



Tax Espresso – Special Alert Foreign Sources of Income – Exemption Orders

Greetings from Deloitte Malaysia Tax Services

At the tabling of Budget 2022, the government of Malaysia announced a proposed measure to impose tax on the income of residents derived from sources outside Malaysia effective from 1 January 2022.

The measure to impose tax on foreign sources of income (FSI) was implemented through the Finance Act 2021, which came into operation on 1 January 2022. However, following discussions between the government and various stakeholders, including industry representatives and tax practitioners, the

government agreed to exempt Malaysian tax residents from the imposition of tax (subject to certain conditions) effective from 1 January 2022 to 31 December 2026 on the following types of FSI [[refer to our Special Alert dated 31 December 2021](#)]:

- Dividend income received by companies and limited liability partnerships; and
- All types of FSI received by individuals, except for individuals carrying on a partnership business in Malaysia.

On 19 July 2022, the government legislated the above exemption through the following exemption orders which are deemed to have effect from 1 January 2022 until 31 December 2026.

1. Income Tax (Exemption) (No. 5) Order 2022 [[P.U.\(A\) 234/2022](#)]

A qualifying individual will be exempted from the payment of income tax in respect of the gross income from all sources of income under Section 4 of the Income Tax Act, 1967 (ITA) excluding a source of income from a partnership business in Malaysia, which is received in Malaysia from outside Malaysia in the basis period for a year of assessment (YA).

2. Income Tax (Exemption) (No. 6) Order 2022 [[P.U.\(A\) 235/2022](#)]

A qualifying person will be exempted from the payment of income tax in respect of the gross income of that qualifying person from dividend income which is received in Malaysia from outside Malaysia in the basis period for a YA.

Other salient points

- The above exempted FSI shall have been subjected to tax of a similar character to income tax under the law of the territory where the income arises (i.e. foreign tax). For dividend income, the **highest rate of tax** of a similar character to income tax charged **under the law of the territory which the income arises at that time is not less than fifteen per cent.**
- The Orders require the above-mentioned qualifying individual / person to comply with the conditions imposed by the Minister of Finance as specified in the guidelines to be issued by the Inland Revenue Board of Malaysia (IRBM) on the tax treatment in relation to income which is received from abroad. [*Note: As at the date of this publication, the IRBM has yet to release the guidelines.*]

- Any deduction in relation to the above exempted FSI shall be disregarded in arriving at the chargeable income of the above-mentioned qualifying individual / person.

Relevant definitions

A “qualifying individual” refers to an individual resident in Malaysia and has income received in Malaysia from outside Malaysia.

A “qualifying person” refers to a person resident in Malaysia who is:

- (a) an individual who has dividend income received in Malaysia from outside Malaysia in relation to a partnership business in Malaysia;
- (b) a limited liability partnership which is registered under the Limited Liability Partnerships Act 2012; or
- (c) a company which is incorporated or registered under the Companies Act 2016.

An “income received in Malaysia from outside Malaysia” means income arising from outside Malaysia which is brought into Malaysia. *[Note: We expect the IRBM to define the term “brought into Malaysia” in the issuance of the guidelines, whether it refers to cash brought into Malaysia and remittance of funds into Malaysia only.]*

A “dividend income received in Malaysia from outside Malaysia” means dividend income arising from outside Malaysia which is brought into Malaysia.

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Deloitte Tax Services Sdn Bhd
Level 16, Menara LGB
1, Jalan Wan Kadir
Taman Tun Dr Ismail
60000 Kuala Lumpur
Malaysia

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