2(1) of the Promotion of Investments Act 1986 [Act 327];
   “qualifying company” means a company—
   (a) incorporated under the Companies Act 1965 [Act 125];
   (b) resident in Malaysia;
   (c) which has made an application to the Minister of Finance and Minister of International Trade and Industry to be awarded the status of a Multimedia Super Corridor company on or after 1 January 2015 and has not carried out the qualifying activity at the time the application was made; and
   (d) has been awarded the status of a Multimedia Super Corridor company;
   “exemption period” means the exemption period as specified in subparagraph 3(1) or any extended exemption period granted under paragraph 4, as the case may be.

PARAGRAPH 3 EXEMPTION

3(1) The Minister exempts a qualifying company from the payment of income tax in the basis period for a year of assessment in respect of statutory income derived from a qualifying activity for the period of five years beginning from the date as determined by the Minister.

Para 1(1) Commerce Clearing House (Malaysia) Sdn Bhd
3(2) The exemption granted under subparagraph (1) shall be subject to the qualifying company complying with the conditions imposed in respect of the award of the status of a Multimedia Super Corridor company to it and any other conditions imposed by the Minister.

3(3) Nothing in subparagraph (1) shall absolve or is deemed to have absolved the qualifying company from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the Act.

PARAGRAPH 4 EXTENSION OF EXEMPTION PERIOD

4(1) The Minister may extend the exemption period referred to in subparagraph 3(1) for another period of five years subject to condition as determined by the Minister.

4(2) An application for the extension of the exemption period shall be made by the qualifying company in writing to the Minister not later than ninety days before the expiry of the exemption period referred to in subparagraph 3(1).

4(3) The extension of the exemption period shall begin from the subsequent date after the expiry of the exemption period referred to in subparagraph 3(1) and continues for a period of five years.

PARAGRAPH 5 STATUTORY INCOME

5(1) The statutory income of a qualifying company which is derived from a qualifying activity in the basis period for a year of assessment shall be determined after deducting the allowances which should be claimed under Schedule 3 to the Act notwithstanding that no claim for such allowances has been made.

5(2) The income of the qualifying company for each accounting period of its qualifying activity shall be computed in accordance with the Act by—

(a) treating each such accounting period as the basis period for the year of assessment, which includes the last day of the accounting period in question; and

(b) ascertaining the income in question as if it were the statutory income from the business for that year of assessment.

5(3) The amount of statutory income derived from the qualifying activity in the basis period for a year of assessment in respect of which the payment of the income tax is exempted under this Order is as follows:

(a) seventy percent of the statutory income for the exemption period referred to in subparagraph 3(1); or

(b) one hundred percent of the statutory income for the extended exemption period granted under paragraph 4.

Thornton’s Malaysian Tax Commentaries Para 5(3)
5(4) The amount of statutory income referred to in subparagraph (3) shall be reduced by—

(a) current year adjusted loss from any business other than pioneer business, any approved business exempted under the Income Tax (Exemption) (No. 11) Order 2006 [P.U. (A) 112/2006] and qualifying activity exempted under this Order; and

(b) any unabsorbed adjusted loss or current year adjusted loss from—

(i) any pioneer business;

(ii) any approved business exempted under the Income Tax (Exemption) (No. 11) Order 2006 [P.U. (A) 112/2006]; and

(iii) any qualifying activity exempted under this Order.

5(5) So much of the adjusted losses referred to in subsubparagraphs (4)(a) and (b) which was utilized to reduce the statutory income of the qualifying activity for a year of assessment shall not be taken into account for the purposes of subsections 43(2) and 44(2) of the Act, sections 21A and 25 of the Promotion of Investments Act 1986 or the Income Tax (Exemption) (No. 11) Order 2006, as the case may be.

5(6) Any amount of unabsorbed adjusted loss and current year adjusted loss, from the qualifying activity that are not utilized to reduce the statutory income during the exemption period shall be taken into account to reduce the total income of the qualifying company in accordance with subsections 43(2) and 44(2) of the Act in its subsequent basis period after the expiry of the exemption period for that year of assessment and subsequent years of assessment.

5(7) Thirty percent of the amount of income which is not exempted under subsubparagraph (3)(a) shall be deemed to be the total income or part of the total income of the qualifying company for that year of assessment.

PARAGRAPH 6 CAPITAL ALLOWANCE

6 For the purposes of this Order, notwithstanding the provision of Schedule 3 to the Act—

(a) the residual expenditure of an asset used prior to the date of commencement of the exemption period and that asset continues to be used in the basis period for the year of assessment in which the date of commencement of the exemption period falls shall be deemed to be the residual expenditure of that asset on the date of commencement of that exemption period;

(b) any capital expenditure incurred in respect of an asset in the basis period prior to the date of commencement of the exemption period and that asset continues to be used in the basis period for the year of assessment in which the date of commencement of the exemption period falls shall be deemed to have been incurred on the date of commencement of that exemption period;

(c) the residual expenditure of an asset used during the exemption period and that asset continues to be used in the basis period for the year of assessment in which the date of expiry of the exemption period falls shall be deemed to be the residual expenditure of that asset on the date following the expiry of that exemption period;
(d) any capital expenditure incurred in respect of an asset during the exemption period and that asset continues to be used in the basis period for a year of assessment in which the date of expiry of the exemption period falls shall be deemed to have been incurred on the date following the expiry of that exemption period;

(e) where an asset used for the purposes of the qualifying activity is also used for the purposes of other than the qualifying activity during the exemption period and after the expiry of the exemption period—

(i) the allowances which fall to be made under Schedule 3 to the Act shall be reduced as is reasonable having regard to the extent to which the asset is used for the purposes of the qualifying activity; and

(ii) the residual expenditure determined under subparagraphs (a) until (d) shall be reduced by the amount of any deduction made under subsubparagraph (i);

(f) unabsorbed capital allowance prior to the commencement of the exemption period shall be utilized to reduce the statutory income of the qualifying company which is derived from the qualifying activity in the basis period for the year of assessment to which the exemption period applies; and

(g) unabsorbed capital allowance during the exemption period of the qualifying activity shall be utilized to reduce the statutory income of the qualifying company which is derived from the qualifying activity in the basis period following the expiry of that exemption period for the year of assessment and any subsequent years of assessment.

PARAGRAPH 7 WITHDRAWAL OF EXEMPTION

7(1) The Minister may withdraw the exemption granted under this Order if the qualifying company fails to comply with any conditions imposed by the Minister.

7(2) Where the exemption granted under this Order is withdrawn, the withdrawal shall be deemed to be effective—

(a) from the date the exemption comes into effect; or

(b) if the Minister thinks fit, from such date after the date the exemption comes into effect, as determined by the Minister.

PARAGRAPH 8 SURRENDERING OF EXEMPTION

8(1) The Minister may, at any time, except where the qualifying company fails to comply with any conditions imposed by the Minister, allow the qualifying company to surrender the exemption granted under this Order by notice in writing to the Minister.

8(2) The surrender of the exemption shall have effect—

(a) on the date the approval of the award of the status of a Multimedia Super Corridor company is granted to the qualifying company; or

(b) in case where the exemption period has commenced—

(i) on the date of the application for surrender of the exemption is received by the Minister; or

(ii) on the first day in the basis period for the year of assessment in which the application for surrender of the exemption is received by the Minister.
PARAGRAPH 9  SEPARATE ACCOUNT

The qualifying company which is granted the exemption under this Order shall maintain a separate account for the income derived from the qualifying activity for the basis period for each year of assessment of the exemption period and the qualifying activity shall be treated as a separate and distinct source of income.

PARAGRAPH 10  NON-APPLICATION

This Order shall not apply to a qualifying company which in the basis period for that year of assessment—

(a) has made a claim for reinvestment allowance under Schedule 7A to the Act or investment allowance under Schedule 7B to the Act;
(b) has been granted any incentive under the Promotion of Investments Act 1986 in respect of similar qualifying activity;
(c) has been granted an exemption under section 127 of the Act in respect of similar qualifying activity; or
(d) has made a claim for deduction under any rules made under section 154 of the Act except—
   (i) allowance under Schedule 3 to the Act;
   (ii) the Income Tax (Deduction for Audit Expenditure) Rules 2006 [P.U. (A) 129/2006];
   (iii) the Income Tax (Deduction for Cost relating to Training for Employees for the Implementation of Goods and Services Tax) Rules 2014 [P.U. (A) 334/2014]; or
INCOME TAX (EXEMPTION) (NO. 3) ORDER 2015

[30 March 2015]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 3) Order 2015.
1(2) This Order has effect from the year of assessment 2015.

PARAGRAPH 2 APPLICATION
2 This Order shall apply to sukuk wakala with the nominal value up to one billion and five hundred million United States Dollar (USD1,500,000,000.00), other than convertible loan stock, issued by the Malaysia Sovereign Sukuk Berhad.

PARAGRAPH 3 EXEMPTION
3(1) The Minister exempts any person from the payment of income tax in the basis period for a year of assessment in relation to gains or profits derived, in lieu of interest, from the sukuk wakala in accordance with the principle of Wakala Bil Istithmar.
3(2) Nothing in subparagraph (1) shall absolve or is deemed to have absolved the person from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the Act.

PARAGRAPH 4 NON-APPLICATION
4 Section 109 of the Act shall not apply to the income exempted under this Order.
INCOME TAX (CONVENTION ON MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS) ORDER 2016
PU (A) 353

[19 December 2016]

IN exercise of the powers conferred by section 132B of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION

1 This order may be cited as the Income Tax (Convention on Mutual Administrative Assistance in Tax Matters) Order 2016.

PARAGRAPH 2 MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS

2 It is declared that the arrangements specified in the Schedule have been made by the Government of Malaysia and the governments which have signed the Convention on Mutual Administrative Assistance in Tax Matters in order to foster all forms of administrative assistance in matters concerning taxes of any kind and that it is expedient that those arrangements shall have effect.
SCHEDULE

CONVENTION ON MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS

Text amended by the provisions of the Protocol amending the Convention on Mutual Administrative Assistance in Tax Matters, which entered into force on 1st June 2011.

Preamble

The member States of the Council of Europe and the member countries of the Organisation for Economic Co-operation and Development (OECD), signatories of this Convention,

Considering that the development of international movement of persons, capital, goods and services — although highly beneficial in itself — has increased the possibilities of tax avoidance and evasion and therefore requires increasing co-operation among tax authorities;

Welcoming the various efforts made in recent years to combat tax avoidance and tax evasion on an international level, whether bilaterally or multilaterally;

Considering that a co-ordinated effort between States is necessary in order to foster all forms of administrative assistance in matters concerning taxes of any kind whilst at the same time ensuring adequate protection of the rights of taxpayers;

Recognising that international co-operation can play an important part in facilitating the proper determination of tax liabilities and in helping the taxpayer to secure his rights;

Considering that fundamental principles entitling every person to have his rights and obligations determined in accordance with a proper legal procedure should be recognised as applying to tax matters in all States and that States should endeavour to protect the legitimate interests of taxpayers, including appropriate protection against discrimination and double taxation;

Convinced therefore that States should carry out measures or supply information, having regard to the necessity of protecting the confidentiality of information, and taking account of international instruments for the protection of privacy and flows of personal data;

Considering that a new co-operative environment has emerged and that it is desirable that a multilateral instrument is made available to allow the widest number of States to obtain the benefits of the new co-operative environment and at the same time implement the highest international standards of co-operation in the tax field;

Desiring to conclude a convention on mutual administrative assistance in tax matters,

Have agreed as follows:

CHAPTER I — SCOPE OF THE CONVENTION

ARTICLE 1 OBJECT OF THE CONVENTION AND PERSONS COVERED

1 The Parties shall, subject to the provisions of Chapter IV, provide administrative assistance to each other in tax matters. Such assistance may involve, where appropriate, measures taken by judicial bodies.

2 Such administrative assistance shall comprise:

a exchange of information, including simultaneous tax examinations and participation in tax examinations abroad;

b assistance in recovery, including measures of conservancy; and

c service of documents.
A Party shall provide administrative assistance whether the person affected is a resident or national of a Party or of any other State.

ARTICLE 2 TAXES COVERED

1 This Convention shall apply:
   a to the following taxes:
      i taxes on income or profits,
      ii taxes on capital gains which are imposed separately from the tax on income or profits,
      iii taxes on net wealth,
   imposed on behalf of a Party; and
   b to the following taxes:
      i taxes on income, profits, capital gains or net wealth which are imposed on behalf of political subdivisions or local authorities of a Party,
      ii compulsory social security contributions payable to general government or to social security institutions established under public law, and
      iii taxes in other categories, except customs duties, imposed on behalf of a Party, namely:
         A estate, inheritance or gift taxes,
         B taxes on immovable property,
         C general consumption taxes, such as value added or sales taxes,
         D specific taxes on goods and services such as excise taxes,
         E taxes on the use or ownership of motor vehicles,
         F taxes on the use or ownership of movable property other than motor vehicles,
         G any other taxes;
      iv taxes in categories referred to in sub-paragraph iii. above which are imposed on behalf of political subdivisions or local authorities of a Party.

2 The existing taxes to which the Convention shall apply are listed in Annex A in the categories referred to in paragraph 1.

3 The Parties shall notify the Secretary General of the Council of Europe or the Secretary General of OECD (hereinafter referred to as the “Depositaries”) of any change to be made to Annex A as a result of a modification of the list mentioned in paragraph 2. Such change shall take effect on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Depositary.

4 The Convention shall also apply, as from their adoption, to any identical or substantially similar taxes which are imposed in a Contracting State after the entry into force of the Convention in respect of that Party in addition to or in place of the existing taxes listed in Annex A and, in that event, the Party concerned shall notify one of the Depositaries of the adoption of the tax in question.
CHAPTER II — GENERAL DEFINITIONS

ARTICLE 3 DEFINITIONS
1 For the purposes of this Convention, unless the context otherwise requires:
   a the terms “applicant State” and “requested State” mean respectively any Party applying for administrative assistance in tax matters and any Party requested to provide such assistance;
   b the term “tax” means any tax or social security contribution to which the Convention applies pursuant to Article 2;
   c the term “tax claim” means any amount of tax, as well as interest thereon, related administrative fines and costs incidental to recovery, which are owed and not yet paid;
   d the term “competent authority” means the persons and authorities listed in Annex B;
   e the term “nationals” in relation to a Party means:
      i all individuals possessing the nationality of that Party, and
      ii all legal persons, partnerships, associations and other entities deriving their status as such from the laws in force in that Party.

For each Party that has made a declaration for that purpose, the terms used above will be understood as defined in Annex C.

2 As regards the application of the Convention by a Party, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that Party concerning the taxes covered by the Convention.

3 The Parties shall notify one of the Depositaries of any change to be made to Annexes B and C. Such change shall take effect on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Depositary in question.

CHAPTER III — FORMS OF ASSISTANCE

SECTION I — EXCHANGE OF INFORMATION

ARTICLE 4 GENERAL PROVISION
1 The Parties shall exchange any information, in particular as provided in this section, that is foreseeably relevant for the administration or enforcement of their domestic laws concerning the taxes covered by this Convention.

2 Deleted.

3 Any Party may, by a declaration addressed to one of the Depositaries, indicate that, according to its internal legislation, its authorities may inform its resident or national before transmitting information concerning him, in conformity with Articles 5 and 7.

ARTICLE 5 EXCHANGE OF INFORMATION ON REQUEST
1 At the request of the applicant State, the requested State shall provide the applicant State with any information referred to in Article 4 which concerns particular persons or transactions.

2 If the information available in the tax files of the requested State is not sufficient to enable it to comply with the request for information, that State shall take all relevant measures to provide the applicant State with the information requested.
ARTICLE 6 AUTOMATIC EXCHANGE OF INFORMATION

With respect to categories of cases and in accordance with procedures which they shall determine by mutual agreement, two or more Parties shall automatically exchange the information referred to in Article 4.

ARTICLE 7 SPONTANEOUS EXCHANGE OF INFORMATION

1 A Party shall, without prior request, forward to another Party information of which it has knowledge in the following circumstances:
   a the first-mentioned Party has grounds for supposing that there may be a loss of tax in the other Party;
   b a person liable to tax obtains a reduction in or an exemption from tax in the first-mentioned Party which would give rise to an increase in tax or to liability to tax in the other Party;
   c business dealings between a person liable to tax in a Party and a person liable to tax in another Party are conducted through one or more countries in such a way that a saving in tax may result in one or the other Party or in both;
   d a Party has grounds for supposing that a saving of tax may result from artificial transfers of profits within groups of enterprises;
   e information forwarded to the first-mentioned Party by the other Party has enabled information to be obtained which may be relevant in assessing liability to tax in the latter Party.

2 Each Party shall take such measures and implement such procedures as are necessary to ensure that information described in paragraph 1 will be made available for transmission to another Party.

ARTICLE 8 SIMULTANEOUS TAX EXAMINATIONS

1 At the request of one of them, two or more Parties shall consult together for the purposes of determining cases and procedures for simultaneous tax examinations. Each Party involved shall decide whether or not it wishes to participate in a particular simultaneous tax examination.

2 For the purposes of this Convention, a simultaneous tax examination means an arrangement between two or more Parties to examine simultaneously, each in its own territory, the tax affairs of a person or persons in which they have a common or related interest, with a view to exchanging any relevant information which they so obtain.

ARTICLE 9 TAX EXAMINATIONS ABROAD

1 At the request of the competent authority of the applicant State, the competent authority of the requested State may allow representatives of the competent authority of the applicant State to be present at the appropriate part of a tax examination in the requested State.

2 If the request is acceded to, the competent authority of the requested State shall, as soon as possible, notify the competent authority of the applicant State about the time and place of the examination, the authority or official designated to carry out the examination and the procedures and conditions required by the requested State for the conduct of the examination. All decisions with respect to the conduct of the tax examination shall be made by the requested State.

3 A Party may inform one of the Depositaries of its intention not to accept, as a general rule, such requests as are referred to in paragraph 1. Such a declaration may be made or withdrawn at any time.
ARTICLE 10 CONFLICTING INFORMATION
If a Party receives from another Party information about a person’s tax affairs which appears to it to conflict with information in its possession, it shall so advise the Party which has provided the information.

SECTION II — ASSISTANCE IN RECOVERY

ARTICLE 11 RECOVERY OF TAX CLAIMS
1 At the request of the applicant State, the requested State shall, subject to the provisions of Articles 14 and 15, take the necessary steps to recover tax claims of the first-mentioned State as if they were its own tax claims.
2 The provision of paragraph 1 shall apply only to tax claims which form the subject of an instrument permitting their enforcement in the applicant State and, unless otherwise agreed between the Parties concerned, which are not contested. However, where the claim is against a person who is not a resident of the applicant State, paragraph 1 shall only apply, unless otherwise agreed between the Parties concerned, where the claim may no longer be contested.
3 The obligation to provide assistance in the recovery of tax claims concerning a deceased person or his estate, is limited to the value of the estate or of the property acquired by each beneficiary of the estate, according to whether the claim is to be recovered from the estate or from the beneficiaries thereof.

ARTICLE 12 MEASURES OF CONSERVANCY
At the request of the applicant State, the requested State shall, with a view to the recovery of an amount of tax, take measures of conservancy even if the claim is contested or is not yet the subject of an instrument permitting enforcement.

ARTICLE 13 DOCUMENTS ACCOMPANYING THE REQUEST
1 The request for administrative assistance under this section shall be accompanied by:
   a a declaration that the tax claim concerns a tax covered by the Convention and, in the case of recovery that, subject to paragraph 2 of Article 11, the tax claim is not or may not be contested,
   b an official copy of the instrument permitting enforcement in the applicant State, and
   c any other document required for recovery or measures of conservancy.
2 The instrument permitting enforcement in the applicant State shall, where appropriate and in accordance with the provisions in force in the requested State, be accepted, recognised, supplemented or replaced as soon as possible after the date of the receipt of the request for assistance, by an instrument permitting enforcement in the latter State.

ARTICLE 14 TIME LIMITS
1 Questions concerning any period beyond which a tax claim cannot be enforced shall be governed by the law of the applicant State. The request for assistance shall give particulars concerning that period.
2 Acts of recovery carried out by the requested State in pursuance of a request for assistance, which, according to the laws of that State, would have the effect of suspending or interrupting the period mentioned in paragraph 1, shall also have this effect under the laws of the applicant State. The requested State shall inform the applicant State about such acts.
In any case, the requested State is not obliged to comply with a request for assistance which is submitted after a period of 15 years from the date of the original instrument permitting enforcement.

**ARTICLE 15 PRIORITY**
The tax claim in the recovery of which assistance is provided shall not have in the requested State any priority specially accorded to the tax claims of that State even if the recovery procedure used is the one applicable to its own tax claims.

**ARTICLE 16 DEFERRAL OF PAYMENT**
The requested State may allow deferral of payment or payment by installments if its laws or administrative practice permit it to do so in similar circumstances, but shall first inform the applicant State.

**SECTION III — SERVICE OF DOCUMENTS**

**ARTICLE 17 SERVICE OF DOCUMENTS**

1. At the request of the applicant State, the requested State shall serve upon the addressee documents, including those relating to judicial decisions, which emanate from the applicant State and which relate to a tax covered by this Convention.

2. The requested State shall effect service of documents:
   a. by a method prescribed by its domestic laws for the service of documents of a substantially similar nature;
   b. to the extent possible, by a particular method requested by the applicant State or the closest to such method available under its own laws.

3. A Party may effect service of documents directly through the post on a person within the territory of another Party.

4. Nothing in the Convention shall be construed as invalidating any service of documents by a Party in accordance with its laws.

5. When a document is served in accordance with this article, it need not be accompanied by a translation. However, where it is satisfied that the addressee cannot understand the language of the document, the requested State shall arrange to have it translated into or a summary drafted in its or one of its official languages. Alternatively, it may ask the applicant State to have the document either translated into or accompanied by a summary in one of the official languages of the requested State, the Council of Europe or the OECD.

**CHAPTER IV — PROVISIONS RELATING TO ALL FORMS OF ASSISTANCE**

**ARTICLE 18 INFORMATION TO BE PROVIDED BY THE APPLICANT STATE**

1. A request for assistance shall indicate where appropriate:
   a. the authority or agency which initiated the request made by the competent authority;
   b. the name, address, or any other particulars assisting in the identification of the person in respect of whom the request is made;
   c. in the case of a request for information, the form in which the applicant State wishes the information to be supplied in order to meet its needs;
in the case of a request for assistance in recovery or measures of conservancy, the nature of
the tax claim, the components of the tax claim and the assets from which the tax claim may
be recovered;

e in the case of a request for service of documents, the nature and the subject of the document
to be served;

f whether it is in conformity with the law and administrative practice of the applicant State
and whether it is justified in the light of the requirements of Article 21.2.g.

2 As soon as any other information relevant to the request for assistance comes to its knowledge,
the applicant State shall forward it to the requested State.

ARTICLE 19 DELETED

ARTICLE 20 RESPONSE TO THE REQUEST FOR ASSISTANCE

1 If the request for assistance is complied with, the requested State shall inform the applicant
State of the action taken and of the result of the assistance as soon as possible.

2 If the request is declined, the requested State shall inform the applicant State of that decision
and the reason for it as soon as possible.

3 If, with respect to a request for information, the applicant State has specified the form in which
it wishes the information to be supplied and the requested State is in a position to do so, the
requested State shall supply it in the form requested.

ARTICLE 21 PROTECTION OF PERSONS AND LIMITS TO THE
OBLIGATION TO PROVIDE ASSISTANCE

1 Nothing in this Convention shall affect the rights and safeguards secured to persons by the laws
or administrative practice of the requested State.

2 Except in the case of Article 14, the provisions of this Convention shall not be construed so as
to impose on the requested State the obligation:

a to carry out measures at variance with its own laws or administrative practice or the laws or
administrative practice of the applicant State;

b to carry out measures which would be contrary to public policy (ordre public);

c to supply information which is not obtainable under its own laws or its administrative
practice or under the laws of the applicant State or its administrative practice;

d to supply information which would disclose any trade, business, industrial, commercial or
professional secret, or trade process, or information the disclosure of which would be
contrary to public policy (ordre public);

e to provide administrative assistance if and insofar as it considers the taxation in the
applicant State to be contrary to generally accepted taxation principles or to the provisions
of a convention for the avoidance of double taxation, or of any other convention which the
requested State has concluded with the applicant State;

f to provide administrative assistance for the purpose of administering or enforcing a
provision of the tax law of the applicant State, or any requirement connected therewith,
which discriminates against a national of the requested State as compared with a national of
the applicant State in the same circumstances;
g to provide administrative assistance if the applicant State has not pursued all reasonable measures available under its laws or administrative practice, except where recourse to such measures would give rise to disproportionate difficulty;

h to provide assistance in recovery in those cases where the administrative burden for that State is clearly disproportionate to the benefit to be derived by the applicant State.

3 If information is requested by the applicant State in accordance with this Convention, the requested State shall use its information gathering measures to obtain the requested information, even though the requested State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations contained in this Convention, but in no case shall such limitations, including in particular those of paragraphs 1 and 2, be construed to permit a requested State to decline to supply information solely because it has no domestic interest in such information.

4 In no case shall the provisions of this Convention, including in particular those of paragraphs 1 and 2, be construed to permit a requested State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

ARTICLE 22 SECRECY

1 Any information obtained by a Party under this Convention shall be treated as secret and protected in the same manner as information obtained under the domestic law of that Party and, to the extent needed to ensure the necessary level of protection of personal data, in accordance with the safeguards which may be specified by the supplying Party as required under its domestic law.

2 Such information shall in any case be disclosed only to persons or authorities (including courts and administrative or supervisory bodies) concerned with the assessment, collection or recovery of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, taxes of that Party, or the oversight of the above. Only the persons or authorities mentioned above may use the information and then only for such purposes. They may, notwithstanding the provisions of paragraph 1, disclose it in public court proceedings or in judicial decisions relating to such taxes.

3 If a Party has made a reservation provided for in sub-paragraph a. of paragraph 1 of Article 30, any other Party obtaining information from that Party shall not use it for the purpose of a tax in a category subject to the reservation. Similarly, the Party making such a reservation shall not use information obtained under this Convention for the purpose of a tax in a category subject to the reservation.

4 Notwithstanding the provisions of paragraphs 1, 2 and 3, information received by a Party may be used for other purposes when such information may be used for such other purposes under the laws of the supplying Party and the competent authority of that Party authorises such use. Information provided by a Party to another Party may be transmitted by the latter to a third Party, subject to prior authorisation by the competent authority of the first-mentioned Party.

ARTICLE 23 PROCEEDINGS

1 Proceedings relating to measures taken under this Convention by the requested State shall be brought only before the appropriate body of that State.

2 Proceedings relating to measures taken under this Convention by the applicant State, in particular those which, in the field of recovery, concern the existence or the amount of the tax claim or the instrument permitting its enforcement, shall be brought only before the appropriate body of that State. If such proceedings are brought, the applicant State shall inform the requested State which shall suspend the procedure pending the decision of the body in question. However, the requested State shall, if asked by the applicant State, take measures of conservancy to safeguard
recovery. The requested State can also be informed of such proceedings by any interested person. Upon receipt of such information the requested State shall consult on the matter, if necessary, with the applicant State.

3 As soon as a final decision in the proceedings has been given, the requested State or the applicant State, as the case may be, shall notify the other State of the decision and the implications which it has for the request for assistance.

**CHAPTER V — SPECIAL PROVISIONS**

**ARTICLE 24 IMPLEMENTATION OF THE CONVENTION**

1 The Parties shall communicate with each other for the implementation of this Convention through their respective competent authorities. The competent authorities may communicate directly for this purpose and may authorise subordinate authorities to act on their behalf. The competent authorities of two or more Parties may mutually agree on the mode of application of the Convention among themselves.

2 Where the requested State considers that the application of this Convention in a particular case would have serious and undesirable consequences, the competent authorities of the requested and of the applicant State shall consult each other and endeavour to resolve the situation by mutual agreement.

3 A co-ordinating body composed of representatives of the competent authorities of the Parties shall monitor the implementation and development of this Convention, under the aegis of the OECD. To that end, the co-ordinating body shall recommend any action likely to further the general aims of the Convention. In particular it shall act as a forum for the study of new methods and procedures to increase international co-operation in tax matters and, where appropriate, it may recommend revisions or amendments to the Convention. States which have signed but not yet ratified, accepted or approved the Convention are entitled to be represented at the meetings of the co-ordinating body as observers.

4 A Party may ask the co-ordinating body to furnish opinions on the interpretation of the provisions of the Convention.

5 Where difficulties or doubts arise between two or more Parties regarding the implementation or interpretation of the Convention, the competent authorities of those Parties shall endeavour to resolve the matter by mutual agreement. The agreement shall be communicated to the co-ordinating body.

6 The Secretary General of OECD shall inform the Parties, and the Signatory States which have not yet ratified, accepted or approved the Convention, of opinions furnished by the co-ordinating body according to the provisions of paragraph 4 above and of mutual agreements reached under paragraph 5 above.

**ARTICLE 25 LANGUAGE**

Requests for assistance and answers thereto shall be drawn up in one of the official languages of the OECD and of the Council of Europe or in any other language agreed bilaterally between the Contracting States concerned.

**ARTICLE 26 COSTS**

Unless otherwise agreed bilaterally by the Parties concerned:

- ordinary costs incurred in providing assistance shall be borne by the requested State;
- extraordinary costs incurred in providing assistance shall be borne by the applicant State.
CHAPTER VI — FINAL PROVISIONS

ARTICLE 27 OTHER INTERNATIONAL AGREEMENTS OR ARRANGEMENTS

1 The possibilities of assistance provided by this Convention do not limit, nor are they limited by, those contained in existing or future international agreements or other arrangements between the Parties concerned or other instruments which relate to co-operation in tax matters.

2 Notwithstanding paragraph 1, those Parties which are member States of the European Union can apply, in their mutual relations, the possibilities of assistance provided for by the Convention in so far as they allow a wider co-operation than the possibilities offered by the applicable European Union rules.

ARTICLE 28 SIGNATURE AND ENTRY INTO FORCE OF THE CONVENTION

1 This Convention shall be open for signature by the member States of the Council of Europe and the member countries of OECD. It is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with one of the Depositaries.

2 This Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date on which five States have expressed their consent to be bound by the Convention in accordance with the provisions of paragraph 1.

3 In respect of any member State of the Council of Europe or any member country of OECD which subsequently expresses its consent to be bound by it, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of the instrument of ratification, acceptance or approval.

4 Any member State of the Council of Europe or any member country of OECD which becomes a Party to the Convention after the entry into force of the Protocol amending this Convention, opened for signature on 27th May 2010 (the “2010 Protocol”), shall be a Party to the Convention as amended by that Protocol, unless they express a different intention in a written communication to one of the Depositaries.

5 After the entry into force of the 2010 Protocol, any State which is not a member of the Council of Europe or of the OECD may request to be invited to sign and ratify this Convention as amended by the 2010 Protocol. Any request to this effect shall be addressed to one of the Depositaries, who shall transmit it to the Parties. The Depositary shall also inform the Committee of Ministers of the Council of Europe and the OECD Council. The decision to invite States which so request to become Party to this Convention shall be taken by consensus by the Parties to the Convention through the co-ordinating body. In respect of any State ratifying the Convention as amended by the 2010 Protocol in accordance with this paragraph, this Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit of the instrument of ratification with one of the Depositaries.

6 The provisions of this Convention, as amended by the 2010 Protocol, shall have effect for administrative assistance related to taxable periods beginning on or after 1 January of the year in which the Convention, as amended by the 2010 Protocol, entered into force in respect of a Party, or where there is no taxable period, for administrative assistance related to charges to tax arising on or after 1 January of the year following the one in which the Convention, as amended by the 2010 Protocol, entered into force in respect of a Party. Any two or more Parties may mutually agree that the Convention, as amended by the 2010 Protocol, shall have effect for administrative assistance related to earlier taxable periods or charges to tax.
Notwithstanding paragraph 6, for tax matters involving intentional conduct which is liable to prosecution under the criminal laws of the applicant Party, the provisions of this Convention, as amended by the 2010 Protocol, shall have effect from the date of entry into force in respect of a Party in relation to earlier taxable periods or charges to tax.

ARTICLE 29 TERRITORIAL APPLICATION OF THE CONVENTION

1 Each State may, at the time of signature, or when depositing its instrument of ratification, acceptance or approval, specify the territory or territories to which this Convention shall apply.

2 Any State may, at any later date, by a declaration addressed to one of the Depositaries, extend the application of this Convention to any other territory specified in the declaration. In respect of such territory the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Depositary.

3 Any declaration made under either of the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to one of the Depositaries. The withdrawal shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Depositary.

ARTICLE 30 RESERVATIONS

1 Any State may, at the time of signature or when depositing its instrument of ratification, acceptance or approval or at any later date, declare that it reserves the right:

a not to provide any form of assistance in relation to the taxes of other Parties in any of the categories listed in sub-paragraph b. of paragraph 1 of Article 2, provided that it has not included any domestic tax in that category under Annex A of the Convention;

b not to provide assistance in the recovery of any tax claim, or in the recovery of an administrative fine, for all taxes or only for taxes in one or more of the categories listed in paragraph 1 of Article 2;

c not to provide assistance in respect of any tax claim, which is in existence at the date of entry into force of the Convention in respect of that State or, where a reservation has previously been made under sub-paragraph a. or b. above, at the date of withdrawal of such a reservation in relation to taxes in the category in question;

d not to provide assistance in the service of documents for all taxes or only for taxes in one or more of the categories listed in paragraph 1 of Article 2;

e not to permit the service of documents through the post as provided for in paragraph 3 of Article 17;

f to apply paragraph 7 of Article 28 exclusively for administrative assistance related to taxable periods beginning on or after 1 January of the third year preceding the one in which the Convention, as amended by the 2010 Protocol, entered into force in respect of a Party, or where there is no taxable period, for administrative assistance related to charges to tax arising on or after 1 January of the third year preceding the one in which the Convention, as amended by the 2010 Protocol, entered into force in respect of a Party.

2 No other reservation may be made.

3 After the entry into force of the Convention in respect of a Party, that Party may make one or more of the reservations listed in paragraph 1 which it did not make at the time of ratification, acceptance or approval. Such reservations shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Depositary.
following the expiration of a period of three months after the date of receipt of the reservation by one of the Depositaries.

4. Any Party which has made a reservation under paragraphs 1 and 3 may wholly or partly withdraw it by means of a notification addressed to one of the Depositaries. The withdrawal shall take effect on the date of receipt of such notification by the Depositary in question.

5. A Party which has made a reservation in respect of a provision of this Convention may not require the application of that provision by any other Party; it may, however, if its reservation is partial, require the application of that provision insofar as it has itself accepted it.

### ARTICLE 31 DENUNCIATION

1. Any Party may, at any time, denounce this Convention by means of a notification addressed to one of the Depositaries.

2. Such denunciation shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of the notification by the Depositary.

3. Any Party which denounces the Convention shall remain bound by the provisions of Article 22 for as long as it retains in its possession any documents or information obtained under the Convention.

### ARTICLE 32 DEPOSITARIES AND THEIR FUNCTIONS

1. The Depositary with whom an act, notification or communication has been accomplished, shall notify the member States of the Council of Europe and the member countries of OECD and any Party to this Convention of:

   a. any signature;
   b. the deposit of any instrument of ratification, acceptance or approval;
   c. any date of entry into force of this Convention in accordance with the provisions of Articles 28 and 29;
   d. any declaration made in pursuance of the provisions of paragraph 3 of Article 4 or paragraph 3 of Article 9 and the withdrawal of any such declaration;
   e. any reservation made in pursuance of the provisions of Article 30 and the withdrawal of any reservation effected in pursuance of the provisions of paragraph 4 of Article 30;
   f. any notification received in pursuance of the provisions of paragraph 3 or 4 of Article 2, paragraph 3 of Article 3, Article 29 or paragraph 1 of Article 31;
   g. any other act, notification or communication relating to this Convention.

2. The Depositary receiving a communication or making a notification in pursuance of the provisions of paragraph 1 shall inform immediately the other Depositary thereof.

In witness whereof the undersigned, being duly authorised thereto, have signed the Convention.

Established by the Depositaries the 1st day of June 2011 pursuant to Article X.4 of the Protocol amending the Convention on Mutual Administrative Assistance in Tax Matters, in English and French, both texts being equally authentic, in two copies of which one shall be deposited in the archives of each Depositary. The Depositaries shall transmit a certified copy to each Party to the Convention as amended by the Protocol and to each State entitled to become a party.

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Commerce Clearing House (Malaysia) Sdn Bhd
ANNEX A
EXISTING TAXES TO WHICH THE CONVENTION APPLY

1. Article 2 paragraph 1.a.i:
   (a) income tax
   (b) petroleum income tax.

2. Article 2, paragraph 1.a.ii:
tax on property profits.

ANNEX B
COMPETENT AUTHORITIES
In relation to Malaysia, the term “competent authority” means the Minister of Finance or his legal representative.

ANNEX C
DEFINITION OF NATIONAL
In relation to Malaysia, the term “national” means:
(a) any individual possessing the nationality or citizenship of Malaysia
(b) any legal person, partnership or association and other entities deriving his status as such from the laws in force in Malaysia.
INCOME TAX (EXEMPTION) ORDER 2016

[15 February 2016]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND APPLICATION
1(1) This order may be cited as the Income Tax (Exemption) Order 2016.
1(2) This Order shall apply for the year of assessment 2015.

PARAGRAPH 2 EXEMPTION
2(1) The Minister exempts an individual resident in Malaysia from the payment of income tax in the basis period for the year of assessment in respect of his chargeable income referred to in subparagraph (2) provided that his total aggregate income in the basis period for that year of assessment shall not exceed ninety six thousand ringgit.
2(2) The amount of chargeable income to be exempted under subparagraph (1) is two thousand ringgit.

Para 1(1) Commerce Clearing House (Malaysia) Sdn Bhd
INCOME TAX (EXEMPTION) (NO. 2) ORDER 2016
PU (A) 90

[7 April 2016]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 2) Order 2016.
1(2) This Order has effect from the year of assessment 2016.

PARAGRAPH 2 APPLICATION
2 This Order shall apply to sukuk wakala with the nominal value up to one billion and five hundred million United States Dollar (US$1,500,000,000.00), other than convertible loan stock, issued by the Malaysia Sukuk Global Berhad (formerly known as 1Malaysia Sukuk Global Berhad).

PARAGRAPH 3 EXEMPTION
3(1) The Minister exempts any person from the payment of income tax in the basis period for each year of assessment in relation to gains or profits derived, in lieu of interest, from the sukuk wakala in accordance with the principle of Wakala.
3(2) Nothing in subparagraph (1) shall absolve or is deemed to have absolved the person from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the Act.

PARAGRAPH 4 NON-APPLICATION
4 Section 109 of the Act shall not apply to the income exempted under this Order.
INCOME TAX (EXEMPTION) (NO. 3)
ORDER 2016
PU (A) 113

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 3) Order 2016.
1(2) This Order is deemed to have come into operation on 1 April 2016.

PARAGRAPH 2 INTERPRETATION
2 In this Order—

“licensed Islamic bank” has the meaning assigned to it under subsection 2(1) of the Islamic Financial Services Act 2013 [Act 759];

“prescribed institution” has the meaning assigned to it under section 3 of the Development Financial Institutions Act 2002 [Act 618];

“qualified person” means an individual resident in Malaysia;

“small and medium enterprises” has the meaning assigned to it under section 2 of the Small and Medium Enterprise Corporation Malaysia Act 1995 [Act 539];

“investment account platform” means a multibank platform which enables the channelling of funds invested by an individual through an investment account as defined under subsection 2(1) of the Islamic Financial Services Act 2013.

PARAGRAPH 3 EXEMPTION
3(1) Subject to subparagraph (2), the Minister exempts a qualified person from the payment of income tax in respect of the profits from an investment received by the qualified person within the period of three consecutive years of assessment starting from the first year of assessment the profits are received by the qualified person.

3(2) The exemption referred to in subparagraph (1) is subject to the following conditions:

(a) the investment is made within the period of three years starting from 1 April 2016 to 31 March 2019;

(b) the investment is made through the investment account platform established by a licensed Islamic bank or prescribed institution and operated by a person recognized by the Bank Negara Malaysia;

Para 1(1) Commerce Clearing House (Malaysia) Sdn Bhd
(c) the investment is to finance any venture or project in Malaysia in any industry or sector undertaken by a small and medium enterprise that fulfills the following criteria:

(i) a sole proprietor who is a Malaysian citizen and his business is registered under the Registration of Businesses Act 1956 [Act 197];

(ii) a limited liability partnership registered under the Limited Liability Partnership Act 2012 [Act 743], in which at least fifty one per cent of its capital contribution is contributed by Malaysian citizen;

(iii) a partnership registered under the Registration of Businesses Act 1956, in which at least fifty one per cent of its capital contribution is contributed by Malaysian citizen;

(iv) a company incorporated under the Companies Act 1965 [Act 125] in which at least fifty one per cent of its issued ordinary share capital is directly owned by Malaysian citizen;

(d) the venture or project in respect of which the investment is made is sponsored by a licensed Islamic Bank or prescribed institution;

(e) the qualified person obtains a confirmation from the person who operates the investment account platform on the profits received from the venture or project in respect of which the investment is made and furnishes the confirmation to the Director General; and

(f) the venture or project in respect of which the investment is made does not involve any of the following relative of the qualified person:

(i) a spouse;

(ii) a parent, including a step parent and a parent in law;

(iii) a child, including a step child, or an adopted child in accordance with any law;

(iv) a brother or a sister, including a step brother or a step sister; and

(v) a grandparent or a grandchild, including a step grandparent or a step grandchild.

PARAGRAPH 4 WITHDRAWAL OF EXEMPTION

4 An exemption given to a qualified person under this Order may be withdrawn if within the exemption period referred to in subparagraph 3(1) the small and medium enterprise that undertakes the venture or project referred to in subsubparagraph 3(2)(c)—

(a) is no longer a small and medium enterprise; or

(b) no longer fulfills the criteria specified in subsubparagraph 3(2)(c).
INCOME TAX (EXEMPTION) (NO. 4)
ORDER 2016
PU (A) 157

[8 June 2016]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 4) Order 2016.
1(2) This Order is deemed to have come into operation on 13 June 2008.

PARAGRAPH 2 INTERPRETATION
2(1) In this Order—
“related company” has the same meaning assigned to it in section 2 of the Promotion of Investments Act 1986 [Act 327];
“East Coast Economic Region” has the same meaning assigned to it in the East Coast Economic Region Development Council Act 2008 [Act 688].
2(2) Except for subparagraphs 6(1) and (2), paragraphs 46 and 55 of Schedule 3 to the Act shall apply in relation to any reference to “incurred” in this Order, and the word “incurs” shall be construed accordingly.

PARAGRAPH 3 QUALIFYING PERSON
3(1) The qualifying person referred to in this Order is—
(a) a company incorporated under the Companies Act 1965 [Act 125] and resident in Malaysia;
(b) an agro-based co-operative society;
(c) a Farmers’ Organization;
(d) an Area Fishermen’s Association, a National Fishermen’s Association or a State Fishermen’s Association; or
(e) an association solely engaged in agriculture and resident in Malaysia.
3(2) Where the qualifying person is a company which has been granted an exemption under this Order, any related company to the company is not entitled to be granted an exemption under this Order in relation to the same qualifying activity.
3(3) For the purposes of this paragraph—
“agro-based co-operative society” has the same meaning assigned to it in the Farmers’ Organization Act 1973 [Act 109];
“Area Fishermen’s Association” has the same meaning assigned to it in the Fishermen’s Associations Act 1971 [Act 44];

Para 1(1) Commerce Clearing House (Malaysia) Sdn Bhd
“National Fishermen’s Association” has the same meaning assigned to it in the Fishermen’s Associations Act 1971;

“State Fishermen’s Association” has the same meaning assigned to it in the Fishermen’s Associations Act 1971;

“Farmers’ Organization” has the same meaning assigned to it in the Farmers’ Organization Act 1973.

PARAGRAPH 4 QUALIFYING ACTIVITY

4 A qualifying activity referred to in this Order is an activity as set out in column (3) of the Schedule in relation to the sector as set out in column (2)—

(a) which has not been carried on in the East Coast Economic Region on the date the application referred to in subparagraph 6(4) is made; or

(b) which has been carried on in the East Coast Economic Region not more than one year prior to the date the application referred to in subparagraph 6(4) is made,

and approved by the Minister.

PARAGRAPH 5 QUALIFYING CAPITAL EXPENDITURE

5(1) Subject to subparagraph (2), a qualifying capital expenditure referred to in this Order is a capital expenditure as set out in column (4) of the Schedule incurred by a qualifying person in relation to a building, factory, machinery or plant used in Malaysia solely for the purpose of carrying on a qualifying activity.

5(2) Unless otherwise stated in the Schedule, qualifying capital expenditure shall not include capital expenditure incurred on—

(a) any building which is used as living accommodation for a person; or

(b) any machinery or plant which is provided wholly or partly for the use of a director or an individual who is a member of the management, administration or clerical staff of that qualifying person.

PARAGRAPH 6 EXEMPTION

6(1) The Minister exempts a qualifying person in the basis period for a year of assessment from the payment of income tax in respect of statutory income derived from a qualifying activity, which is equivalent to the amount of allowance of one hundred per cent of the qualifying capital expenditure incurred by the qualifying person.

6(2) The exemption referred to in subparagraph (1) shall be for a period of five consecutive years commencing from the date of the first qualifying capital expenditure incurred by the qualifying person as determined by the East Coast Economic Region Development Council.

6(3) The commencement date referred to in subparagraph (2) shall not be earlier than three years before the date of the application for exemption is made and shall not be earlier than 13 June 2008.

6(4) An application for exemption under this Order shall be made to the Minister through the East Coast Economic Region Development Council on or after 13 June 2008 but not later than 31 December 2020.

Thornton’s Malaysian Tax Commentaries Para 6(4)
6(5) An exemption granted under this Order is subject to the qualifying person complying with all the conditions imposed by the Minister in relation to the exemption.

6(6) Nothing in subparagraph (1) shall absolve or be deemed to have absolved the qualifying person from complying with any requirement to submit any return or statement of accounts or to furnish any other information, under the Act.

6(7) For the purposes of this paragraph, the “East Coast Economic Region Development Council” means the council established under the East Coast Economic Region Development Council Act 2008.

PARAGRAPH 7 STATUTORY INCOME

7(1) Subject to subparagraph (2), the statutory income referred to in subparagraph 6(1) in the basis period for each year of assessment shall be determined after deducting the allowances which fall to be made under Schedule 3 to the Act notwithstanding that no claim for such allowances has been made.

7(2) Where a building, factory, machinery or plant is used for the purposes of a qualifying activity is also used for the purposes of an activity other than a qualifying activity, then the allowances which fall to be made under Schedule 3 to the Act shall be deducted as is reasonable having regard to the extent to which the building, factory, machinery or plant is used for the purposes of the qualifying activity.

7(3) Where an exemption is granted to a qualifying person under subparagraph 6(1) for a year of assessment, an amount equal to the amount of the allowance referred to in subparagraph 6(1) shall be exempted from tax for that year of assessment.

7(4) Where, by reason of the absence or insufficiency of the statutory income, exemption cannot be granted or cannot be granted in full as the qualifying person is entitled under subparagraph 6(1) for that year of assessment, then so much of the statutory income in respect of which exemption cannot be granted for that year of assessment, shall be granted exemption for the first subsequent year of assessment for the basis period for which the qualifying person has statutory income from the qualifying activity, and for subsequent year or years of assessment until the exemption is granted in respect of the whole statutory income as the qualifying person is entitled under subparagraph 6(1).

PARAGRAPH 8 DISPOSAL OF BUILDING, FACTORY, MACHINERY OR PLANT WITHIN TWO YEARS

8 Where a qualifying capital expenditure is incurred by a qualifying person on a building, factory, machinery or plant used for the purposes of a qualifying activity and such building, factory, machinery or plant is disposed of at any time within the period of two years from the date of acquisition of the building, factory, machinery or plant, the exemption granted in respect of the amount of statutory income which is equal to the amount of allowance for such qualifying capital expenditure shall be withdrawn in the basis period for the year of assessment in which the building, factory, machinery or plant is disposed of.

Para 6(5) Commerce Clearing House (Malaysia) Sdn Bhd
PARAGRAPH 9  DETERMINATION OF QUALIFYING CAPITAL EXPENDITURE FOR BUILDING, FACTORY, MACHINERY OR PLANT DISPOSED TO RELATED COMPANY

9 Where the qualifying person disposes to its related company any building, factory, machinery or plant in respect of which an exemption is applied by the qualifying person under this Order, the amount of the qualifying capital expenditure incurred by the related company shall be deemed to be a sum equal to zero.

PARAGRAPH 10  WITHDRAWAL OF EXEMPTION

10(1) The Minister may withdraw the exemption granted under subparagraph 6(1) if the qualifying person fails to comply with any condition imposed in relation to the exemption.

10(2) Where the exemption is withdrawn in accordance with subparagraph (1), the exemption granted in respect of any amount of the statutory income under subparagraph 6(1) shall be deemed to have not been granted to the qualifying person from the first year of the period referred to in subparagraph 6(2).

PARAGRAPH 11  SEPARATE SOURCE AND SEPARATE ACCOUNT

11(1) Where a qualifying person carries on a qualifying activity and activity other than a qualifying activity, each activity shall be treated as a separate and distinct source of the activity.

11(2) The qualifying person who is granted an exemption under subparagraph 6(1) shall maintain a separate account for the income derived from each activity referred to in subparagraph (1).

PARAGRAPH 12  NON-APPLICATION

12 This Order shall not apply to a qualifying person who—

(a) commences a qualifying activity after one year from the date of the approval by the Minister or after such extended period approved by the Minister; or

(b) in the basis period for a year of assessment—

(i) has made a claim for reinvestment allowance under Schedule 7A to the Act or investment allowance under Schedule 7B to the Act;

(ii) has been granted any incentive under the Promotion of Investments Act 1986 in respect of the same qualifying activity; or

(iii) has been granted an exemption under section 127 of the Act in respect of the same qualifying activity.
### SCHEDULE

<table>
<thead>
<tr>
<th>(1) No.</th>
<th>(2) Sector</th>
<th>(3) Qualifying activity</th>
<th>(4) Qualifying capital expenditure</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Agriculture</td>
<td>(a) Cultivation of kenaf, vegetable, fruit, herbs, spices or cocoa</td>
<td>(a) Clearing and preparation of land</td>
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<td></td>
<td></td>
<td>(b) Plantation of crops for energy generation</td>
<td>(b) Planting of crops</td>
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<td>(c) Planting of <em>hevea brasiliensis</em></td>
<td>(c) Provision of irrigation or drainage systems</td>
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<td>(d) Floriculture including ornamental flowers</td>
<td>(d) Provision of machinery or plant</td>
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<td></td>
<td></td>
<td>(e) Aquaculture</td>
<td>(e) Construction of access roads including bridges</td>
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<td></td>
<td></td>
<td>(f) Inland fishing or deep sea fishing</td>
<td>(f) Construction or purchase of buildings (including those provided for the welfare of employees or as living accommodation for employees)</td>
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<tr>
<td></td>
<td></td>
<td>(g) Rearing of cattle, buffalo, goat, sheep, ostrich, turkey or quail</td>
<td>(g) Structural improvements on land and other structures on land, for agriculture and, agriculture based research and development</td>
</tr>
<tr>
<td>2.</td>
<td>Agriculture related services</td>
<td>(a) Collecting, processing and packaging of agricultural produce</td>
<td>(a) Construction or purchase of factory</td>
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</tbody>
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Commerce Clearing House (Malaysia) Sdn Bhd
<table>
<thead>
<tr>
<th>No.</th>
<th>Sector</th>
<th>Qualifying activity</th>
<th>Qualifying capital expenditure</th>
</tr>
</thead>
</table>
| 293 | Income Tax (Exemption) (No. 4) Order 2016 | (b) Collection and marketing of agricultural produce | (b) Construction or purchase of building to be used for warehousing, packaging, distribution and marketing  
(c) Provision of machinery or plant |
| 3   | Information, communication and technology | Information, communication and technology services and development | Construction or purchase of building, machinery or plant |
| 4   | Education and training | Establishment of universities, colleges, skills training institutes, training centres, service centres or research and development institutions | Construction or purchase of building, machinery or plant |
| 5   | Manufacturing | (a) Selected manufactured products  
(b)Selected agro-based products | (a) Construction or purchase of factory  
(b) Construction or purchase of building  
(c) Provision of machinery or plant |
| 6   | Oil, gas and petrochemical products | Selected activity relating to oil, gas or petrochemical products | (a) Construction or purchase of factory  
(b) Construction or purchase of building  
(c) Provision of machinery or plant |
<p>| 7   | Manufacturing related service | Selected manufacturing-related services | Construction or purchase of building, machinery or plant |
| 8   | Hotel | Operation of hotel | (a) Construction or purchase of hotel building of approved standard in Malaysia |</p>
<table>
<thead>
<tr>
<th>(1) No.</th>
<th>(2) Sector</th>
<th>(3) Qualifying activity</th>
<th>(4) Qualifying capital expenditure</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Tourism</td>
<td>(a) Eco-tourism</td>
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<td></td>
<td>(b) Urban-culture heritage</td>
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<td>(c) Island tourism</td>
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<td>(d) Mainland coastal tourism</td>
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<td>(e) Cross border tourism</td>
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<td>(f) Integrated resort</td>
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<td>(g) Theme park or amusement park</td>
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<td>(h) Cultural, conference and exhibition centre</td>
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<td>(i) Health tourism</td>
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<td>9.</td>
<td>Tourism</td>
<td>(a) Clearing and preparation of land</td>
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<td>(b) Planting of trees and plants</td>
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<td>(c) Construction of roads and other infrastructure facilities within the area of tourism project</td>
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<td>(d) Provision of birds, animals and other exhibits</td>
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<td>(e) Provision of machinery or plant</td>
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<td>(f) Construction or purchase of buildings (including those provided for the welfare of employees or as living accommodation for employees)</td>
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<td>(g) Structural improvements on land and other structures on land, forming part of the land within the area of tourism project</td>
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<tr>
<td>10.</td>
<td>Culture and heritage</td>
<td>(a) Making of batik, songket or royal tenun</td>
<td>Construction or purchase of building, machinery or plant</td>
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<td></td>
<td></td>
<td>(b) Making of brassware or silverware</td>
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<tr>
<td>(1) No.</td>
<td>(2) Sector</td>
<td>(3) Qualifying activity</td>
<td>(4) Qualifying capital expenditure</td>
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<td>(c) Making of traditional kites</td>
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<td>(d) Woodcarving</td>
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<td></td>
<td></td>
<td>(e) Selected art and craft projects including print-making (except photography) or sculpting</td>
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INCOME TAX (EXEMPTION) (NO. 5) ORDER 2016
PU (A) 158

[8 June 2016]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 5) Order 2016.
1(2) This Order is deemed to have come into operation on 13 June 2008.

PARAGRAPH 2 INTERPRETATION
2(1) In this Order—
``related company” has the same meaning assigned to it in section 2 of the Promotion of Investments Act 1986 [Act 327];
``East Coast Economic Region” has the same meaning assigned to it in the East Coast Economic Region Development Council Act 2008 [Act 688].
2(2) Except for subparagraphs 6(1) and (2), paragraphs 46 and 55 of Schedule 3 to the Act shall apply in relation to any reference to “incurred” in this Order, and the word “incurs” shall be construed accordingly.

PARAGRAPH 3 QUALIFYING PERSON
3(1) The qualifying person referred to in this Order is—
(a) a company incorporated under the Companies Act 1965 [Act 125] and resident in Malaysia;
(b) an agro-based co-operative society;
(c) a Farmers’ Organization;
(d) an Area Fishermen’s Association, a National Fishermen’s Association or a State Fishermen’s Association; or
(e) an association solely engaged in agriculture and resident in Malaysia.
3(2) Where the qualifying person is a company which has been granted an exemption under this Order, any related company to the company is not entitled to be granted an exemption under this Order in relation to the same special qualifying activity.
3(3) For the purposes of this paragraph—
“agro-based co-operative society” has the same meaning assigned to it in the Farmers’ Organization Act 1973 [Act 109];
“Area Fishermen’s Association” has the same meaning assigned to it in the Fishermen’s Associations Act 1971 [Act 44];

Para 1(1) Commerce Clearing House (Malaysia) Sdn Bhd
“National Fishermen’s Association” has the same meaning assigned to it in the Fishermen’s Associations Act 1971;

“State Fishermen’s Association” has the same meaning assigned to it in the Fishermen’s Associations Act 1971;

“Farmers’ Organization” has the same meaning assigned to it in the Farmers’ Organization Act 1973.

PARAGRAPH 4 SPECIAL QUALIFYING ACTIVITY

4 A special qualifying activity referred to in this Order is an activity as set out in column (2) of the Schedule—

(a) which has not been carried on in the East Coast Economic Region on the date the application referred to in subparagraph 6(4) is made; or

(b) which has been carried on in the East Coast Economic Region not more than one year prior to the date the application referred to in subparagraph 6(4) is made, and approved by the Minister.

PARAGRAPH 5 QUALIFYING CAPITAL EXPENDITURE

5(1) Subject to subparagraph (2), a qualifying capital expenditure referred to in this Order is a capital expenditure as set out in column (3) of the Schedule incurred by a qualifying person in relation to a building, factory, machinery or plant used in Malaysia solely for the purpose of carrying on a special qualifying activity.

5(2) Unless otherwise stated in the Schedule, qualifying capital expenditure shall not include capital expenditure incurred on—

(a) any building which is used as living accommodation for a person; or

(b) any machinery or plant which is provided wholly or partly for the use of a director or an individual who is a member of the management, administration or clerical staff of that qualifying person.

PARAGRAPH 6 EXEMPTION

6(1) The Minister exempts a qualifying person in the basis period for a year of assessment from the payment of income tax in respect of the statutory income derived from a special qualifying activity, which is equivalent to the rate of allowance as specified by the Minister which shall not be less than sixty per cent and shall not be more than one hundred per cent of the qualifying capital expenditure incurred by the qualifying person.

6(2) The exemption referred to in subparagraph (1) shall be for a period of consecutive years of assessment as the Minister may determine, commencing from the date of the first qualifying capital expenditure incurred by the qualifying person as determined by the East Coast Economic Region Development Council.

6(3) The commencement date referred to in subparagraph (2) shall not be earlier than three years before the date of the application for exemption is made and shall not be earlier than 13 June 2008.
6(4) An application for exemption under this Order shall be made to the Minister through the East Coast Economic Region Development Council on or after 13 June 2008 but not later than 31 December 2020.

6(5) An exemption granted under this Order is subject to the qualifying person complying with all the conditions imposed by the Minister in relation to the exemption.

6(6) Nothing in subparagraph (1) shall absolve or be deemed to have absolved the qualifying person from complying with any requirement to submit any return or statement of accounts or to furnish any other information, under the Act.

6(7) For the purposes of this paragraph, the “East Coast Economic Region Development Council” means the council established under the East Coast Economic Region Development Council Act 2008.

PARAGRAPH 7 STATUTORY INCOME

7(1) Subject to subparagraph (2), the statutory income referred to in subparagraph 6(1) in the basis period for each year of assessment shall be determined after deducting the allowances which fall to be made under Schedule 3 to the Act notwithstanding that no claim for such allowances has been made.

7(2) Where a building, factory, machinery or plant is used for the purposes of a special qualifying activity is also used for the purposes of an activity other than a special qualifying activity, then the allowances which fall to be made under Schedule 3 to the Act shall be deducted as is reasonable having regard to the extent to which the building, factory, machinery or plant is used for the purposes of the special qualifying activity.

7(3) Where an exemption is granted to a qualifying person under subparagraph 6(1) for a year of assessment, an amount equal to the amount of the allowance referred to in subparagraph 6(1) shall be exempted from tax for that year of assessment.

7(4) Where, by reason of the absence or insufficiency of the statutory income, exemption cannot be granted or cannot be granted in full as the qualifying person is entitled under subparagraph 6(1) for that year of assessment, then so much of the statutory income in respect of which exemption cannot be granted for that year of assessment, shall be granted exemption for the first subsequent year of assessment for the basis period for which the qualifying person has statutory income from the special qualifying activity, and for subsequent year or years of assessment until the exemption is granted in respect of the whole statutory income as the qualifying person is entitled under subparagraph 6(1).

PARAGRAPH 8 DISPOSAL OF BUILDING, FACTORY, MACHINERY OR PLANT WITHIN TWO YEARS

8 Where a qualifying capital expenditure is incurred by a qualifying person on a building, factory, machinery or plant used for the purposes of a special qualifying activity and such building, factory, machinery or plant is disposed of at any time within the period of two years from the date of acquisition of the building, factory, machinery or plant, the exemption granted in respect of the amount of statutory income which is equal to the amount of allowance for such qualifying capital expenditure shall be withdrawn in the basis period for the year of assessment in which the building, factory, machinery or plant is disposed of.

Para 6(4) Commerce Clearing House (Malaysia) Sdn Bhd
PARAGRAPH 9 DETERMINATION OF QUALIFYING CAPITAL EXPENDITURE FOR BUILDING, FACTORY, MACHINERY OR PLANT DISPOSED TO RELATED COMPANY

9 Where the qualifying person disposes to its related company any building, factory, machinery or plant in respect of which an exemption is applied by the qualifying person under this Order, the amount of the qualifying capital expenditure incurred by the related company shall be deemed to be a sum equal to zero.

PARAGRAPH 10 WITHDRAWAL OF EXEMPTION

10(1) The Minister may withdraw the exemption granted under subparagraph 6(1) if the qualifying person fails to comply with any condition imposed in relation to the exemption.

10(2) Where the exemption is withdrawn in accordance with subparagraph (1), the exemption granted in respect of any amount of the statutory income under subparagraph 6(1) shall be deemed to have not been granted to the qualifying person from the first year of the period referred to in subparagraph 6(2).

PARAGRAPH 11 SEPARATE SOURCE AND SEPARATE ACCOUNT

11(1) Where a qualifying person carries on a special qualifying activity and activity other than a special qualifying activity, each activity shall be treated as a separate and distinct source of the activity.

11(2) The qualifying person who is granted an exemption under subparagraph 6(1) shall maintain a separate account for the income derived from each activity referred to in subparagraph (1).

PARAGRAPH 12 NON-APPLICATION

12 This Order shall not apply to a qualifying person who—

(a) commences a special qualifying activity after one year from the date of the approval by the Minister or after such extended period approved by the Minister; or

(b) in the basis period for a year of assessment—

(i) has made a claim for reinvestment allowance under Schedule 7A to the Act or investment allowance under Schedule 7B to the Act;

(ii) has been granted any incentive under the Promotion of Investments Act 1986 in respect of the same special qualifying activity; or

(iii) has been granted any exemption under section 127 of the Act in respect of the same special qualifying activity.
<table>
<thead>
<tr>
<th>No.</th>
<th>Special qualifying activity</th>
<th>(2) Qualifying capital expenditure</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Agriculture</td>
<td>(a) Clearing and preparation of land</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(b) Planting of crops</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(c) Provision of irrigation or drainage systems</td>
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<tr>
<td></td>
<td></td>
<td>(d) Provision of machinery or plant</td>
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<td></td>
<td></td>
<td>(e) Construction of access roads including bridges</td>
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<td></td>
<td></td>
<td>(f) Construction or purchase of buildings (including those provided for the welfare of employees or as living accommodation for employees)</td>
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<tr>
<td></td>
<td></td>
<td>(g) Structural improvements on land and other structures on land, for agriculture and, agriculture based research and development</td>
</tr>
<tr>
<td>2.</td>
<td>Agriculture related services</td>
<td>(a) Construction or purchase of factory</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(b) Construction or purchase of building to be used for warehousing, packaging, distribution and marketing</td>
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<tr>
<td></td>
<td></td>
<td>(c) Provision of machinery or plant</td>
</tr>
<tr>
<td>3.</td>
<td>Information, communication and technology</td>
<td>Construction or purchase of building, machinery or plant</td>
</tr>
<tr>
<td>4.</td>
<td>Education and training</td>
<td>Construction or purchase of building, machinery or plant</td>
</tr>
<tr>
<td>5.</td>
<td>Manufacturing</td>
<td>(a) Construction or purchase of factory</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(b) Construction or purchase of building</td>
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<tr>
<td></td>
<td></td>
<td>(c) Provision of machinery or plant</td>
</tr>
<tr>
<td>6.</td>
<td>Oil, gas and petrochemical</td>
<td>(a) Construction or purchase of factory</td>
</tr>
<tr>
<td>(1) No.</td>
<td>(2) Special qualifying activity</td>
<td>(3) Qualifying capital expenditure</td>
</tr>
<tr>
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<td></td>
<td></td>
<td>(b) Construction or purchase of building</td>
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<tr>
<td>7.</td>
<td>Manufacturing related services</td>
<td>(c) Provision of machinery or plant</td>
</tr>
<tr>
<td>8.</td>
<td>Hotel</td>
<td>(a) Construction or purchase of hotel building of approved standard in Malaysia</td>
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<td></td>
<td></td>
<td>(b) Alteration, extension and renovation of hotel building</td>
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<tr>
<td></td>
<td></td>
<td>(c) Provision of machinery, plant or other facilities</td>
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<tr>
<td>9.</td>
<td>Tourism</td>
<td>(a) Clearing and preparation of land</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(b) Planting of trees and plants</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(c) Construction of roads and other infrastructure facilities for the tourism project and relating to the tourism project</td>
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<td></td>
<td></td>
<td>(d) Provision of birds, animals and other exhibits</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(e) Provision of machinery or plant</td>
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<tr>
<td></td>
<td></td>
<td>(f) Construction or purchase of buildings (including those provided for the welfare of employees or as living accommodation for employees)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(g) Structural improvements on land and other structures on land, forming part of the land relating to the tourism project</td>
</tr>
<tr>
<td>10.</td>
<td>Culture and heritage</td>
<td>Construction or purchase of building, machinery or plant</td>
</tr>
<tr>
<td>11.</td>
<td>Other projects approved by the Minister</td>
<td>Any asset used in Malaysia</td>
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</tbody>
</table>
INCOME TAX (EXEMPTION) (NO. 6) ORDER 2016
PU (A) 159

[8 June 2016]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 6) Order 2016.
1(2) This Order is deemed to have come into operation on 13 June 2008.

PARAGRAPH 2 INTERPRETATION
2 In this Order, “East Coast Economic Region” has the meaning assigned to it in the East Coast Economic Region Development Council Act 2008 [Act 688].

PARAGRAPH 3 QUALIFYING PERSON
3(1) The qualifying person referred to in this Order is—
   (a) a company incorporated under the Companies Act 1965 [Act 125] and resident in Malaysia;
   (b) an agro-based co-operative society;
   (c) a Farmers’ Organization;
   (d) an Area Fishermen’s Association, a National Fishermen’s Association or a State Fishermen’s Association; or
   (e) an association solely engaged in agriculture and resident in Malaysia.
3(2) Where the qualifying person is a company which has been granted exemption under this Order, any related company to the company is not entitled to be granted an exemption under this Order in relation to the same qualifying activity.
3(3) For the purposes of this paragraph—
   “agro-based co-operative society” has the same meaning assigned to it in the Farmers’ Organization Act 1973 [Act 109];
   “Area Fishermen’s Association” has the same meaning assigned to it in the Fishermen’s Associations Act 1971 [Act 44];
   “National Fishermen’s Association” has the same meaning assigned to it in the Fishermen’s Associations Act 1971;
   “State Fishermen’s Association” has the same meaning assigned to it in the Fishermen’s Associations Act 1971;
   “Farmers’ Organization” has the same meaning assigned to it in the Farmers’ Organization Act 1973;

Para 1(1)

Commerce Clearing House (Malaysia) Sdn Bhd
“related company” has the same meaning assigned to it in section 2 of the Promotion of Investments Act 1986 [Act 327].

PARAGRAPh 4 QUALIFYING ACTIVITY

4 A qualifying activity referred to in this Order is an activity as set out in column (3) of the Schedule in relation to the sector as set out in column (2)—

(a) which has not been carried on in the East Coast Economic Region on the date the application referred to in subparagraph 5(3) is made; or

(b) which has been carried on in the East Coast Economic Region not more than one year prior to the date the application referred to in subparagraph 5(3) is made,

and approved by the Minister.

PARAGRAPh 5 EXEMPTION

5(1) The Minister exempts a qualifying person in the basis period for a year of assessment from the payment of income tax in respect of the statutory income derived from a qualifying activity.

5(2) The exemption referred to in subparagraph (1) shall be for a period of ten consecutive years of assessment commencing from the first year of assessment in which the qualifying person derives its statutory income from the qualifying activity, which is referred to as “the exempt years of assessment” in this Order.

5(3) An application for exemption under this Order shall be made to the Minister through the East Coast Economic Region Development Council on or after 13 June 2008 but not later than 31 December 2020.

5(4) An exemption granted under this Order is subject to the qualifying person complying with all the conditions imposed by the Minister in relation to the exemption.

5(5) Nothing in subparagraph (1) shall absolve or be deemed to have absolved the qualifying person from complying with any requirement to submit any return or statement of accounts or to furnish any other information, under the Act.

5(6) For the purposes of this paragraph, the “East Coast Economic Region Development Council” means the council established under the East Coast Economic Region Development Council Act 2008.

PARAGRAPh 6 STATUTORY INCOME

6(1) Subject to subparagraph (2), the statutory income referred to in subparagraph 5(1) in the basis period for each year of assessment shall be determined after deducting the allowances which fall to be made under Schedule 3 to the Act notwithstanding that no claim for such allowances has been made.

6(2) Where a building, factory, machinery or plant is used for the purposes of a qualifying activity is also used for the purposes of an activity other than a qualifying activity, then the allowances which fall to be made under Schedule 3 to the Act shall be deducted as is reasonable having regard to the extent to which the building, factory, machinery or plant is used for the purposes of the qualifying activity.
PARAGRAPH 7 LOSSES

7(1) Any amount of adjusted loss incurred in relation to the qualifying activity—

(a) from the year of assessment in the basis period in which the qualifying activity referred to in subparagraph 5(1) commences to the year of assessment immediately prior to the exempt years of assessment; and

(b) during the exempt years of assessment,

shall be carried forward and deducted from the statutory income from the qualifying activity in the post-exempt year or years of assessment until the whole amount of the adjusted loss has been utilized against the statutory income from the qualifying activity.

7(2) So much of the adjusted loss referred to in subparagraph (1) which was utilized to reduce the statutory income from the qualifying activity for a year of assessment shall be disregarded for the purposes of subsections 43(2) and 44(2) of the Act.

PARAGRAPH 8 WITHDRAWAL OF EXEMPTION

8(1) The Minister may withdraw the exemption granted under subparagraph 5(1) if the qualifying person fails to comply with any condition imposed in relation to the exemption.

8(2) Where the exemption is withdrawn in accordance with subparagraph (1), the exemption granted in respect of any amount of the statutory income under subparagraph 5(1) shall be deemed to have not been given to the qualifying person from the first year of the period referred to in subparagraph 5(2).

PARAGRAPH 9 SEPARATE SOURCE AND SEPARATE ACCOUNT

9(1) Where a qualifying person carries on a qualifying activity and activity other than a qualifying activity, each activity shall be treated as a separate and distinct source of the activity.

9(2) The qualifying person who is granted an exemption under subparagraph 5(1) shall maintain a separate account for the income derived from each activity referred to in subparagraph (1).

PARAGRAPH 10 NON-APPLICATION

10 This Order shall not apply to a qualifying person who—

(a) commences a qualifying activity after one year from the date of the approval by the Minister or after such extended period approved by the Minister; or

(b) in the basis period for a year of assessment—

(i) has made a claim for reinvestment allowance under Schedule 7A to the Act or investment allowance under Schedule 7B to the Act;

(ii) has been granted any incentive under the Promotion of Investments Act 1986 in respect of the same qualifying activity; or

(iii) has been granted any exemption under section 127 of the Act in respect of the same qualifying activity.

Para 7(1)
## SCHEDULE

<table>
<thead>
<tr>
<th>(1) No.</th>
<th>(2) Sector</th>
<th>(3) Qualifying activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Agriculture</td>
<td>(a) Cultivation of kenaf, vegetable, fruit, herbs, spices or cocoa</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(b) Plantation of crops for energy generation</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(c) Planting of <em>hevea brasiliensis</em></td>
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<tr>
<td></td>
<td></td>
<td>(d) Floriculture including ornamental flowers</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(e) Aquaculture</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(f) Inland fishing or deep sea fishing</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(g) Rearing of cattle, buffalo, goat, sheep, ostrich, turkey or quail</td>
</tr>
<tr>
<td>2.</td>
<td>Agriculture-related services</td>
<td>(a) Collecting, processing and packaging of agricultural produce</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(b) Collecting and marketing of agricultural produce</td>
</tr>
<tr>
<td>3.</td>
<td>Information, communication and technology</td>
<td>Information, communication and technology services and development</td>
</tr>
<tr>
<td>4.</td>
<td>Education and training</td>
<td>The establishment of universities, colleges, skills training institutes, training centres, service centres or development and research institutions</td>
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<td>5.</td>
<td>Manufacturing</td>
<td>(a) Selected manufactured products</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(b) Selected agro-based products</td>
</tr>
<tr>
<td>6.</td>
<td>Oil, gas and petrochemical</td>
<td>Selected activity relating to oil, gas or petrochemical products</td>
</tr>
<tr>
<td>7.</td>
<td>Manufacturing-related services</td>
<td>Selected manufacturing-related services</td>
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<tr>
<td>8.</td>
<td>Hotel</td>
<td>Operation of hotel</td>
</tr>
<tr>
<td>9.</td>
<td>Tourism</td>
<td>(a) Eco-tourism</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(b) Urban-culture heritage</td>
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<tr>
<td></td>
<td></td>
<td>(c) Island tourism</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(d) Mainland coastal tourism</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(e) Cross border tourism</td>
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<tr>
<td>(1) No.</td>
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<td>(3) Qualifying activity</td>
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<tr>
<td>-------</td>
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<td>-------------------------------------------------------------</td>
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<tr>
<td></td>
<td></td>
<td>(f) Integrated resort</td>
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<tr>
<td></td>
<td></td>
<td>(g) Theme park or amusement park</td>
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<tr>
<td></td>
<td></td>
<td>(h) Cultural, conference and exhibition centre</td>
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<tr>
<td></td>
<td></td>
<td>(i) Health tourism</td>
</tr>
<tr>
<td>10.</td>
<td>Culture and heritage</td>
<td>(a) Making of batik, songket or royal tenun</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(b) Making of brassware or silverware</td>
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<tr>
<td></td>
<td></td>
<td>(c) Making of traditional kites</td>
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<tr>
<td></td>
<td></td>
<td>(d) Woodcarving</td>
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<tr>
<td></td>
<td></td>
<td>(e) Selected art and craft projects including print-making (except photography) or sculpting</td>
</tr>
</tbody>
</table>
INCOME TAX (EXEMPTION) (NO. 7)
ORDER 2016
PU (A) 160

[8 June 2016]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 7) Order 2016.
1(2) This Order is deemed to have come into operation on 13 June 2008.

PARAGRAPH 2 INTERPRETATION
2 In this Order, “East Coast Economic Region” has the same meaning assigned to it in the East Coast Economic Region Development Council Act 2008 [Act 688].

PARAGRAPH 3 QUALIFYING PERSON
3(1) The qualifying person referred to in this Order is—
   (a) a company incorporated under the Companies Act 1965 [Act 125] and resident in Malaysia;
   (b) an agro-based co-operative society;
   (c) a Farmers’ Organization;
   (d) an Area Fishermen’s Association, a National Fishermen’s Association or a State Fishermen’s Association; or
   (e) an association solely engaged in agriculture and resident in Malaysia;
3(2) Where the qualifying person is a company which has been granted exemption under this Order, any related company to the company is not entitled to be granted an exemption under this Order in relation to the same special qualifying activity.
3(3) For the purposes of this paragraph—
   “agro-based co-operative society” has the same meaning assigned to it in the Farmers’ Organization Act 1973 [Act 109];
   “Area Fishermen’s Association” has the same meaning assigned to it in the Fishermen’s Associations Act 1971 [Act 44];
   “National Fishermen’s Association” has the same meaning assigned to it in the Fishermen’s Associations Act 1971;
   “State Fishermen’s Association” has the same meaning assigned to it in the Fishermen’s Associations Act 1971;
   “Farmers’ Organization” has the same meaning assigned to it in the Farmers’ Organization Act 1973;

Thornton’s Malaysian Tax Commentaries

Para 3(3)
“related company” has the same meaning assigned to it in section 2 of the Promotion of Investments Act 1986 [Act 327].

PARAGRAPH 4 SPECIAL QUALIFYING ACTIVITY
4 A special qualifying activity referred to in this Order is an activity as set out in column (2) of the Schedule—
   (a) which has not been carried on in the East Coast Economic Region on the date the application referred to in subparagraph 5(3) is made; or
   (b) which has been carried on in the East Coast Economic Region not more than one year prior to the date the application referred to in subparagraph 5(3) is made, and approved by the Minister.

PARAGRAPH 5 EXEMPTION
5(1) The Minister exempts a qualifying person in the basis period for a year of assessment from the payment of income tax in respect of the statutory income derived from a special qualifying activity at the rate of not less than seventy per cent and not more than one hundred per cent as may be specified by the Minister.
5(2) The exemption referred to in subparagraph (1) shall be for a period of consecutive years of assessment as the Minister may determine, commencing from the first year of assessment in which the qualifying person derives its statutory income from the special qualifying activity, which is referred to as “the exempt years of assessment” in this Order.
5(3) An application for exemption under this Order shall be made to the Minister through the East Coast Economic Region Development Council on or after 13 June 2008 but not later than 31 December 2020.
5(4) An exemption granted under this Order is subject to the qualifying person complying with all the conditions imposed by the Minister in relation to the exemption.
5(5) Nothing in subparagraph (1) shall absolve or be deemed to have absolved the qualifying person from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the Act.
5(6) For the purposes of this paragraph, the “East Coast Economic Region Development Council” means the council established under the East Coast Economic Region Development Council Act 2008.

PARAGRAPH 6 STATUTORY INCOME
6(1) Subject to subparagraph (2), the statutory income referred to in subparagraph 5(1) in the basis period for each year of assessment shall be determined after deducting the allowances which fall to be made under Schedule 3 to the Act notwithstanding that no claim for such allowances has been made.
6(2) Where a building, factory, machinery or plant is used for the purposes of a special qualifying activity is also used for the purposes of an activity other than a special qualifying activity, then the allowances which fall to be made under Schedule 3 to the Act shall be deducted as is reasonable having regard to the extent to which the building, factory, machinery or plant is used for the purposes of the special qualifying activity.
PARAGRAPH 7 LOSSES

7(1) Any amount of adjusted loss incurred—

(a) from the year of assessment in the basis period in which the special qualifying activity referred to in subparagraph 5(1) commences to the year of assessment immediately prior to the exempt years of assessment; and

(b) during the exempt years of assessment,

shall be carried forward and deducted from the statutory income from the special qualifying activity in the post-exempt year or years of assessment until the whole amount of the adjusted loss has been utilized against the statutory income from the special qualifying activity.

7(2) So much of the adjusted loss referred to in subparagraph (1) which was utilized to reduce the statutory income from the special qualifying activity for a year of assessment shall be disregarded for the purposes of subsections 43(2) and 44(2) of the Act.

PARAGRAPH 8 AMOUNT OF STATUTORY INCOME WHICH IS NOT EXEMPTED

8 Any amount of statutory income which is not exempted under subparagraph 5(1) shall be deemed to be the total income or part of the total income of the qualifying person for that year of assessment.

PARAGRAPH 9 WITHDRAWAL OF EXEMPTION

9(1) The Minister may withdraw the exemption granted under subparagraph 5(1) if the qualifying person fails to comply with any condition imposed in relation to the exemption.

9(2) Where the exemption is withdrawn in accordance with subparagraph (1), the exemption granted in respect of any amount of the statutory income under subparagraph 5(1) shall be deemed to have not been granted to the qualifying person from the first year of the period referred to in subparagraph 5(2).

PARAGRAPH 10 SEPARATE SOURCE AND SEPARATE ACCOUNT

10(1) Where a qualifying person carries on a special qualifying activity and activity other than a special qualifying activity, each activity shall be treated as a separate and distinct source of the activity.

10(2) The qualifying person who is granted an exemption under subparagraph 5(1) shall maintain a separate account for the income derived from each activity referred to in subparagraph (1).

PARAGRAPH 11 NON-APPLICATION

11 This Order shall not apply to a qualifying person who—

(a) commences a special qualifying activity after one year from the date of the approval by the Minister or after such extended period approved by the Minister; or
(b) in the basis period for a year of assessment—

(i) has made a claim for reinvestment allowance under Schedule 7A to the Act or investment allowance under Schedule 7B to the Act;

(ii) has been granted any incentive under the Promotion of Investments Act 1986 in respect of the same special qualifying activity; or

(iii) has been granted any exemption under section 127 of the Act in respect of the same special qualifying activity.

### SCHEDULE

<table>
<thead>
<tr>
<th>(1) No.</th>
<th>(2) Special qualifying activity</th>
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<tbody>
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<td>1.</td>
<td>Agriculture</td>
</tr>
<tr>
<td>2.</td>
<td>Agriculture related services</td>
</tr>
<tr>
<td>3.</td>
<td>Information, communication and technology</td>
</tr>
<tr>
<td>4.</td>
<td>Education and training</td>
</tr>
<tr>
<td>5.</td>
<td>Manufacturing</td>
</tr>
<tr>
<td>6.</td>
<td>Oil, gas and petrochemical</td>
</tr>
<tr>
<td>7.</td>
<td>Manufacturing related service</td>
</tr>
<tr>
<td>8.</td>
<td>Hotel</td>
</tr>
<tr>
<td>9.</td>
<td>Tourism</td>
</tr>
<tr>
<td>10.</td>
<td>Culture and heritage</td>
</tr>
<tr>
<td>11.</td>
<td>Other projects approved by the Minister</td>
</tr>
</tbody>
</table>
INCOME TAX (EXEMPTION) (NO. 8)
ORDER 2016
PU (A) 161

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 (Act 53), the Minister makes the following order:

PARAGRAPh 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 8) Order 2016.
1(2) This Order is deemed to have come into operation on 13 June 2008.

PARAGRAPh 2 INTERPRETATION
2 In this Order—
“building” means a building which is—
(a) constructed by an approved developer; and
(b) located in the East Coast Economic Region;
“disposal” means sell, convey, transfer, assign, settle or alienate, whether by agreement or by force of law, including withdrawal of stock in trade pursuant to subsection 24(2) of the Act;
“industrial park” means an industrial park within the East Coast Economic Region;
“East Coast Economic Region” has the same meaning assigned to it in the East Coast Economic Region Development Council Act 2008 (Act 688);
“free zone” means any area located within the East Coast Economic Region which is declared as a free commercial zone or free industrial zone under the Free Zones Act 1990 (Act 438).

PARAGRAPh 3 APPROVED DEVELOPER
3 An approved developer is a company—
(a) incorporated under the Companies Act 1965 (Act 125) and resident in Malaysia;
(b) which is approved by the Minister;
(c) which purchases or acquires any right over part or the whole of the land within the East Coast Economic Region; and
(d) which carries on the development of—
(i) an industrial park approved by the East Coast Economic Region Development; or
(ii) a free zone.
PARAGRAPH 4 EXEMPTION

4(1) The Minister exempts an approved developer in the basis period for a year of assessment from the payment of income tax in respect of the statutory income derived from the following activities:

(a) the disposal of any right over any land or disposal of a building or rights over a building or part of a building located in an industrial park or a free zone; or
(b) the rental of a building or part of a building located in an industrial park or a free zone.

4(2) The exemption referred to in subparagraph (1) shall be for a period of ten consecutive years of assessment commencing from the first year of assessment in which the approved developer derives statutory income from the disposal or rental activities, as the case may be, which is referred to as “exempt years of assessment” in this Order.

4(3) The exemption referred to in subparagraph (1) shall apply to any disposal or rental activity, as the case may be, which will be or has been carried on in the East Coast Economic Region not more than one year prior to the date the application referred to in subparagraph (4) is made.

4(4) An application for an exemption under this Order shall be made to the Minister through the East Coast Economic Region Development Council on or after 13 June 2008 but not later than 31 December 2020.

4(5) An exemption granted under this Order is subjected to the approved developer complying with all the conditions imposed by the Minister in relation to the exemption.

4(6) Nothing in subparagraph (1) shall absolve or be deemed to have absolved the approved developer from complying with any requirement to submit any return or statement of accounts, or to furnish any other information, under the Act.

4(7) For the purposes of this paragraph, the “East Coast Economic Region Development Council” means the council established under the East Coast Economic Region Development Council Act 2008.

PARAGRAPH 5 STATUTORY INCOME

5(1) Subject to subparagraph (2), the statutory income referred to in subparagraph 4(1) in the basis period for each year of the exempt years of assessment shall be determined after deducting the allowances which fall to be made under Schedule 3 to the Act notwithstanding that no claim for such allowances has been made.

5(2) Where an asset used for the purposes of the activity referred to in subparagraph 4(1) is also used for the purposes of an activity other than the activity referred to in subparagraph 4(1), then the amount of allowances which fall to be made under Schedule 3 to the Act shall be deducted as is reasonable having regard to the extent to which the asset is used for the purposes of the activity referred to in subparagraph 4(1).

PARAGRAPH 6 LOSSES

6(1) Any amount of adjusted loss incurred prior or during the exempt years of assessment arising from the activity referred to in subsubparagraph 4(1)(b) shall be carried forward and deducted from the statutory income from that activity in the post-exempt year or years of assessment until the whole amount of the adjusted loss has been utilized against the statutory income from that respective activity.
6(2) So much of the adjusted loss which was utilized to reduce the statutory income from the activity referred to in subsubparagraph 4(1)(b) for a year of assessment shall be disregarded for the purposes of subsections 43(2) and 44(2) of the Act.

PARAGRAPH 7 SPECIAL PROVISION FOR APPROVED DEVELOPER
7 For the purposes of this Order, the income of the approved developer derived from the activity referred to in subsubparagraph 4(1)(a) shall be subjected to the Income Tax (Property Development) Regulations 2007 [P.U. (A) 277/2007].

PARAGRAPH 8 WITHDRAWAL OF EXEMPTION
8(1) The Minister may withdraw the tax exemption granted under subparagraph 4(1) if the approved developer fails to comply with any condition imposed in relation to the exemption.
8(2) Where the exemption is withdrawn in accordance with subparagraph (1), the exemption granted in respect of any amount of the statutory income under subparagraph 4(1) shall be deemed to have not been granted to the approved developer from the first year of the period referred to in subparagraph 4(2).

PARAGRAPH 9 SEPARATE SOURCE AND SEPARATE ACCOUNT
9(1) Where an approved developer carries on an activity referred to in subparagraph 4(1) and activity other than the activity referred to in subparagraph 4(1), each activity shall be treated as a separate and distinct source of the activity.
9(2) The approved developer which is granted an exemption under subparagraph 4(1) shall maintain a separate account for the income derived from each activity referred to in subparagraph (1).

PARAGRAPH 10 DISPOSAL OF BUILDING
10 Any disposal of a building which is held for investment by the approved developer for which rental income has been exempted under this Order shall be taxed under the Real Property Gains Tax Act 1976 [Act 169].
INCOME TAX (EXEMPTION) (NO. 9) ORDER 2016
PU (A) 162

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 9) Order 2016.
1(2) This Order is deemed to have come into operation on 13 June 2008.

PARAGRAPH 2 INTERPRETATION
2 In this Order—
“East Coast Economic Region Development Council” means the council established under the East Coast Economic Region Development Council Act 2008 [Act 688];
“industrial park” means an industrial park within the East Coast Economic Region;
“East Coast Economic Region” has the same meaning assigned to it in the East Coast Economic Region Development Council Act 2008;
“free zone” means any area located within the East Coast Economic Region which is declared as a free commercial zone or free industrial zone under the Free Zones Act 1990 [Act 438].

PARAGRAPH 3 QUALIFYING PERSON
3(1) The qualifying person referred to in this Order is—
(a) a development manager, that is a company—
   (i) incorporated under the Companies Act 1965 [Act 125] and resident in Malaysia;
   (ii) which is approved by the Minister; and
   (iii) appointed by an approved developer to carry on a qualifying activity; or
(b) a park manager, that is a company—
   (i) incorporated under the Companies Act 1965 and resident in Malaysia;
   (ii) which is approved by the Minister; and
   (iii) which carries on a qualifying activity.
3(2) An approved developer referred to in subsubsubparagraph (1)(a)(iii) is a company—
(a) incorporated under the Companies Act 1965 and resident in Malaysia;
(b) which is approved by the Minister;
(c) which purchases or acquires any right over part or the whole of the land within the East Coast Economic Region; and

Para 1(1) Commerce Clearing House (Malaysia) Sdn Bhd
(d) which carries on the development of—
   (i) an industrial park approved by the East Coast Economic Region Development Council; or
   (ii) a free zone.

PARAGRAPH 4 QUALIFYING ACTIVITY
4(1) A qualifying activity referred to in this Order is an activity as set out in subparagraph (2)—
   (a) which has not been carried on in the East Coast Economic Region on the date the application referred to in subparagraph 5(3) is made; or
   (b) which has been carried on in the East Coast Economic Region not more than one year prior to the date the application referred to in subparagraph 5(3) is made, and approved by the Minister.

4(2) The activity referred to in subparagraph (1) is—
   (a) in relation to a development manager, an activity in respect of the provision of management, supervisory or marketing services relating to the development of an industrial park or free zone; or
   (b) in relation to a park manager, an activity in respect of the provision of park management services including maintenance, marketing and rental of common facilities and utilities services in the industrial park or free zone.

PARAGRAPH 5 EXEMPTION
5(1) The Minister exempts a qualifying person in the basis period for a year of assessment from the payment of income tax in respect of the statutory income derived from a qualifying activity.

5(2) The exemption referred to in subparagraph (1) shall be for a period of ten consecutive years of assessment commencing from the first year of assessment in which the qualifying person derives its statutory income from the qualifying activity, which is referred to as “exempt years of assessment” in this Order.

5(3) An application for an exemption under this Order shall be made to the Minister through the East Coast Economic Region Development Council on or after 13 June 2008 but not later than 31 December 2020.

5(4) An exemption granted under this Order is subjected to the qualifying person complying with all the conditions imposed by the Minister in relation to the exemption.

5(5) Nothing in subparagraph (1) shall absolve or be deemed to have absolved the qualifying person from complying with any requirement to submit any return or statement of accounts, or to furnish any other information, under the Act.

PARAGRAPH 6 STATUTORY INCOME
6(1) Subject to paragraph (2), the statutory income referred to in subparagraph 5(1) in the basis period for each year of the exempt years of assessment shall be determined after deducting the allowances which fall to be made under Schedule 3 to the Act notwithstanding that no claim for such allowances has been made.

Thornton’s Malaysian Tax Commentaries Para 6(1)
Where a building, factory, machinery or plant is used for the purposes of a qualifying activity is also used for the purposes of an activity other than a qualifying activity, then the amount of allowances which fall to be made under Schedule 3 to the Act shall be deducted as is reasonable having regard to the extent to which the building, factory, machinery or plant is used for the purposes of the qualifying activity.

**PARAGRAPH 7 LOSSES**

7(1) Any amount of adjusted loss incurred in relation to the qualifying activity—
(a) from the year of assessment in the basis period in which the qualifying activity referred to in subparagraph 5(1) commences to the year of assessment immediately prior to the exempt years of assessment; and
(b) during the exempt years of assessment,
shall be carried forward and deducted from the statutory income from the qualifying activity in the post-exempt year or years of assessment until the whole amount of the adjusted loss has been utilized against the statutory income from the qualifying activity.

7(2) So much of the adjusted loss referred to in subparagraph (1) which was utilized to reduce the statutory income from the qualifying activity for a year of assessment shall be disregarded for the purposes of subsections 43(2) and 44(2) of the Act.

**PARAGRAPH 8 WITHDRAWAL OF EXEMPTION**

8(1) The Minister may withdraw the exemption granted under subparagraph 5(1) if the qualifying person fails to comply with any condition imposed in relation to the exemption.

8(2) Where the exemption is withdrawn in accordance with subparagraph (1), the exemption granted in respect of any amount of the statutory income under subparagraph 5(1) shall be deemed to have not been granted to the qualifying person from the first year of the period referred to in subparagraph 5(2).

**PARAGRAPH 9 SEPARATE SOURCE AND SEPARATE ACCOUNT**

9(1) Where a qualifying person carries on a qualifying activity and activity other than a qualifying activity, each activity shall be treated as a separate and distinct source of the activity.

9(2) The qualifying person who is granted an exemption under subparagraph 5(1) shall maintain a separate account for the income derived from each activity referred to in that subparagraph (1).
INCOME TAX (EXEMPTION) (NO. 10)
ORDER 2016
PU (A) 163

[8 June 2016]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPh 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 10) Order 2016.
1(2) This Order is deemed to have come into operation on 13 June 2008.

PARAGRAPh 2 QUALIFYING PERSON
2 The qualifying person referred to in this Order is a company—
(a) incorporated under the Companies Act 1965 [Act 125] and resident in Malaysia; and
(b) which carries on a qualifying activity.

PARAGRAPh 3 QUALIFYING ACTIVITY
3 A qualifying activity referred to in this Order is an activity as set out in column (3) of the Schedule in relation to the sector as set out in column (2) in respect of which exemption is given under—
(a) the Income Tax (Exemption) (No. 4) Order 2016 [P.U. (A) 157/2016];
(b) the Income Tax (Exemption) (No. 5) Order 2016 [P.U. (A) 158/2016];
(c) the Income Tax (Exemption) (No. 6) Order 2016 [P.U. (A) 159/2016]; and
(d) the Income Tax (Exemption) (No. 7) Order 2016 [P.U. (A) 160/2016].

PARAGRAPh 4 EXEMPTION
4(1) Subject to subparagraph (2), the Minister exempts a non-resident person from the payment of income tax in respect of the following income received from a qualifying person for the purposes of a qualifying activity:
(a) fees for technical advice, assistance or services under subparagraph 4A(ii) of the Act; or
(b) royalty under paragraph 4(d) of the Act.
4(2) Subparagraph (1) applies for the payment made in respect of the income under subsubparagraph (a) or (b) by that qualifying person to the non-resident person on or after 13 June 2008 but not later than 31 December 2020.

PARAGRAPh 5 NON-APPLICATION
5 Section 109 and 109B of the Act shall not apply to the income exempted under this Order.
<table>
<thead>
<tr>
<th>(1) No.</th>
<th>(2) Sector</th>
<th>(3) Qualifying activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Information, communication and technology</td>
<td>Information, communication and technology services and development</td>
</tr>
<tr>
<td>2.</td>
<td>Education and training</td>
<td>Establishment of universities, colleges, skills training institutes, training centres, service centres or research and development institutions</td>
</tr>
<tr>
<td>3.</td>
<td>Hotel</td>
<td>Operation of hotel</td>
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| 4.     | Tourism                                       | (a) Eco-tourism  
(b) Urban-culture heritage  
(c) Island tourism  
(d) Mainland coastal tourism  
(e) Cross border tourism  
(f) Integrated resort  
(g) Theme park or amusement park  
(h) Cultural, conference and exhibition centre  
(i) Health tourism |
INCOME TAX (EXEMPTION) (NO. 11) ORDER 2016
PU (A) 345

[15 December 2016]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 11) Order 2016.
1(2) This Order has effect from the year of assessment 2016 until the year of assessment 2018.

PARAGRAPH 2 INTERPRETATION
2 In this Order, “tour operating business” has the same meaning assigned to it in the Tourism Industry Act 1992 [Act 482].

PARAGRAPH 3 QUALIFYING PERSON
3 The qualifying person referred to in this Order is a company—
   (a) resident in Malaysia;
   (b) which is licensed under the Tourism Industry Act 1992 to carry out a tour operating business; and
   (c) which carries on a qualifying activity.

PARAGRAPH 4 QUALIFYING ACTIVITY
4 A qualifying activity referred to in this Order is a tour operating business which provides group inclusive tour package to or in Malaysia or any place within Malaysia utilized by tourists from outside Malaysia, inclusive of transportation by air, land or sea, and accommodation.

PARAGRAPH 5 EXEMPTION
5(1) Subject to subparagraph (2), the Minister exempts a qualifying person in the basis period for a year of assessment from the payment of income tax in respect of the statutory income derived from a qualifying activity.
5(2) The exemption referred to in subparagraph (1) shall only apply if the total number of tourists from outside Malaysia for the qualifying activity is not less than seven hundred and fifty in a basis period for a year of assessment.
5(3) The total number of tourists from outside Malaysia referred to in subparagraph (2) shall be verified in writing by an authorized officer of the Ministry of Tourism and Culture Malaysia.

Thornton’s Malaysian Tax Commentaries Para 5(3)
PARAGRAPH 6 SEPARATE SOURCE AND SEPARATE ACCOUNT

6(1) Where a qualifying person carries on a qualifying activity and an activity other than a qualifying activity, each activity shall be treated as a separate and distinct source of the activity.

6(2) The qualifying person who is granted an exemption under subparagraph 5(1) shall maintain a separate account for the income derived from each activity referred to in subparagraph (1).
INCOME TAX (EXEMPTION) (NO. 12) ORDER 2016
PU (A) 346

[15 December 2016]

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPh 1 CITATION AND COMMENCEMENT
1(1) This order may be cited as the Income Tax (Exemption) (No. 12) Order 2016.
1(2) This Order has effect from the year of assessment 2016 until the year of assessment 2018.

PARAGRAPh 2 INTERPRETATION
2 In this Order—
"local tourists" means individuals who are Malaysian citizens or resident in Malaysia;
"tour operating business" has the same meaning assigned to it in the Tourism Industry Act 1992 [Act 482].

PARAGRAPh 3 QUALIFYING PERSON
3 The qualifying person referred to in this Order is a company—
(a) resident in Malaysia;
(b) which is licensed under the Tourism Industry Act 1992 to carry out a tour operating business; and
(c) which carries on a qualifying activity.

PARAGRAPh 4 QUALIFYING ACTIVITY
4 A qualifying activity referred to in this Order is a tour operating business which provides a domestic tour package for travel within Malaysia utilized by local tourists, inclusive of transportation by air, land or sea, and accommodation.

PARAGRAPh 5 EXEMPTION
5(1) Subject to subparagraph (2), the Minister exempts a qualifying person in the basis period for a year of assessment from the payment of income tax in respect of the statutory income derived from a qualifying activity.
5(2) The exemption referred to in subparagraph (1) shall only apply if the total number of local tourists for a qualifying activity is not less than one thousand five hundred in a basis period for a year of assessment.
5(3) The total number of tourists from outside Malaysia referred to in subparagraph (2) shall be verified in writing by an authorized officer of the Ministry of Tourism and Culture Malaysia.

Thornton’s Malaysian Tax Commentaries Para 5(3)
PARAGRAPH 6  SEPARATE SOURCE AND SEPARATE ACCOUNT

6(1) Where a qualifying person carries on a qualifying activity and an activity other than a qualifying activity, each activity shall be treated as a separate and distinct source of the activity.

6(2) The qualifying person who is granted an exemption under subparagraph 5(1) shall maintain a separate account for the income derived from each activity referred to in subparagraph (1).
INCOME TAX (MULTILATERAL COMPETENT AUTHORITY AGREEMENT ON AUTOMATIC EXCHANGE OF FINANCIAL ACCOUNT INFORMATION) ORDER 2016

PU (A) 356

[13 December 2016]

IN exercise of the powers conferred by section 132B of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION

1 These Order may be cited as the Income Tax (Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information) Order 2016.

PARAGRAPH 2 EXCHANGE OF INFORMATION

2 It is declared that the arrangements specified in the Schedule have been made by the Government of Malaysia and Government which has signed the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information with a view of exchanging information that is foreseeably relevant in relation to taxation and that it is expedient that those arrangements shall have effect.

SCHEDULE

MULTILATERAL COMPETENT AUTHORITY AGREEMENT ON AUTOMATIC EXCHANGE OF FINANCIAL ACCOUNT INFORMATION

Whereas, the jurisdictions of the signatories to the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information (the “Agreement”) are Parties of, or territories covered by, the Convention on Mutual Administrative Assistance in Tax Matters or the Convention on Mutual Administrative Assistance in Tax Matters as amended by the Protocol amending the Convention on Mutual Administrative Assistance in Tax Matters (the “Convention”) or have signed or expressed their intention to sign the Convention and acknowledge that the Convention must be in force and in effect in relation to them before the first exchange of financial account information takes place;

Whereas, the jurisdictions intend to improve international tax compliance by further building on their relationship with respect to mutual assistance in tax matters;

Whereas, the Common Reporting Standard was developed by the OECD, with G20 countries, to tackle tax avoidance and evasion and improve tax compliance;

Whereas, a country that has signed or expressed its intention to sign the Convention will only become a Jurisdiction as defined in Section 1 of this Agreement once it has become a Party to the Convention;

Thornton’s Malaysian Tax Commentaries Sch
Whereas, the laws of the respective Jurisdictions require or are expected to require financial institutions to report information regarding certain accounts and follow related due diligence procedures, consistent with the scope of exchange contemplated by Section 2 of this Agreement and the reporting and due diligence procedures set out in the Common Reporting Standard;

Whereas, it is expected that the laws of the Jurisdictions would be amended from time to time to reflect updates to the Common Reporting Standard and once such changes are enacted by a Jurisdiction the definition of Common Reporting Standard would be deemed to refer to the updated version in respect of that Jurisdiction;

Whereas, Chapter III of the Convention authorises the exchange of information for tax purposes, including the exchange of information on an automatic basis, and allows the competent authorities of the Jurisdictions to agree the scope and modalities of such automatic exchanges;

Whereas, Article 6 of the Convention provides that two or more Parties can mutually agree to exchange information automatically, the exchange of the information will be on a bilateral basis between the Competent Authorities;

Whereas, the Jurisdictions have, or are expected to have, in place by the time the first exchange takes place (i) appropriate safeguards to ensure that the information received pursuant to this Agreement remains confidential and is used solely for the purposes set out in the Convention, and (ii) the infrastructure for an effective exchange relationship (including established processes for ensuring timely, accurate, and confidential information exchanges, effective and reliable communications, and capabilities to promptly resolve questions and concerns about exchanges or requests for exchanges and to administer the provisions of Section 4 of this Agreement);

Whereas, the Competent Authorities of the jurisdictions intend to conclude an agreement to improve international tax compliance based on automatic exchange pursuant to the Convention, without prejudice to national legislative procedures (if any), respecting EU law (if applicable), and subject to the confidentiality and other protections provided for in the Convention, including the provisions limiting the use of the information exchanged thereunder;

Now, therefore, the Competent Authorities have agreed as follows:

SECTION 1 DEFINITIONS

1 For the purposes of this Agreement, the following terms have the following meanings:

(a) the term “Jurisdiction” means a country or a territory in respect of which the Convention is in force and is in effect, either through signature and ratification in accordance with Article 28, or through territorial extension in accordance with Article 29, and which is a signatory to this Agreement;

(b) the term “Competent Authority” means, for each respective Jurisdiction, the persons and authorities listed in Annex B of the Convention;

(c) the term “Jurisdiction Financial Institution” means, for each respective Jurisdiction, (i) any Financial Institution that is resident in the Jurisdiction, but excludes any branch of that Financial Institution that is located outside the Jurisdiction, and (ii) any branch of a Financial Institution that is not resident in the Jurisdiction, if that branch is located in the Jurisdiction;

(d) the term “Reporting Financial Institution” means any Jurisdiction Financial Institution that is not a Non-Reporting Financial Institution;

(e) the term “Reportable Account” means a Financial Account that is maintained by a Reporting Financial Institution and that, pursuant to due diligence procedures consistent with the Common Reporting Standard, has been identified as an account that is held by one or more persons that are Reportable Persons with respect to another Jurisdiction or by a Passive Non-Financial Entity with one or more Controlling Persons that are Reportable Persons with respect to another Jurisdiction,
(f) the term “Common Reporting Standard” means the standard for automatic exchange of financial account information in tax matters (which includes the Commentaries), developed by the OECD, with G20 countries;

(g) the term “Co-ordinating Body Secretariat” means the OECD Secretariat that, pursuant to paragraph 3 of Article 24 of the Convention, provides support to the coordinating body that is composed of representatives of the competent authorities of the Parties to the Convention;

(h) the term “Agreement in effect” means, in respect of any two Competent Authorities, that both Competent Authorities have indicated their intention to automatically exchange information with each other and have satisfied the other conditions set out in subparagraph 2.1. of Section 7. The Competent Authorities for which this Agreement is in effect are listed in Annex E.

2 Any capitalised term not otherwise defined in this Agreement will have the meaning that it has at that time under the law of the Jurisdiction applying the Agreement, such meaning being consistent with the meaning set forth in the Common Reporting Standard. Any term not otherwise defined in this Agreement or in the Common Reporting Standard will, unless the context otherwise requires or the Competent Authorities agree to a common meaning (as permitted by domestic law), have the meaning that it has at that time under the law of the Jurisdiction applying this Agreement, any meaning under the applicable tax laws of that Jurisdiction prevailing over a meaning given to the term under other laws of that Jurisdiction.

SECTION 2 EXCHANGE OF INFORMATION WITH RESPECT TO REPORTABLE ACCOUNTS

1 Pursuant to the provisions of Articles 6 and 22 of the Convention and subject to the applicable reporting and due diligence rules consistent with the Common Reporting Standard, each Competent Authority will annually exchange with the other Competent Authorities, with respect to which it has this Agreement in effect, on an automatic basis the information obtained pursuant to such rules and specified in paragraph 2.

1.1 Notwithstanding the previous paragraph, the Competent Authorities of the Jurisdictions listed in Annex A will send, but not receive, the information specified in paragraph 2. Competent Authorities of Jurisdictions not listed in Annex A will always receive the information specified in paragraph 2. Competent Authorities will not send such information to Competent Authorities of the Jurisdictions listed in Annex A.

2 The information to be exchanged is, with respect to each Reportable Account of another Jurisdiction:

(a) the name, address, TIN(s) and date and place of birth (in the case of an individual) of each Reportable Person that is an Account Holder of the account and, in the case of any Entity that is an Account Holder and that, after application of due diligence procedures consistent with the Common Reporting Standard, is identified as having one or more Controlling Persons that is a Reportable Person, the name, address, and TIN(s) of the Entity and the name, address, TIN(s) and date and place of birth of each Reportable Person;

(b) the account number (or functional equivalent in the absence of an account number);

(c) the name and identifying number (if any) of the Reporting Financial Institution;

(d) the account balance or value (including, in the case of a Cash Value Insurance Contract or Annuity Contract, the Cash Value or surrender value) as of the end of the relevant calendar year or other appropriate reporting period or, if the account was closed during such year or period, the closure of the account;
(e) in the case of any Custodial Account:

(1) the total gross amount of interest, the total gross amount of dividends, and the total gross amount of other income generated with respect to the assets held in the account, in each case paid or credited to the account (or with respect to the account) during the calendar year or other appropriate reporting period; and

(2) the total gross proceeds from the sale or redemption of Financial Assets paid or credited to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Financial Institution acted as a custodian, broker, nominee, or otherwise as an agent for the Account Holder;

(f) in the case of any Depository Account, the total gross amount of interest paid or credited to the account during the calendar year or other appropriate reporting period; and

(g) in the case of any account not described in subparagraph 2(e) or (f), the total gross amount paid or credited to the Account Holder with respect to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Financial Institution is the obligor or debtor, including the aggregate amount of any redemption payments made to the Account Holder during the calendar year or other appropriate reporting period.

SECTION 3 TIME AND MANNER OF EXCHANGE OF INFORMATION

1 For the purposes of the exchange of information in Section 2, the amount and characterisation of payments made with respect to a Reportable Account may be determined in accordance with the principles of the tax laws of the Jurisdiction exchanging the information.

2 For the purposes of the exchange of information in Section 2, the information exchanged will identify the currency in which each relevant amount is denominated.

3 With respect to paragraph 2 of Section 2, and subject to the notification procedure set out in Section 7, including the dates specified therein, information is to be exchanged commencing from the years specified in Annex F within nine months after the end of the calendar year to which the information relates. Notwithstanding the foregoing sentence, information is only required to be exchanged with respect to a calendar year if both Competent Authorities have this Agreement in effect and their respective Jurisdictions have in effect legislation that requires reporting with respect to such calendar year that is consistent with the scope of exchange provided for in Section 2 and the reporting and due diligence procedures contained in the Common Reporting Standard.

4 [deleted]

5 The Competent Authorities will automatically exchange the information described in Section 2 in the common reporting standard schema in Extensible Markup Language.

6 The Competent Authorities will work towards and agree on one or more methods for data transmission including encryption standards with a view to maximising standardisation and minimising complexities and costs and will specify those in Annex B.

SECTION 4 COLLABORATION ON COMPLIANCE AND ENFORCEMENT

A Competent Authority will notify the other Competent Authority when the first-mentioned Competent Authority has reason to believe that an error may have led to incorrect or incomplete information reporting or there is non-compliance by a Reporting Financial Institution with the applicable reporting requirements and due diligence procedures consistent with the Common Reporting Standard. The notified Competent Authority will take all appropriate measures available under its domestic law to address the errors or non-compliance described in the notice.
SECTION 5 CONFIDENTIALITY AND DATA SAFEGUARDS

1. All information exchanged is subject to the confidentiality rules and other safeguards provided for in the Convention, including the provisions limiting the use of the information exchanged and, to the extent needed to ensure the necessary level of protection of personal data, in accordance with the safeguards which may be specified by the supplying Competent Authority as required under its domestic law and listed in Annex C.

2. A Competent Authority will notify the Co-ordinating Body Secretariat immediately regarding any breach of confidentiality or failure of safeguards and any sanctions and remedial actions consequently imposed. The Co-ordinating Body Secretariat will notify all Competent Authorities with respect to which this is an Agreement in effect with the first mentioned Competent Authority.

SECTION 6 CONSULTATIONS AND AMENDMENTS

1. If any difficulties in the implementation or interpretation of this Agreement arise, a Competent Authority may request consultations with one or more of the Competent Authorities to develop appropriate measures to ensure that this Agreement is fulfilled. The Competent Authority that requested the consultations shall ensure, as appropriate, that the Co-ordinating Body Secretariat is notified of any measures that were developed and the Co-ordinating Body Secretariat will notify all Competent Authorities, even those that did not participate in the consultations, of any measures that were developed.

2. This Agreement may be amended by consensus by written agreement of all of the Competent Authorities that have the Agreement in effect. Unless otherwise agreed upon, such an amendment is effective on the first day of the month following the expiration of a period of one month after the date of the last signature of such written agreement.

SECTION 7 TERM OF AGREEMENT

1. A Competent Authority must provide, at the time of signature of this Agreement or as soon as possible after its Jurisdiction has the necessary laws in place to implement the Common Reporting Standard, a notification to the Co-ordinating Body Secretariat:
   
   (a) that its Jurisdiction has the necessary laws in place to implement the Common Reporting Standard and specifying the relevant effective dates with respect to Preexisting Accounts, New Accounts, and the application or completion of the reporting and due diligence procedures;
   
   (b) confirming whether the Jurisdiction is to be listed in Annex A;
   
   (c) specifying one or more methods for data transmission including encryption (Annex B);
   
   (d) specifying safeguards, if any, for the protection of personal data (Annex C);
   
   (e) that it has in place adequate measures to ensure the required confidentiality and data safeguards standards are met and attaching the completed confidentiality and data safeguard questionnaire, to be included in Annex D; and
   
   (f) a list of the Jurisdictions of the Competent Authorities with respect to which it intends to have this Agreement in effect, following national legislative procedures (if any).

2.1 This Agreement will come into effect between two Competent Authorities on the later of the following dates: (i) the date on which the second of the two Competent Authorities has provided notification to the Co-ordinating Body Secretariat under paragraph 1, including listing the other Competent Authority’s Jurisdiction pursuant to subparagraph 1(f), and, if applicable, (ii) the date on which the Convention has entered into force and is in effect for both Jurisdictions.
2.2 The Co-ordinating Body Secretariat will maintain a list that will be published on the OECD website of the Competent Authorities that have signed the Agreement and between which Competent Authorities this is an Agreement in effect (Annex E).

2.3 The Co-ordinating Body Secretariat will publish on the OECD website the information provided by Competent Authorities pursuant to subparagraphs 1(a) and (b). The information provided pursuant to subparagraphs 1(c) through (f) will be made available to other signatories upon request in writing to the Co-ordinating Body Secretariat.

3 A Competent Authority may suspend the exchange of information under this Agreement by giving notice in writing to another Competent Authority that it has determined that there is or has been significant non-compliance by the second-mentioned Competent Authority with this Agreement. Such suspension will have immediate effect. For the purposes of this paragraph, significant non-compliance includes, but is not limited to, non-compliance with the confidentiality and data safeguard provisions of this Agreement and the Convention, a failure by the Competent Authority to provide timely or adequate information as required under this Agreement or defining the status of Entities or accounts as Non-Reporting Financial Institutions and Excluded Accounts in a manner that frustrates the purposes of the Common Reporting Standard.

4 A Competent Authority may terminate its participation in this Agreement, or with respect to a particular Competent Authority, by giving notice of termination in writing to the Coordinating Body Secretariat. Such termination will become effective on the first day of the month following the expiration of a period of 12 months after the date of the notice of termination. In the event of termination, all information previously received under this Agreement will remain confidential and subject to the terms of the Convention.

SECTION 8 CO-ORDINATING BODY SECRETARIAT

1 Unless otherwise provided for in the Agreement, the Co-ordinating Body Secretariat will notify all Competent Authorities of any notifications that it has received under this Agreement and will provide a notice to all signatories of the Agreement when a new Competent Authority signs the Agreement.

2 All signatories to the Agreement will share equally, on an annual basis, the costs for the administration of the Agreement by the Co-ordinating Body Secretariat. Notwithstanding the previous sentence, qualifying countries will be exempt from sharing the costs in accordance with Article X of the Rules of Procedure of the Co-ordinating Body of the Convention.

Done in English and French, both texts being equally authentic.
ANNEX A:
LIST OF NON-RECIPROCAL JURISDICTIONS
[To be completed]

ANNEX B:
TRANSMISSION METHODS
[To be completed]

ANNEX C:
SPECIFIED DATA SAFEGUARDS
[To be completed]

ANNEX D:
CONFIDENTIALITY QUESTIONNAIRE
[To be completed]

ANNEX E:
COMPETENT AUTHORITIES FOR WHICH THIS IS AN AGREEMENT IN EFFECT
[To be completed]

ANNEX F:
INTENDED EXCHANGE DATES

<table>
<thead>
<tr>
<th>Accounts</th>
<th>Intended to be defined as</th>
<th>Intended dates to exchange information by</th>
</tr>
</thead>
<tbody>
<tr>
<td>New Accounts</td>
<td>A Financial Account maintained by a Reporting Financial Institution opened on or after 1 January 2017.</td>
<td>September 2018</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Individual High-Value Accounts</td>
<td>Individual Low-Value Accounts</td>
</tr>
<tr>
<td></td>
<td>September 2018</td>
<td>September 2018 or September 2019, depending on when identified as reportable</td>
</tr>
<tr>
<td></td>
<td>Individual Low-Value Accounts</td>
<td>Entity Accounts</td>
</tr>
<tr>
<td></td>
<td>September 2018</td>
<td>September 2018 or September 2019, depending on when identified as reportable</td>
</tr>
<tr>
<td></td>
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<td>Individual Low-Value Accounts</td>
<td>Entity Accounts</td>
</tr>
<tr>
<td></td>
<td>September 2018</td>
<td>September 2018 or September 2019, depending on when identified as reportable</td>
</tr>
</tbody>
</table>

Thornton’s Malaysian Tax Commentaries
INCOME TAX (MULTILATERAL COMPETENT AUTHORITY AGREEMENT ON THE EXCHANGE OF COUNTRY-BY-COUNTRY REPORTS) ORDER 2016

[18 December 2016]

IN exercise of the powers conferred by section 132B of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

PARAGRAPH 1 CITATION

1 This order may be cited as the Income Tax (Multilateral Competent Authority Agreement on the Exchange of Country-by-Country Reports) Order 2016.

PARAGRAPH 2 COUNTRY-BY-COUNTRY REPORTING

2 It is declared that the arrangements specified in the Schedule have been made by the Government of Malaysia and the government which has signed the Multilateral Competent Authority Agreement on the Exchange of Country-by-Country Reports with a view of exchanging information that is foreseeably relevant in relation to taxation and that it is expedient that those arrangements shall have effect.

SCHEDULE

MULTILATERAL COMPETENT AUTHORITY AGREEMENT ON THE EXCHANGE OF COUNTRY-BY-COUNTRY REPORTS

Whereas, the jurisdictions of the signatories to the Multilateral Competent Authority Agreement on the Exchange of Country-by-Country Reports (the "Agreement") are Parties of, or territories covered by, the Convention on Mutual Administrative Assistance in Tax Matters or the Convention on Mutual Administrative Assistance in Tax Matters as amended by the Protocol (the "Convention") or have signed or expressed their intention to sign the Convention and acknowledge that the Convention must be in force and in effect in relation to them before the automatic exchange of Country-by-Country (CbC) Reports takes place;

Whereas, a country that has signed or expressed its intention to sign the Convention will only become a Jurisdiction as defined in Section 1 of this Agreement once it has become a Party to the Convention;

Whereas, the jurisdictions desire to increase international tax transparency and improve access of their respective tax authorities to information regarding the global allocation of the income, the taxes paid, and certain indicators of the location of economic activity among tax jurisdictions in which Multinational Enterprise (MNE) Groups operate through the automatic exchange of annual CbC Reports, with a view to assessing high-level transfer pricing risks and other base erosion and profit shifting related risks, as well as for economic and statistical analysis, where appropriate;

Whereas, the laws of the respective Jurisdictions require or are expected to require the Reporting Entity of an MNE Group to annually file a CbC Report;

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Whereas, the CbC Report is intended to be part of a three-tiered structure, along with a global master file and a local file, which together represent a standardised approach to transfer pricing documentation which will provide tax administrations with relevant and reliable information to perform an efficient and robust transfer pricing risk assessment analysis;

Whereas, Chapter III of the Convention authorises the exchange of information for tax purposes, including the exchange of information on an automatic basis, and allows the competent authorities of the Jurisdictions to agree on the scope and modalities of such automatic exchanges;

Whereas, Article 6 of the Convention provides that two or more Parties can mutually agree to exchange information automatically, albeit that the actual exchange of the information will take place on a bilateral basis between the Competent Authorities;

Whereas, the Jurisdictions will have, or are expected to have in place by the time the first exchange of CbC Reports takes place, (i) appropriate safeguards to ensure that the information received pursuant to this Agreement remains confidential and is used for the purposes of assessing high-level transfer pricing risks and other base erosion and profit shifting related risks, as well as for economic and statistical analysis, where appropriate, in accordance with Section 5 of this Agreement, (ii) the infrastructure for an effective exchange relationship (including established processes for ensuring timely, accurate, and confidential information exchanges, effective and reliable communications, and capabilities to promptly resolve questions and concerns about exchanges or requests for exchanges and to administer the provisions of Section 4 of this Agreement) and (iii) the necessary legislation to require Reporting Entities to file the CbC Report;

Whereas the Jurisdictions are committed to discuss with the aim of resolving cases of undesirable economic outcomes, including for individual businesses, in accordance with paragraph 2 of Article 24 of the Convention, as well as paragraph 1 of Section 6 of this Agreement;

Whereas mutual agreement procedures, for instance on the basis of a double tax convention concluded between the jurisdictions of the Competent Authorities, remain applicable in cases where the CbC Report has been exchanged on the basis of this Agreement;

Whereas, the Competent Authorities of the jurisdictions intend to conclude this Agreement, without prejudice to national legislative procedures (if any), and subject to the confidentiality and other protections provided for in the Convention, including the provisions limiting the use of the information exchanged thereunder;

Now, therefore, the Competent Authorities have agreed as follows:

SECTION 1 DEFINITIONS

1 For the purposes of this Agreement, the following terms have the following meanings:

(a) the term “Jurisdiction” means a country or a territory in respect of which the Convention is in force and is in effect, either through ratification, acceptance or approval in accordance with Article 28, or through territorial extension in accordance with Article 29, and which is a signatory to this Agreement;

(b) the term “Competent Authority” means, for each respective Jurisdiction, the persons and authorities listed in Annex B of the Convention;

(c) the term “Group” means a collection of enterprises related through ownership or control such that it is either required to prepare consolidated financial statements for financial reporting purposes under applicable accounting principles or would be so required if equity interests in any of the enterprises were traded on a public securities exchange;
(d) the term “Multinational Enterprise (MNE) Group” means any Group that (i) includes two or more enterprises the tax residence for which is in different jurisdictions, or includes an enterprise that is resident for tax purposes in one jurisdiction and is subject to tax with respect to the business carried out through a permanent establishment in another jurisdiction, and (ii) is not an Excluded MNE Group;

(e) the term “Excluded MNE Group” means a Group that is not required to file a CbC Report on the basis that the annual consolidated group revenue of the Group during the fiscal year immediately preceding the reporting fiscal year, as reflected in its consolidated financial statements for such preceding fiscal year, is below the threshold defined in domestic law by the Jurisdiction and being consistent with the 2015 Report, as may be amended following the 2020 review contemplated therein;

(f) the term “Constituent Entity” means (i) any separate business unit of an MNE Group that is included in the consolidated financial statements for financial reporting purposes, or would be so included if equity interests in such business unit of an MNE Group were traded on a public securities exchange (ii) any separate business unit that is excluded from the MNE Group’s consolidated financial statements solely on size or materiality grounds and (iii) any permanent establishment of any separate business unit of the MNE Group included in (i) or (ii) above provided the business unit prepares a separate financial statement for such permanent establishment for financial reporting, regulatory, tax reporting or internal management control purposes;

(g) the term “Reporting Entity” means the Constituent Entity that, by virtue of domestic law in its jurisdiction of tax residence, files the CbC Report in its capacity to do so on behalf of the MNE Group;

(h) the term “CbC Report” means the country-by-country report to be filed annually by the Reporting Entity in accordance with the laws of its jurisdiction of tax residence and with the information required to be reported under such laws covering the items and reflecting the format set out in the 2015 Report, as may be amended following the 2020 review contemplated therein;


(j) the term “Co-ordinating Body” means the co-ordinating body of the Convention that, pursuant to paragraph 3 of Article 24 of the Convention, is composed of representatives of the competent authorities of the Parties to the Convention;

(k) the term “Co-ordinating Body Secretariat” means the OECD Secretariat that provides support to the Co-ordinating Body;

(l) the term “Agreement in effect” means, in respect of any two Competent Authorities, that both Competent Authorities have indicated their intention to automatically exchange information with each other and have satisfied the other conditions set out in paragraph 2 of Section 8. A list of Competent Authorities between which this Agreement is in effect is to be published on the OECD Website.

As regards to the application of this Agreement at any time by a Competent Authority of a Jurisdiction, any term not otherwise defined in this Agreement will, unless the context otherwise requires or the Competent Authorities agree to a common meaning (as permitted by domestic law), have the meaning that it has at that time under the law of the Jurisdiction applying this Agreement, any meaning under the applicable tax laws of that Jurisdiction prevailing over a meaning given to the term under other laws of that Jurisdiction.

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SECTION 2 EXCHANGE OF INFORMATION WITH RESPECT TO MNE GROUPS

1 Pursuant to the provisions of Articles 6, 21 and 22 of the Convention, each Competent Authority will annually exchange on an automatic basis the CbC Report received from each Reporting Entity that is resident for tax purposes in its jurisdiction with all such other Competent Authorities of Jurisdictions with respect to which it has this Agreement in effect, and in which, on the basis of the information in the CbC Report, one or more Constituent Entities of the MNE Group of the Reporting Entity are either resident for tax purposes, or are subject to tax with respect to the business carried out through a permanent establishment.

2 Notwithstanding the previous paragraph, the Competent Authorities of the Jurisdictions that have indicated that they are to be listed as non-reciprocal jurisdictions on the basis of their notification pursuant to paragraph 1b) of Section 8 will send CbC Reports pursuant to paragraph 1, but will not receive CbC Reports under this Agreement. Competent Authorities of Jurisdictions that are not listed as non-reciprocal Jurisdictions will both send and receive the information specified in paragraph 1. Competent Authorities will, however, not send such information to Competent Authorities of the Jurisdictions included in the aforementioned list of non-reciprocal Jurisdictions.

SECTION 3 TIME AND MANNER OF EXCHANGE OF INFORMATION

1 For the purposes of the exchange of information in Section 2, the currency of the amounts contained in the CbC Report will be specified.

2 With respect to paragraph 1 of Section 2, a CbC Report is first to be exchanged, with respect to the fiscal year of the MNE Group commencing on or after the date indicated by the Competent Authority in the notification pursuant to paragraph 1a) of Section 8, as soon as possible and no later than 18 months after the last day of that fiscal year. Notwithstanding the foregoing, a CbC Report is only required to be exchanged, if both Competent Authorities have this Agreement in effect and their respective Jurisdictions have in effect legislation that requires the filing of CbC Reports with respect to the fiscal year to which the CbC Report relates and that is consistent with the scope of exchange provided for in Section 2.

3 Subject to paragraph 2, the CbC Report is to be exchanged as soon as possible and no later than 15 months after the last day of the fiscal year of the MNE Group to which the CbC Report relates.

4 The Competent Authorities will automatically exchange the CbC Reports through a common schema in Extensible Markup Language.

5 The Competent Authorities will work towards and agree on one or more methods for electronic data transmission, including encryption standards, with a view to maximising standardisation and minimising complexities and costs and will notify the Co-ordinating Body Secretariat of such standardised transmission and encryption methods.

SECTION 4 COLLABORATION ON COMPLIANCE AND ENFORCEMENT

A Competent Authority will notify the other Competent Authority when the first-mentioned Competent Authority has reason to believe, with respect to a Reporting Entity that is resident for tax purposes in the jurisdiction of the other Competent Authority, that an error may have led to incorrect or incomplete information reporting or that there is non-compliance of a Reporting Entity with respect to its obligation to file a CbC Report. The notified Competent Authority will take appropriate measures available under its domestic law to address the errors or non-compliance described in the notice.
SECTION 5 CONFIDENTIALITY, DATA SAFEGUARDS AND APPROPRIATE USE

1 All information exchanged is subject to the confidentiality rules and other safeguards provided for in the Convention, including the provisions limiting the use of the information exchanged.

2 In addition to the restrictions in paragraph 1, the use of the information will be further limited to the permissible uses described in this paragraph. In particular, information received by means of the CbC Report will be used for assessing high-level transfer pricing, base erosion and profit shifting related risks, and, where appropriate, for economic and statistical analysis. The information will not be used as a substitute for a detailed transfer pricing analysis of individual transactions and prices based on a full functional analysis and a full comparability analysis. It is acknowledged that information in the CbC Report on its own does not constitute conclusive evidence that transfer prices are or are not appropriate and, consequently, transfer pricing adjustments will not be based on the CbC Report. Inappropriate adjustments in contravention of this paragraph made by local tax administrations will be conceded in any competent authority proceedings. Notwithstanding the above, there is no prohibition on using the CbC Report data as a basis for making further enquiries into the MNE Group’s transfer pricing arrangements or into other tax matters in the course of a tax audit and, as a result, appropriate adjustments to the taxable income of a Constituent Entity may be made.

3 To the extent permitted under applicable law, a Competent Authority will notify the Co-ordinating Body Secretariat immediately of any cases of non-compliance with paragraphs 1 and 2 of this Section, including any remedial actions, as well as any measures taken in respect of non-compliance with the above-mentioned paragraphs. The Co-ordinating Body Secretariat will notify all Competent Authorities with respect to which this is an Agreement in effect with the first mentioned Competent Authority.

SECTION 6 CONSULTATIONS

1 In case an adjustment of the taxable income of a Constituent Entity, as a result of further enquiries based on the data in the CbC Report, leads to undesirable economic outcomes, including if such cases arise for a specific business, the Competent Authorities of the Jurisdictions in which the affected Constituent Entities are resident shall consult each other and discuss with the aim of resolving the case.

2 If any difficulties in the implementation or interpretation of this Agreement arise, a Competent Authority may request consultations with one or more of the Competent Authorities to develop appropriate measures to ensure that this Agreement is fulfilled. In particular, a Competent Authority shall consult with the other Competent Authority, before the first-mentioned Competent Authority determines that there is a systemic failure to exchange CbC Reports with the other Competent Authority. Where the first mentioned Competent Authority makes such a determination it shall notify the Co-ordinating Body Secretariat which, after having informed the other Competent Authority concerned, will notify all Competent Authorities. To the extent permitted by applicable law, either Competent Authority may, and if it so wishes through the Co-ordinating Body Secretariat, involve other Competent Authorities that have this Agreement in effect with a view to finding an acceptable resolution to the issue.

3 The Competent Authority that requested the consultations pursuant to paragraph 2 shall ensure, as appropriate, that the Co-ordinating Body Secretariat is notified of any conclusions that were reached and measures that were developed, including the absence of such conclusions or measures, and the Co-ordinating Body Secretariat will notify all Competent Authorities, even those that did not participate in the consultations, of any such conclusions or measures. Taxpayer-specific information, including information that would reveal the identity of the taxpayer involved, is not to be furnished.

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SECTION 7 AMENDMENTS
This Agreement may be amended by consensus by written agreement of all of the Competent Authorities that have the Agreement in effect. Unless otherwise agreed upon, such an amendment is effective on the first day of the month following the expiration of a period of one month after the date of the last signature of such written agreement.

SECTION 8 TERM OF AGREEMENT
1 A Competent Authority must provide, at the time of signature of this Agreement or as soon as possible thereafter, a notification to the Co-ordinating Body Secretariat:
   (a) that its Jurisdiction has the necessary laws in place to require Reporting Entities to file a CbC Report and that its Jurisdiction will require the filing of CbC Reports with respect to fiscal years of Reporting Entities commencing on or after the date set out in the notification;
   (b) specifying whether the Jurisdiction is to be included in the list of non-reciprocal Jurisdictions;
   (c) specifying one or more methods for electronic data transmission including encryption;
   (d) that it has in place the necessary legal framework and infrastructure to ensure the required confidentiality and data safeguards standards in accordance with Article 22 of the Convention and paragraph 1 and Section 5 of this Agreement, as well as the appropriate use of the information in the CbC Reports as described in paragraph 2 of Section 5 of this Agreement, and attaching the completed confidentiality and data safeguard questionnaire attached as Annex to this Agreement; and
   (e) that includes (i) a list of the Jurisdictions of the Competent Authorities with respect to which it intends to have this Agreement in effect, following national legislative procedures for entry into force (if any) or (ii) a declaration by the Competent Authority that it intends to have this Agreement in effect with all other Competent Authorities that provide a notification under paragraph 1(e) of Section 8.

Competent Authorities must notify the Co-ordinating Body Secretariat, promptly, of any subsequent change to be made to any of the above-mentioned content of the notification.

2 This Agreement will come into effect between two Competent Authorities on the later of the following dates: (i) the date on which the second of the two Competent Authorities has provided notification to the Co-ordinating Body Secretariat under paragraph 1 that includes the other Competent Authority’s Jurisdiction pursuant to subparagraph 1e) and (ii) the date on which the Convention has entered into force and is in effect for both Jurisdictions.

3 The Co-ordinating Body Secretariat will maintain a list that will be published on the OECD website of the Competent Authorities that have signed the Agreement and between which Competent Authorities this is an Agreement in effect. In addition, the Co-ordinating Body Secretariat will publish the information provided by Competent Authorities pursuant to subparagraphs 1(a) and (b) on the OECD website.

4 The information provided pursuant to subparagraphs 1(c) through (e) will be made available to other signatories upon request in writing to the Co-ordinating Body Secretariat.

5 A Competent Authority may temporarily suspend the exchange of information under this Agreement by giving notice in writing to another Competent Authority that it has determined that there is or has been significant non-compliance by the second-mentioned Competent Authority with this Agreement. Before making such a determination, the first-mentioned Competent Authority shall consult with the other Competent Authority. For the purposes of this paragraph, significant non-compliance means non-compliance with paragraphs 1 and 2 of Section 5 and paragraph 1 of Section 6 of this Agreement and/or the corresponding provisions of the Convention, as well as a failure by the Competent Authority to provide timely or adequate information as required under this...
Agreement. A suspension will have immediate effect and will last until the second-mentioned Competent Authority establishes in a manner acceptable to both Competent Authorities that there has been no significant non-compliance or that the second-mentioned Competent Authority has adopted relevant measures that address the significant non-compliance. To the extent permitted by applicable law, either Competent Authority may, and if it so wishes through the Co-ordinating Body Secretariat, involve other Competent Authorities that have this Agreement in effect with a view to finding an acceptable resolution to the issue.

6. A Competent Authority may terminate its participation in this Agreement, or with respect to a particular Competent Authority, by giving notice of termination in writing to the Co-ordinating Body Secretariat. Such termination will become effective on the first day of the month following the expiration of a period of 12 months after the date of the notice of termination. In the event of termination, all information previously received under this Agreement will remain confidential and subject to the terms of the Convention.

SECTION 9 CO-ORDINATING BODY SECRETARIAT

Unless otherwise provided for in the Agreement, the Co-ordinating Body Secretariat will notify all Competent Authorities of any notifications that it has received under this Agreement and will provide a notice to all signatories of the Agreement when a new Competent Authority signs the Agreement.

Done in English and French, both texts being equally authentic.

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ANNEX B:
LIST OF COMPETENT AUTHORITIES
[to be completed]

ANNEX C:
QUESTIONNAIRES
[to be completed]