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TRICOR INSIGHTS

KEY RECENT TAX DEVELOPMENTS

In this issue, we wish to highlight the following key tax developments:

- (i) Administrative concession on withholding tax payments made to agents, dealers and distributors
- (ii) Income tax exemption on foreign sourced income
- (iii) Malaysia Digital

Withholding tax on payments made to agents, dealers and distributors (ADD)

The Inland Revenue Board (IRB) has issued a media release dated 9 July 2022 announcing administrative changes to the submission of withholding tax on payments by companies to resident individual agents, dealers or distributors ("ADD") under Section 107D of the Income Tax Act 1967.

Under the law, the withholding tax withheld under Section 107D is to be remitted to the IRB within 30 days from the date of payment of the amount to the ADD. However, as an administrative concession, effective from July 2022, companies are required to accumulate the 2% withholding tax in respect of payments made to a resident individual ADD on a monthly basis and to remit the accumulated amount of withholding tax to the IRB latest by the end of the following month. The following are examples set out by the IRB:

2% withholding tax accumulated monthly	Last date to remit withholding tax to IRB
1 – 31 July 2022	31 August 2022
1 – 31 August 2022	30 September 2022
1 – 30 September 2022	31 October 2022

The 2% withholding tax can only be made via payment counter or post/courier. In this regard, the payer company must complete the latest [Form CP107D – Pin 2/2022](#) in PDF format and [Appendix CP107D\(2\)](#) in excel format and submit both documents via email to the respective payment centre before making the withholding tax payments.

The respective email addresses of the payment centres are as follows:

Payment Centre	Email Address
Kuala Lumpur Payment Centre	pbkl-cp107d@hasil.gov.my
Kuching Branch	pbkc-cp107d@hasil.gov.my
Kota Kinabalu Branch	pbkk-cp107d@hasil.gov.my

A copy of the email must be presented to the IRB for verification and checking purposes at the time of payment.

For further details in the media release, please click on this link: https://phl.hasil.gov.my/pdf/KM_HASiL_09072022.

Income Tax Exemption Orders 2022 on Foreign Sourced Income [P.U. (A) 234/2022 & 235/2022]

The following Orders were gazetted on 19 July 2022:

- [Income Tax \(Exemption\) \(No.5\) Order 2022](#) - Exemption of foreign-sourced income (FSI) received by resident individuals
- [Income Tax \(Exemption\) \(No.6\) Order 2022](#) - Exemption of foreign-sourced dividends received by resident companies, limited liability partnerships (LLPs) and individuals in relation to a partnership business in Malaysia

The above Orders are in line with the announcement by the Ministry of Finance on 30 December 2021 on tax exemption of specific types of FSI received from **1 January 2022 to 31 December 2026**.

	Resident Individuals	Companies incorporated under the Companies Act 2016 and LLPs registered under the Limited Liability Partnerships Act 2012
FSI exempted from tax	All sources of income under Section 4 of the Income Tax Act 1967 (including dividend received in Malaysia from outside Malaysia in relation to a partnership business in Malaysia but excluding income from partnership business in Malaysia which is received in Malaysia from outside Malaysia)	Dividend income which is received in Malaysia from outside Malaysia (Note: the exemption does not apply to a person carrying on the business of banking, insurance, sea, or air transport)
Exemption period	From 1 January 2022 to 31 December 2026 (5 years)	
Qualifying conditions	i) The FSI received in Malaysia shall have been subject to foreign tax, i.e. tax of a similar character to income tax under the law of the territory where the income arises (Note); and ii) In relation to dividend income, the highest rate of tax of a similar character to income tax charged under the law of the territory where the income arises at that time is not less than 15% (Note) Note: Subject to compliance with conditions imposed by the Minister of Finance as specified in the guidelines to be issued by the Inland Revenue Board (IRB).	
Deductions in relation to FSI exempted	Any deduction in relation to FSI that is exempted from tax under the Orders shall be disregarded in computing the chargeable income of the qualifying person.	

Malaysia Digital

Since its establishment in 1996, the Malaysia Digital Economy Corporation (MDEC) and Multimedia Super Corridor (MSC) have driven digital transformation and adoption across the public and private sectors in Malaysia. The fast-evolving landscape of today's digital economy warrants for a new strategy to remain relevant and ready to boost the economic recovery of Malaysia.

On 4 July 2022, the Government has introduced *Malaysia Digital* (MD) as the new national strategic initiative to encourage and attract companies, talent and investment while enabling Malaysian businesses to play a leading part in the global digital revolution and digital economy, namely to:

- (a) Drive digital adoption amongst aspiring young entrepreneurs and companies;
- (b) Grow local tech companies to be Malaysian champions, thriving globally; and
- (c) Attract high-value digital investments

With effect from the date of announcement, MSC Malaysia Status, MSC Malaysia Status Company and MSC Malaysia Bill of Guarantees will now be known respectively as MD Status, MD Status Company and MD Bill of Guarantees ("BOGs").

MDEC has announced that it will continue to award MD status to eligible companies that participate in and undertake any of the MD activities. The MD status confers eligible companies with a set of incentives, rights and privileges from the Government.

The new MD initiative is governed by an enhanced framework over the MSC Malaysia regime. Some of the key changes are as follows:

Refresh of BOGs	<p>The refreshed BOGs under MD are as follows:</p> <ol style="list-style-type: none"> 1. To provide world-class physical and information infrastructure (only applicable for MD Status Companies located in MD Cybercities / Cybercentres) 2. To allow employment of local or foreign knowledge workers 3. To ensure freedom of ownership by exempting companies with MD Status from local ownership requirements 4. To allow freedom to source capital globally for MD infrastructure, and the ability to borrow funds globally 5. To provide competitive financial incentives, namely income tax exemption or investment tax allowance and exemption from customs duties on the importation of multimedia equipment 6. To become a regional leader in Intellectual Property Protection and Cyberlaws 7. To ensure no censorship of the Internet 8. To provide globally competitive telecommunication tariffs (only applicable for MD Status Companies located in MD Cybercities / Cybercentres) 9. To tender key MD infrastructure contracts to leading companies willing to use Malaysia as their regional hub 10. To provide high-powered implementation agency to act as an effective "one-stop super shop"
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Removal of location requirement	<p>With effect from 25 March 2022, a MD Status Company is allowed to operate and undertake its approved activities in any location within Malaysia. Correspondingly, MD Status Companies which were subjected to a minimum office space requirement will no longer be obliged to comply with such requirement.</p> <p>A MD Status Company may still carry out its approved activities in the designated location to enjoy world class physical and information infrastructure as well as competitive telecommunication tariff as per the BOG.</p>
Inclusion of new promoted activities	<p>The following activities have been added on to the existing list of promoted activities:</p> <ul style="list-style-type: none"> (i) Virtual, augmented and/or extended reality; (ii) Drone technology; (iii) Advance telecommunication technology; and (iv) Other emerging technologies deemed significant for the digital ecosystem subject to approval by the Approval Committee.

MDEC has also clarified that existing MD Status Companies can continue to enjoy the benefits of the BOGs and existing tax incentives granted, subject to compliance with existing approval conditions.

Further information can be obtained from <https://mdec.my/malaysiadigital/#>

Contact us

If you require further information on the above, please contact our team: -

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