



## **GUIDELINES**

### **TAX TREATMENT IN RELATION TO INCOME RECEIVED FROM ABROAD (AMENDMENT)**

**INLAND REVENUE BOARD OF MALAYSIA**

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<b>Contents</b>	<b>Page</b>
1. Introduction	1
2. Objective	1
3. Provisions of the Law	1
4. Glossary	2
5. Tax Treatment	3
5.1 Foreign income received in Malaysia by a resident	3
5.2 Foreign income received in Malaysia which is exempted from tax from 1 January 2022 until 31 December 2026	18
5.2.1 Foreign dividend income received in Malaysia by a resident company, resident limited liability partnership (LLP) and resident individual in relation to a partnership business in Malaysia	18
5.2.2 Foreign income received in Malaysia by a resident individual	22
5.2.3 Expenses or deductions incurred in relation to foreign income received in Malaysia by a resident	25
5.2.4 Record keeping of supporting documents and declaration of the foreign income which is tax-exempt	26
6. Tax treatment on foreign income related to Cukai Makmur	27
7. Disclaimer	33

## **INLAND REVENUE BOARD OF MALAYSIA**

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### **1. INTRODUCTION**

- 1.1 This guideline is issued pursuant to the amendment of Paragraph 28 of Schedule 6, Income Tax Act 1967 (ITA 1967) by Finance Act 2021 [Act 833] which foreign income received in Malaysia by a person who is resident will be taxable effective from 1 January 2022.
- 1.2 The amendment of this provision is to provide equitable tax treatment on the foreign income with the income accrued in or derived from Malaysia in line with Malaysia's commitment towards compliance with international tax best practices.
- 1.3 However, there are tax exemptions given in relation to foreign income received in Malaysia by a resident subject to certain conditions.
- 1.4 Foreign income received in Malaysia which is eligible for the tax exemptions are as follows:
  - (a) Foreign dividend income received in Malaysia by a resident company, resident LLP and resident individual in relation to a partnership business in Malaysia [P.U.(A) 235/2022].
  - (b) All foreign income exclude income from a partnership business received in Malaysia by a resident individual [P.U.(A) 234/2022].
- 1.5 The exemption in paragraph 1.4(a) does not apply to a resident carrying on the business of banking, insurance or sea or air transport.

### **2. OBJECTIVE**

The objective of this guideline is to explain the tax treatment of foreign income received in Malaysia by a resident.

### **3. PROVISIONS OF THE LAW**

- 3.1 Sections 3, 4, 7, 8, 132, 133, paragraph 6(1)(p), Part XX of Schedule 1, paragraph 28 of Schedule 6 and Schedule 7 of the ITA 1967; and
- 3.2 The relevant subsidiary legislation referred to in this guideline is the Income Tax Order as follows;

## INLAND REVENUE BOARD OF MALAYSIA

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- (a) Income Tax (Exemption) Order 2022 [P.U.(A) 96/2022];
- (b) Income Tax (Exemption) Order (No. 5) 2022 [P.U.(A) 234/2022]; and
- (c) Income Tax (Exemption) Order (No. 6) 2022 [P.U.(A) 235/2022].

### 4. GLOSSARY

The words used in this guideline have the following meaning:

- 4.1 "Cukai Makmur" means a one-off tax imposed on a company that have chargeable income exceeding RM100 million for the year of assessment (YA) 2022 as provided in Paragraph 2, Part I, Schedule 1 of the ITA 1967.
- 4.2 "Received in Malaysia" means transferred or brought into Malaysia whether in the form of cash or through electronic funds transfer; or both.
- 4.3 "Cash" means notes, coins and cheques;
- 4.4 "Electronic fund transfer" means bank transfer (e.g. credit transfer, debit transfer), payment card (debit card, credit card and charge card), electronic money (e-money), privately-issued digital assets (e.g. crypto-assets, stablecoins) and Central bank digital currency (CBDC).
- 4.5 "Bilateral tax credit" means tax credit in respect of income which is subject to Malaysian tax has been charged to foreign tax where the country who charged the tax has a Double Taxation Avoidance Agreement (DTA) with Malaysia under Section 132 of the ITA 1967. Bilateral tax credit only applicable if the "Elimination of Double Taxation" article is covered in the relevant DTA.
- 4.6 "Unilateral tax credit" means tax credit for income subject to Malaysian tax that has been charged to foreign tax where the country who charged the tax does not have a DTA with Malaysia under Section 133 of the ITA 1967.

## **INLAND REVENUE BOARD OF MALAYSIA**

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- 4.7 "Resident" means resident in Malaysia for the basis year for a year of assessment by virtue of section 7 or section 8 of the ITA 1967.
- 4.8 "Foreign income " means the type of income under section 4 of the ITA 1967 that arises from sources outside Malaysia.
- 4.9 "Company" means a company which is incorporated or registered under the Companies Act 2016 and resident in Malaysia based on P.U.(A) 235/2022.
- 4.10 "Partnership" means a partnership in Malaysia registered under the Business Registration Act 1956 which is regulated by the Companies Commission of Malaysia.
- 4.11 "Limited Liability Partnership" means a limited liability partnership which is registered under the Limited Liability Partnership Act 2012 based on P.U. (A) 235/2022.

## **5. TAX TREATMENT**

### **5.1 Foreign income received in Malaysia by a resident**

5.1.1 Effective from 1 January 2022, generally, all types of foreign income received in Malaysia by a resident is subject to tax.

5.1.2 The list of foreign income which is subject to this tax treatment according to Section 4 of the ITA 1967 are as follows:

- (a) Business;
- (b) Employment;
- (c) Dividends, interest or discounts;
- (d) Rent, royalty or premium;
- (e) Pension, annuity or periodic payments; and
- (f) Other income other than from (a) to (e) above.

## **INLAND REVENUE BOARD OF MALAYSIA**

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- 5.1.3 Expenses or deductions incurred in relation to foreign income received in Malaysia will be allowed subject to the provisions under the ITA 1967.
- 5.1.4 Foreign income received in Malaysia that has been taxed by other jurisdiction either through withholding tax or income tax, can claim bilateral or unilateral tax credit under the provisions of sections 132 and 133 of the ITA 1967.
- 5.1.5 A resident who is claiming tax credits must keep evidence that foreign tax has been imposed on that particular income.
- 5.1.6 Tax credit for a year of assessment has to be claimed within two (2) years after the end of that year of assessment. For more information, kindly refer to Public Ruling No. 11/2021 entitled "Bilateral Credit and Unilateral Credit".
- 5.1.7 If the tax credit claimed for a year of assessment exceeds the Malaysian tax payable on foreign income received in Malaysia, the excess tax credit shall be disregarded.
- 5.1.8 For the period of 1 January 2022 until 30 June 2022, foreign income received in Malaysia will be taxed at a rate of 3% at gross under Part XX Schedule 1 of the ITA 1967.
- 5.1.9 Effective from 1 July 2022, foreign income received in Malaysia is subject to the prevailing tax rate.
- 5.1.10 The following are the examples for the tax treatment on foreign income received in Malaysia other than foreign income which is exempted from tax mentioned in paragraph 1.4:

### **Example 1**

Dinamik Bhd. close the account on September 30 every year. The company has provided loans to related companies in country A (with DTA) and country B (without DTA). The company receives interest income from the loan for the period 1.7.2022 until 30.9.2022.

**INLAND REVENUE BOARD OF MALAYSIA**

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The loan rendered by Dinamik Bhd. to its related companies in country A and country B is a loan obtained from financial institutions in Malaysia which charged with interest of RM8,000 and RM20,000 respectively.

Income declared in the YA 2022 Income Tax Return Form (ITRF) as follows:

Details	RM
Gross business income from Malaysia (Allowable business expenses RM500,000)	2,500,000
Gross interest income from Malaysia (Interest expense on loans RM10,000)	60,000
<b>Gross interest income from abroad received in Malaysia for the period 1.7.2022 until 30.9.2022:</b>	
Gross interest income from country A (Interest expense on loans RM8,000)	30,000
Gross interest income from country B (Interest expense on loans RM20,000)	80,000
Approved donations	5,000

Gross interest income from loans has been subject to withholding tax in country A and country B as follows:

Country	Withholding Tax Rate (%)	Withholding Tax Amount (RM)
Country A	15	4,500
Country B	30	24,000

**INLAND REVENUE BOARD OF MALAYSIA**

Tax computation for Dinamik Bhd for YA 2022:

Details	RM	RM
Statutory income from business (Malaysia) (RM2,500,000 – RM500,000)		2,000,000
Statutory interest income (Malaysia) (RM60,000 – RM10,000)	50,000	
Statutory interest income from abroad:		
Interest on loans (country A) (RM30,000 – RM8,000)	22,000	
Interest on loans (country B) (RM80,000 – RM20,000)	60,000	
Agregate statutory income from interest		132,000
Agregate income		2,132,000
Less: Approved donations		(5,000)
Total income		2,127,000
Tax at the rate of 24%		510,480
Less: Section 132 tax credit (country A)	4,500 <sup>1</sup>	
Section 133 tax credit (country B)	12,000 <sup>2</sup>	(16,500)
Tax payable		<b><u>493,980</u></b>

**Note:**

**<sup>1</sup>Computation**

- (a) Bilateral credit (Tax credit under Section 132 of the ITA 1967):

Interest (country A)

- (i) Computation of the proportion of statutory income in respect of foreign income:



INLAND REVENUE BOARD OF MALAYSIA

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$$= \frac{\text{Foreign interest income (gross) (RM)}}{\text{Foreign and Malaysian interest income (gross) (RM)}} \times \text{Aggregate statutory income from interest (RM)}$$

$$= \frac{30,000}{(60,000+30,000+80,000)} \times 132,000$$

$$= \frac{30,000}{170,000} \times 132,000$$

$$= \text{RM}23,294.12$$

(ii) Computation of bilateral credit

$$= \frac{\text{Foreign income (statutory income) (RM)}}{\text{Total income (RM)}} \times \text{Malaysian tax payable before bilateral credit (RM)}$$

$$= \frac{23,294.12}{2,127,000} \times 510,480$$

$$= \text{RM}5,590.59$$

Or

foreign tax charged, whichever is lower

$$= \text{RM}5,590.59 \text{ or foreign tax charges (RM}4,500\text{) whichever is lower}$$

$$= \text{RM}4,500.$$

INLAND REVENUE BOARD OF MALAYSIA

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<sup>2</sup> Computation:

(b) Unilateral credit (Tax credit under Section 133 of the ITA 1967)

Interest (Country B)

(i) Computation of the proportion of statutory income in respect of foreign income:

$$= \frac{\text{Foreign interest income (gross) (RM)}}{\text{Foreign and Malaysian interest income (gross) (RM)}} \times \text{Aggregate statutory income from interest (RM)}$$

$$= \frac{80,000}{(60,000+30,000+80,000)} \times 132,000$$

$$= \frac{80,000}{170,000} \times 132,000$$

$$= \text{RM}62,117.65$$

(ii) Computation of unilateral credit

$$= \frac{\text{Foreign income (statutory income) (RM)}}{\text{Total income (RM)}} \times \text{Malaysian tax payable before unilateral credit (RM)}$$

$$= \frac{62,117.65}{2,127,000} \times 510,480$$

$$= \text{RM}14,908.24$$

**INLAND REVENUE BOARD OF MALAYSIA**

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Or

1/2 of foreign tax charged, whichever is lower

= RM14,908.24 or ½ of foreign tax charges (1/2 x 24,000 = RM12,000) whichever is lower

= **RM12,000.**

5.1.11 The tax treatment of foreign income received in Malaysia is divided by two periods as follows:

Period	Tax Rate
1.1.2022 until 30.6.2022	3% from gross income
Effective from 1.7.2022	At the prevailing tax rate

**Example 2**

Hebat Bhd close account on 31 August every year. The company provides loans to related companies abroad. Gross interest income received from country A (with DTA) and country B (without DTA) in Malaysia on 5.5.2022 and 11.7.2022 amounting to RM800,000 and RM600,000 respectively.

Information related to the income of Hebat Bhd for the year 2022 is as follows:

Income	RM
Gross business income (Malaysia) (Allowable business expenses RM500,000)	2,000,000
Gross interest income (Malaysia) (Interest expense on loans RM100,000)	500,000

**INLAND REVENUE BOARD OF MALAYSIA**

Gross interest income from country A received in Malaysia on 5.5.2022 (Interest expense on loans RM100,000)	800,000
Gross interest income from country B received in Malaysia on 11.7.2022 (Interest expense on loans RM100,000)	600,000

Gross interest income from loans has been subject to withholding tax as follows:

Country	Withholding Tax Rate (%)	Withholding Tax Amount (RM)
Country A	15	120,000
Country B	30	180,000

Tax computation for Hebat Bhd. for YA 2022:

Particulars	RM	RM
Statutory income from business (Malaysia) (RM2,000,000 – RM500,000)		1,500,000
Statutory interest income (Malaysia) (RM500,000 – RM100,000)	400,000	
Statutory interest income from abroad		
Interest on loans (country A) Interest expense of RM100,000 is not allowed because the interest was received in Malaysia on 5.5.2022 (during the period 1.1.2022 until 30.6.2022).	800,000	
Interest on loans (country B) (RM600,000 – RM100,000)	500,000	

INLAND REVENUE BOARD OF MALAYSIA

Particulars	RM	RM
Total statutory interest income		1,700,000
Total income		3,200,000
Tax at the rate of 3% (country A) (RM800,000 x 3%)	24,000	
Tax at the rate of 24% [(RM400,000 + RM500,000 (country B) + RM1,500,000) x 24%]	576,000	
		600,000
Less: Section 132 tax credit (country A)	24,000 <sup>3</sup>	
Section 133 tax credit (country B)	90,000 <sup>4</sup>	(114,000)
Tax payable		<b><u>486,000</u></b>

Note:

**Computation of Tax Credit under Section 132 of the ITA 1967:**

<sup>3</sup>Interest (country A)

Computation of bilateral credit:

$$= \frac{\text{Foreign interest income (gross)(RM)}}{\text{Total income (related to the tax charged at the rate of 3\%)}} \times \text{Malaysian tax payable before bilateral credit (at the rate of 3\%) (RM)}$$

$$= \frac{\text{RM800,000}}{\text{RM800,000}} \times \text{RM24,000}$$

$$= \text{RM 24,000}$$

or

**INLAND REVENUE BOARD OF MALAYSIA**

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foreign tax charged, whichever is lower

= RM24,000 or foreign tax charged of RM120,000 whichever is lower

= **RM24,000**<sup>3</sup> (The bilateral tax credit allowed)

In determining the qualifying amount of tax credit to be claimed by Hebat Bhd on interest income from country A, foreign income subject to Malaysian tax rate of 3% must be compared to the amount of foreign tax charged (RM120,000). Since the foreign income is taxed on the amount of gross income by virtue of Part XX, Schedule 1 of ITA 1967 separately and is not included in the determination of tax charged at the current rate (24%), the ratio of statutory foreign income to the total income subject to Malaysian tax at the rate of 24% is disregarded.

**Computation of Tax Credit under Section 133 of the ACP 1967:**

<sup>4</sup>Interest (country B)

(i) Computation of the proportion of statutory income in respect of foreign income:

$$= \frac{\text{Foreign interest income (gross) (RM)}}{\text{Foreign and Malaysian interest income (gross) (excluding income received during the period 1.1.2022 – 30.6.2022) (RM)}} \times \frac{\text{Aggregate statutory income from interest (RM)}}{\text{Aggregate statutory income from interest (RM)}}$$

$$= \frac{\text{RM600,000}}{(\text{RM500,000} + \text{RM600,000})} \times \frac{(\text{RM1,700,000} - \text{RM800,000})}{\text{RM1,700,000}}$$

$$= \frac{\text{RM600,000}}{\text{RM1,100,000}} \times \text{RM900,000}$$

$$= \text{RM490,909.09}$$

**INLAND REVENUE BOARD OF MALAYSIA**

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(ii) Computation of unilateral credit:

$$\begin{aligned}
 &= \frac{\text{Foreign income (statutory income) (RM)}}{\text{Total income (RM)}} \times \text{Malaysian tax payable before unilateral credit (RM)} \\
 &= \frac{\text{RM490,909}}{(\text{RM3,200,000} - \text{RM800,000})} \times (\text{RM600,000} - \text{RM24,000}) \\
 &= \frac{\text{RM490,909}}{\text{RM2,400,000}} \times \text{RM576,000}
 \end{aligned}$$

$$= \text{RM117,818.16}$$

or

1/2 of foreign tax charged, whichever is lower

$$= \text{RM117,818.16 or } \frac{1}{2} \text{ of foreign tax charged}$$

$$(\frac{1}{2} \times \text{RM180,000} = \text{RM90,000}) \text{ whichever is lower}$$

$$= \text{RM90,000.}$$

5.1.12 The following are the example of the tax treatment of foreign income received in Malaysia consist of income from more than one year of assessment.

**INLAND REVENUE BOARD OF MALAYSIA**

**Example 3**

M Digital PLT (MDP) close accounts on December 31 every year. Based on MDP records, the total income of MDP is as follows:

<b>Year of Assessment</b>	<b>Malaysia income (RM)</b>	<b>Gross interest from country S (S\$)</b>	<b>Country S tax payable (S\$)</b>	<b>Interest after tax in country S (S\$)</b>	<b>Interest from country S received in Malaysia (S\$)</b>
2020	100,000	50,000	7,500	42,500	-
2021	110,000	-	-	-	-
2022	120,000	45,000	6,750	38,250	-
2023	130,000	30,000	4,500	25,500	34,000

Interest has been taxed at a rate of 15% in country S every year. Interest of S\$34,000 from country S received in Malaysia.

Foreign income received in Malaysia for a year of assessment must be identified by the taxpayer. Therefore, the interest income from country S of S\$34,000 received in Malaysia in YA 2023 is identified by the MDP which consists of interest for YA 2022 (S\$8,500) and interest for YA 2023 (S\$25,500).

If the foreign income received in Malaysia consist of income from more than one year of assessment, taxpayer have to identify the relevant year of assessment of which income is brought into Malaysia.

The burden of proof is on the taxpayer during the audit.

In this example, MDP is eligible to claim a tax credit because the same income has been taxed twice where there is DTA between Malaysia and country S. The date of remittance is on 15.12.2023 and the currency exchange rate is at RM2.2038 = S \$1.



INLAND REVENUE BOARD OF MALAYSIA

The tax computation of MDP for YA 2023 and tax credit under Section 132 of the ITA 1967 is as follows:

Details	RM	RM
Income from Malaysia		130,000
Income from country S received in Malaysia;		
Gross interest for YA 2023 (S\$30,000 x RM2.2038)	66,114	
Gross interest for YA 2022 (S\$34,000 – S\$25,500) / 85% = S\$8,500 / 0.85 = S\$10,000 (S\$10,000 x RM2.2038)	22,038	
Total of interest income from country S received in Malaysia		<u>88,152</u>
Total income		218,152
Computation of tax payable:		
Tax at rate 24% (RM218,152 x 24%)		52,356.48
Less : Section 132 tax credit		
(i) (RM88,152 / RM218,152) x RM52,356.48	21,156.48	
Or		
(ii) Tax in country S for YA 2023 (S\$4,500 x RM2.2038)  = RM9,917.10		

**INLAND REVENUE BOARD OF MALAYSIA**

Details	RM	RM
Tax in country S for YA 2022 (S\$10,000 x 15%) x RM2.2038  = RM3,305.70  Total tax in country S for YA 2022 and YA 2023  = RM9,917.10 + RM3,305.70		
Whichever is lower		(13,222.80)
Tax payable		<b><u>39,133.68</u></b>

**Example 4**

The facts are the same as in Example 3 with the additional information that MDP has obtained an overdraft facility from Bank AK to make investments in country S. MDP able to prove that the investment made in country S is fully financed through overdraft and the overdraft interest expense is not claimed in tax computation on interest income in country S. The interest expense incurred by MDP is as follows:

Year of Assessment	Overdraft interest expense related to investment in country S (RM)
2020	10,000
2021	10,000
2022	10,000
2023	10,000

**INLAND REVENUE BOARD OF MALAYSIA**

Tax computation of MDP for YA 2023 and tax credit under Section 132 of the ITA 1967:

Details	RM	RM
Income from Malaysia		130,000
Statutory income from country S received in Malaysia:		
Interest for YA 2023 Gross interest: RM66,114 Less: Allowable expenses = RM10,000 (RM66,114 – RM10,000)	56,114	
Interest for YA 2022 Gross interest: RM22,038 Less: Allowable expenses = RM2,222 (S\$10,000/S\$45,000 x RM10,000) (RM22,038 – RM2,222)	19,816	
Total statutory income from country S		<u>75,930</u>
Total income		205,930
Computation of tax payable:		
Tax at rate 24% (RM205,930 x 24%)		49,423.20
Less : Section 132 tax credit		
(RM75,930 / RM205,930) x RM49,423.20	18,223.20	
Or		
Total tax in country S for YA 2022 and YA 2023	13,222.80	
Whichever is lower		(13,222.80)
Tax payable		<u><b>36,200.40</b></u>

INLAND REVENUE BOARD OF MALAYSIA

**5.2 Foreign income received in Malaysia which is exempted from tax from 1 January 2022 until 31 December 2026**

Taxpayer's Category	Types of Tax-Exempt Income	Qualifying Conditions
<ul style="list-style-type: none"> <li>• Company</li> <li>• LLP</li> <li>• Individual partner in relation to a partnership business in Malaysia</li> </ul>	Dividend	(i) The dividend income has been subjected to tax in the country of origin; (ii) The highest tax rate (headline tax) in the country of origin is not less than 15%; and (iii) Comply with the economic substance requirements.
Individual	All types of income other than partnership income.	The income has been subjected to tax in the country of origin.

**5.2.1 Foreign dividend income received in Malaysia by a resident company, resident LLP, and resident individual in relation to a partnership business in Malaysia**

5.2.1.1 Foreign dividend income received in Malaysia by a resident company, resident LLP and resident individual in relation to a partnership business in Malaysia from 1 January 2022 until 31 December 2026 is exempted from tax subject to the following conditions:

- (a) Dividend income has been subjected to tax in the country of origin which the income arises;
- (b) The headline tax rate in the country of origin is not less than 15%; and
- (c) Comply with the economic substance requirements.

**INLAND REVENUE BOARD OF MALAYSIA**

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5.2.1.2 Tax-exempt dividend is dividend paid by foreign entity which their operating income has been subjected to foreign tax.

5.2.1.3 Qualifying Conditions

**(a) Dividend income is subject to tax in the country of origin which the income arises**

In determining whether dividends have been subjected to tax in the country of origin which the income arises, the conditions are as follows:

- (i) Tax has been imposed in the country of origin on foreign dividend income received in Malaysia is as follows:
  - (A) Tax paid or payable in the country of origin is either income tax or withholding tax; or
  - (B) Foreign dividend income received has been subjected to underlying tax.

**Note:**

- I. Underlying tax is an income tax paid or payable in the country of origin related to the underlying profit that arises from operating income in the country of origin where the income after tax is used to pay dividends.
- II. If the payer company (Company X) pays dividends out of dividends received from another company (Company Y) (either within the country which is the same as Company X or otherwise), the underlying tax paid by Company Y on the dividend cannot be considered as tax paid or payable by Company X

INLAND REVENUE BOARD OF MALAYSIA

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for the purpose of this qualifying conditions (refer to the illustration in **Appendix 1**).

or

- (ii) Tax is not imposed in the country of origin because foreign dividends are paid out of underlying profits arising from operating income in the country of origin which is not subjected to tax due to:
  - (A) Unabsorbed losses or capital allowances;
  - (B) Arising from capital gains;
  - (C) Enjoyed tax incentives in compliance with substantive requirements in the country; or
  - (D) Tax regulations under the tax consolidation regime in the country of origin (refer to the illustration in **Appendix 2(a)** and **2(b)**).

**(b) The headline tax rate in the country of origin is not less than 15%**

- (i) The foreign country headline tax rate refers to the highest corporate tax rate in the country of origin in the year the dividend is taxed.
- (ii) The tax rate shall not less than 15%.
- (iii) The headline tax rate is not necessarily the actual tax rate imposed on the foreign dividend income.

**Example 5**

United Ltd is a resident company in country T. On 15.2.2021, United Ltd pay dividends to Deco Co. which is a resident in Malaysia with a tax rate imposed

**INLAND REVENUE BOARD OF MALAYSIA**

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in country T of 10%. The headline tax rate of country T in YA 2021 is 20%.

	<u>RM</u>
Gross dividend	20,000
Less: Tax rate (10%)	<u>2,000</u>
Net dividend	<u>18,000</u>

Deco Co. deposited the net dividend income of RM18,000 into its account in country T. On 5.1.2022, Deco Co. transferred that income from country T's account to its account in Malaysia.

The headline tax rate in country T (20%) fulfilled the condition of not less than 15%, therefore, the dividend income received in Malaysia from country T is tax-exempt.

**(c) Comply with the economic substance requirements**

- (i) A resident company, resident LLP or resident individual in relation to a partnership business in Malaysia shall be regarded as having economic substance if it has:
  - (A) employ adequate number of employees with necessary qualifications to carry out the specified economic activities in Malaysia; and
  - (B) incur adequate amount of operating expenditure for carrying out the specified economic activities in Malaysia.
- (ii) As the mode of operation varies from industry to industry, it is neither feasible nor appropriate to specify any minimum thresholds for the

## INLAND REVENUE BOARD OF MALAYSIA

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economic substance requirement depends on the fact of each case. Factors that will be taken into account include:

- (A) the number of employees having regard to the nature of the relevant activities, e.g. whether it is a capital or labour-intensive industry;
- (B) whether the employees are employed on a full-time or part-time basis; and
- (C) whether office premises have been used for undertaking the relevant activities and whether the premises are adequate for such activities.

5.2.1.4 The tax treatment of foreign dividend received in Malaysia by a resident company, resident LLP or resident individual in relation to a partnership business in Malaysia from 1 January 2022 until 31 December 2026 can be referred to the illustrations in **Appendix 3**.

### 5.2.2 Foreign income received in Malaysia by a resident individual

5.2.2.1 All foreign income other than partnership income received in Malaysia by a resident individual from 1 January 2022 until 31 December 2026 is exempt from tax provided the income has been subjected to tax in the country of origin.

5.2.2.2 Qualifying conditions

In determining whether foreign income received has been taxed in the country of origin, the conditions are as follows:

- (a) Tax has been imposed in the country of origin on foreign income received in Malaysia where the tax



**INLAND REVENUE BOARD OF MALAYSIA**

---

paid or payable in the country of origin is income tax or withholding tax; or

- (b) Tax is not imposed in the country of origin due to certain reasons as follows:
- (i) Foreign income received in Malaysia is not subject to tax in the country of origin due to the country's taxation system.
  - (ii) Foreign income received in Malaysia is not subject to tax in the country of origin because the individual's income does not reach the taxability amount in the country of origin.
  - (iii) Income is given an exemption through a tax incentive.
  - (iv) Foreign dividend income received by an individual in Malaysia has been subjected to underlying tax.
  - (v) Foreign dividend income is paid from underlying profits arising out of operating profits which has not been subjected to tax due to:
    - (A) Unabsorbed losses or capital allowances;
    - (B) Arising from capital gains;
    - (C) Enjoyed tax incentives in compliance with substantive requirements in the country; or
    - (D) Tax regulations under the tax consolidation regime in the country of origin.

## INLAND REVENUE BOARD OF MALAYSIA

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### Example 6

#### **Foreign income received in Malaysia is not taxable due to the taxation's system in the country of origin**

Amansyah, a Malaysian resident, worked as a petroleum welder with a company based in Brunei starting from 2020. He receives employment income from Brunei. Based on Brunei's taxation system, employment income received is not subjected to tax. In 2022, Amansyah plans to bring back his income to Malaysia.

Income received from employment in Brunei is not subject to tax in Brunei. Therefore, the employment income brought into Malaysia by Amansyah is exempted from tax in Malaysia as the conditions under P.U. (A) 234/2022 and this Guideline has been fulfilled.

### Example 7

#### **Foreign income received in Malaysia has been subjected to tax in the country of origin**

Eric, a Malaysian resident, works as an accountant in an architectural firm in Singapore from 2020. Eric and his family live in Johor Bahru and he commutes from his house to Singapore every day. At the end of each month, he brings back the salary received from his employment in Singapore to Malaysia and the employment income is taxed in Singapore. Part of his salary was credited to a retirement fund in Singapore by his employer.

Under P.U.(A) 234/2022, income arising from Singapore brought into Malaysia by Eric is exempted from tax in Malaysia since the income has been taxed in Singapore.

## INLAND REVENUE BOARD OF MALAYSIA

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### Example 8

#### **Foreign income received in Malaysia has been given incentive / tax exemption in the country of origin**

The facts are same as in Example 7 except that Eric has terminated his employment in Singapore on 31.3.2025. On 1.5.2025, Eric withdraws his retirement fund saving in Singapore and brings it into Malaysia.

Any saving in an approved retirement fund in Singapore are tax-exempt in Singapore. Based on P.U.(A) 234/2022 and this Guideline, the retirement fund which brought into Malaysia by Eric is not taxable in Malaysia due to the tax- exempt in Singapore.

### **5.2.3 Expenses or deductions incurred in relation to foreign income received in Malaysia by a resident**

- 5.2.3.1 In determining taxable income from gross income for the basis period for a year of assessment, any expenses or deductions incurred in relation to the tax-exempt foreign income should be disregarded.
- 5.2.3.2 Therefore, part of the expenses or deductions related to foreign income brought into Malaysia which is exempted from tax under P.U.(A) 234/2022 and P.U.(A) 235/2022 should be disregarded.

### Example 9

Lulu Sdn. Bhd. operating business in Johor Bahru and is a shareholder of SS company in Singapore.

The following is the income declared in the YA 2022 ITRF:

**INLAND REVENUE BOARD OF MALAYSIA**

Details	RM
Gross income from business	2,500,000
Allowable business expenses	500,000
Gross dividends from Singapore received in Malaysia (Expenses related to dividend income RM24,000)	100,000

Tax computation of Lulu Sdn. Bhd. for YA 2022:

Details	RM	RM
Business statutory income (RM2,500,000 – RM500,000)		2,000,000
Foreign dividend income (gross) *exempted from tax under P.U.(A) 235/2022	100,000	-
Chargeable income		<b>2,000,000</b>
Tax payable at tax rate 24%		<b>480,000</b>

**5.2.4 Record keeping of supporting documents and declaration of the foreign income which tax-exempt**

5.2.4.1 Taxpayers must keep documents such as dividend vouchers, notice of assessment or other documents in accordance with the provisions of Section 82 and Section 82A of the ITA 1967 which indicate that the income has been taxed outside Malaysia.

5.2.4.2 Taxpayers need to declare that the foreign income is eligible for tax exemption in the ITRF including:

- (a) Type and amount of foreign income;
- (b) Country where the income arises;

**INLAND REVENUE BOARD OF MALAYSIA**

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- (c) Headline tax rates of foreign country (for company / LLP/ resident individual in relation to partnership business in Malaysia);
- (d) Amount of tax imposed by foreign country;
- (e) Individual income is not subject to foreign tax;
- (f) Dividend income received has been subjected to underlying tax;
- (g) No underlying tax is imposed due to certain reasons; and
- (h) Confirmation letter or the approval of incentive / tax exemption from the tax jurisdictions of foreign country

5.2.4.3 Supporting documents as mentioned in paragraph 5.2.4.2 should be kept for auditing purposes.

5.2.4.4 Based on the provisions of Paragraph 9, Schedule 7 of the ITA 1967, any claim for bilateral credit for a year of assessment must be made in writing to Director General of Inland Revenue not more than two years after the end of the year of assessment.

**6. TAX TREATMENT ON FOREIGN INCOME RELATED TO CUKAI MAKMUR**

Any foreign income received in Malaysia in YA 2022 is not subjected to Cukai Makmur [P.U.(A) 96/2022].

**Example 10**

Good Glove Sdn. Bhd., a company engaged in glove manufacturing activities closed its accounts on 30 November every year. The company also provides loans to related companies outside Malaysia.

**INLAND REVENUE BOARD OF MALAYSIA**

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The income declared in the YA 2022 ITRF as follows:

Income	RM
Business statutory income (Malaysia)	150,000,000
Statutory interest income (Foreign) received on 1.7.2022	25,000,000
<b>Total income / Chargeable income</b>	<b>175,000,000</b>

Tax payable for YA 2022 by Good Glove Sdn. Bhd.:

Chargeable Income (RM)	Income Tax Rate (%)	Tax Payable (RM)
Business statutory income (Malaysia):		
The first 100 million	24	24,000,000
Next 50 million	33	16,500,000
Statutory interest income (Foreign):		
25 million	24	6,000,000
<b>Tax payable</b>		<b>46,500,000</b>

**Example 11**

Ro Ro Bhd, a company that carries out heavy machinery assembly activities, close its accounts on 31 October every year. The company also provides loans to related companies outside Malaysia.

Income declared in the YA 2022 ITRF as follows:

**INLAND REVENUE BOARD OF MALAYSIA**

<b>Income</b>	<b>RM</b>
Business statutory income (Malaysia)	95,000,000
Interest statutory income (Foreign) received in Malaysia on 15.8.2022	25,000,000
<b>Total income / Chargeable income</b>	<b>120,000,000</b>

The tax payable for YA 2022 by Ro Ro Bhd.:

<b>Chargeable Income (RM)</b>	<b>Income Tax Rate (%)</b>	<b>Tax Payable (RM)</b>
Business statutory income (Malaysia): 95 million	24	22,800,000
Statutory interest income (Foreign) 25 million	24	6,000,000
<b>Tax Payable</b>		<b>28,800,000</b>

**Example 12**

Sunset Sdn. Bhd., a resident company in Malaysia closes its accounts on 31 December every year.

Income of Sunset Sdn. Bhd. for YA 2022:

<b>Details</b>	<b>RM</b>
Gross business income (Malaysia)	120,000,000
Gross royalty income (Foreign) * received in Malaysia on 1.2.2022 (Withholding tax is charged at rate of 10%)	10,000,000
Gross royalty income (Foreign) ** received in Malaysia on 1.7.2022 (Withholding tax is charged at rate of 10%)	30,000,000

INLAND REVENUE BOARD OF MALAYSIA

Details	RM
Rental income (paragraph 4(d))	20,000,000
Allowable business expenses	12,000,000
Approved donations	5,000,000
Note: * Without DTA ** With DTA	

Tax payable for YA 2022 by Sunset Sdn. Bhd.:

Details	RM	RM
Gross business income (Malaysia)		120,000,000
Less: Business expenses		12,000,000
Business statutory income		108,000,000
Statutory foreign royalty income (received in Malaysia on 1.2.2022)	10,000,000	
Statutory foreign royalty income (received in Malaysia on 1.7.2022)		30,000,000
Statutory rental income		20,000,000
Aggregate income		<b>158,000,000</b>
Less: Approved donation		5,000,000
Chargeable income		<b>153,000,000</b>
<b>Apportionment of Chargeable Income:</b>		
(1) Foreign income received in Malaysia during the period 1.7.2022 – 31.12.2022:		



INLAND REVENUE BOARD OF MALAYSIA

Details	RM	RM
= $\frac{\text{Foreign statutory income received in Malaysia (1.7.2022 – 31.12.2022)}}{\text{Aggregate income}} \times \text{Chargeable income}$		
= $\frac{\text{RM30,000,000}}{\text{RM158,000,000}} \times \text{RM153,000,000}$		
= RM29,050,633 (A)		
(2) Income other than foreign income received in Malaysia during the period 1.7.2022 – 31.12.2022:  Chargeable income – (A) = RM153,000,000 – RM29,050,633 = RM123,949,367		
<b>Tax Computation:</b>		
(1) Foreign income received in Malaysia during the period 1.1.2022 – 30.6.2022  = RM10,000,000 x 3%		300,000
Foreign income received in Malaysia during the period 1.7.2022 – 31.12.2022  = 29,050,633 x 24%	6,972,152	
(2) Income other than foreign income received in Malaysia during the period 1.7.2022 – 31.12.2022  = RM123,949,367  First RM100 million x 24%  Next RM 23,949,367 x 33%	24,000,000  7,903,291	38,875,443

**INLAND REVENUE BOARD OF MALAYSIA**

Details	RM	RM
Total income tax charged		<b>39,175,443</b>
Less:		
Section 132 Tax Credit	3,000,000 <sup>5</sup>	
Section 133 Tax Credit	300,000 <sup>6</sup>	(3,300,000)
Tax payable		<b><u>35,875,443</u></b>

**Note:**

<sup>5</sup>Computation of bilateral tax credit (Section 132 of the ITA 1967) for royalty income:

$$\begin{aligned}
 &= \frac{\text{Statutory royalty income (Foreign)}}{\text{Total income}} \times \text{Malaysian tax payable before bilateral credit-} \\
 &= \frac{\text{RM30,000,000}}{\text{RM153,000,000}} \times \text{RM38,875,443} \\
 &= \text{RM7,622,635.88} \\
 &= \text{RM7,622,635.88 or foreign tax charged of *RM3,000,000, whichever is lower} \\
 &= \text{RM3,000,000}^5 \text{ (The bilateral tax credit allowed)}
 \end{aligned}$$

<sup>6</sup> Computation of unilateral tax credit (Section 133 of the ITA 1967) for royalty income:

$$\begin{aligned}
 &= \text{RM300,000 or foreign tax charged of RM500,000} \\
 &\quad \text{(1/2 x **RM1,000,000), whichever is lower} \\
 &= \text{RM300,000}^6 \text{ (The unilateral tax credit allowed)}
 \end{aligned}$$



**INLAND REVENUE BOARD OF MALAYSIA**

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**7. DISCLAIMER**

The examples in this Guideline are for illustrative purposes only and are not exhaustive.

**INLAND REVENUE BOARD OF MALAYSIA**

29 December 2022

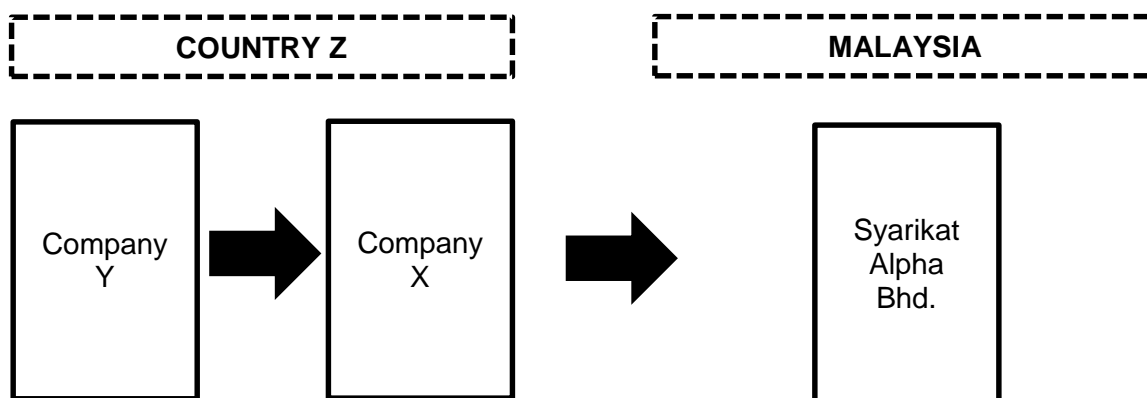
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INLAND REVENUE BOARD OF MALAYSIA

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Appendix 1

Foreign dividends received in Malaysia from foreign companies with a headline tax rate not less than 15%. (Assuming Syarikat Alpha Bhd. has complied with the economic substance requirement).



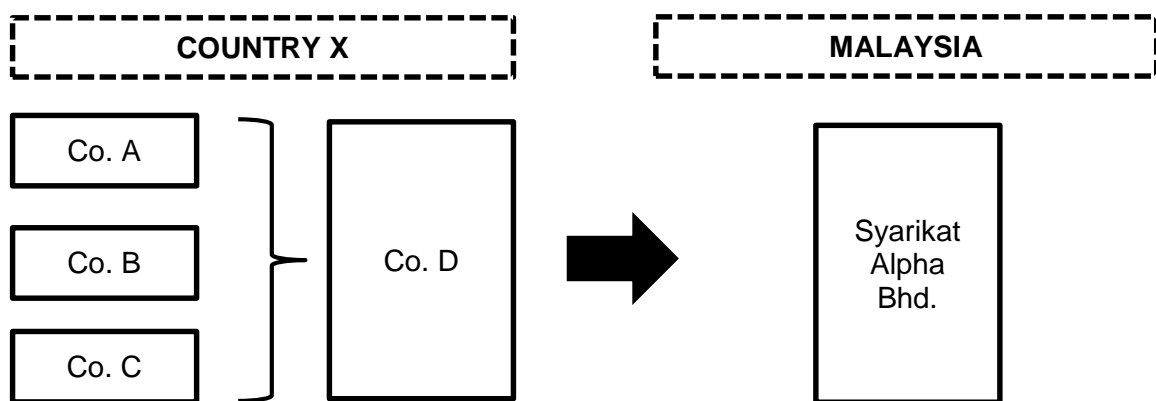
1. Company X and Company Y have a headline tax rate not less than 15%.
2. Tax is paid by Company Y out of its operating profits from which dividends are paid to Company X.
3. No tax is paid by Company X on dividends received from Company Y. Refer to Subsubparagraph 5.2.1.3 (a) (i) (B) (II).

4. There is no withholding tax paid by Syarikat Alpha Bhd. on dividends received from Company X.
5. Therefore, the dividends received by Syarikat Alpha Bhd. from Company X in country Z is not tax-exempt.

INLAND REVENUE BOARD OF MALAYSIA

Appendix 2(a)

Foreign dividends received in Malaysia from the parent company from a group of companies located abroad with a headline tax rate not less than 15% and under the tax consolidation system. (Assuming Syarikat Alpha Bhd. has complied with the economic substance requirement).



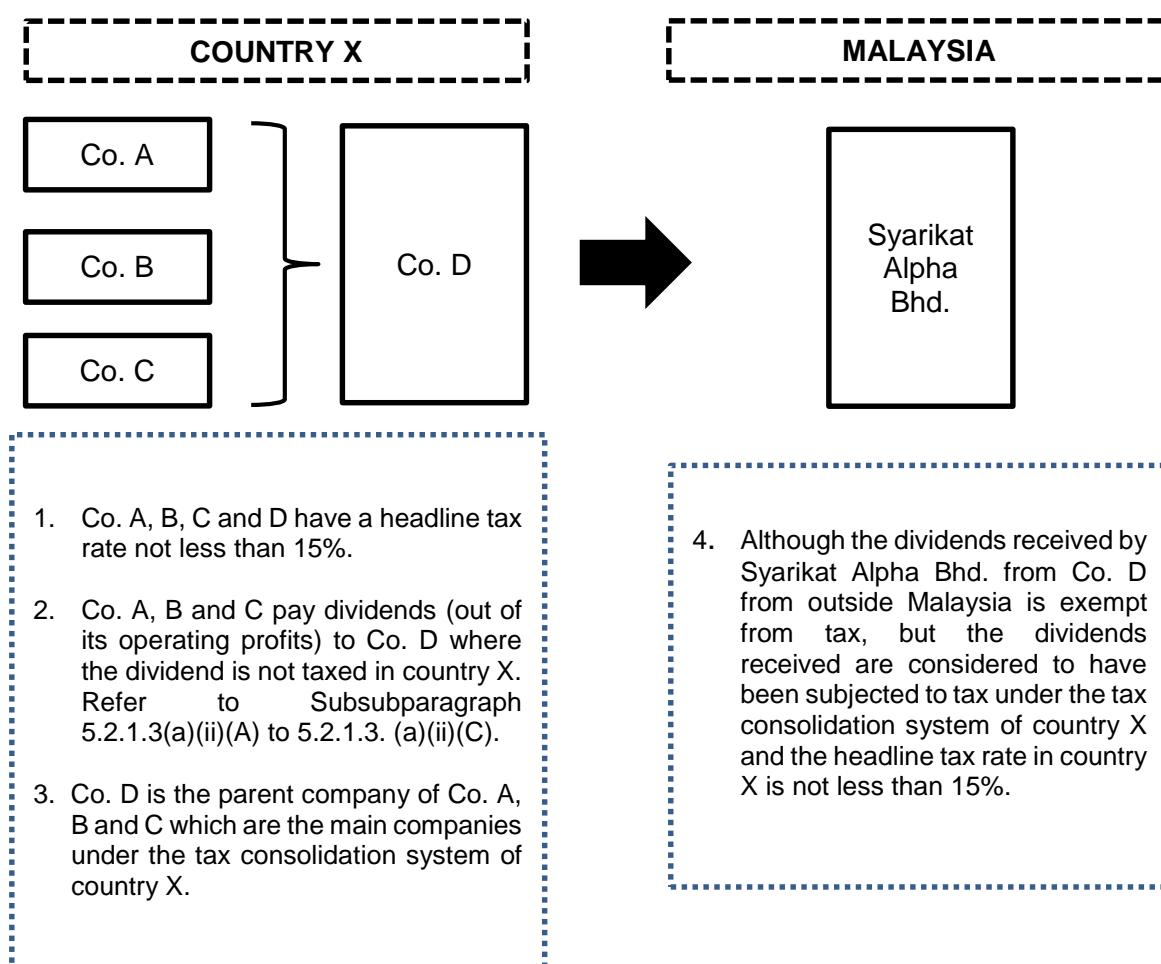
1. Co. A, B, C and D have a headline tax rate not less than 15%.
2. Co. A, B and C pay dividends (out of its operating profits) to Co. D where the dividend has been taxed in country X.
3. Co. D is the parent company of Co. A, B and C which are the main companies under the tax consolidation system of country X.

4. Alpha Company Bhd. Is not subjected to withholding tax in country X.
5. In this situation, the dividend received by Syarikat Alpha Bhd. from Co. D in country X received in Malaysia is exempted from tax as the dividend has been subjected to tax under the tax consolidation system of country X received by the parent company (Co. D) and the headline tax rate in country X is not less than 15%.

INLAND REVENUE BOARD OF MALAYSIA

Appendix 2(b)

Foreign dividends received in Malaysia from the parent company from a group of companies located abroad with a headline tax rate not less than 15% and under the tax consolidation system. (Assuming Syarikat Alpha Bhd. has complied with the economic substance requirement).



**INLAND REVENUE BOARD OF MALAYSIA**

**Appendix 3**

The following table illustrates the tax treatment of foreign dividends received in Malaysia by a resident company, resident LLP or resident individual in relation to a partnership business in Malaysia from 1 January 2022 until 31 December 2026.

Scenario	Taxes are paid by foreign companies on its operating profits out of which dividends are paid to a resident company / resident LLP / resident individual in relation to a partnership business in Malaysia	Dividends received by a resident company / resident LLP / resident individual in relation to a partnership business in Malaysia are subject to Withholding Tax	Qualifying requirements are fulfilled					Dividends are tax-exempt	
			Subject to tax		Headline tax rates	Economic Substance requirement		Yes	No
			Yes	No	More or less than 15%	Yes	No		
1	No	No		/	≥15%	/			/
2	No	Yes	/				/		/
3	Yes	No	/			/		/	
4	Yes	Yes	/			/		/	
5	No	No		/	<15%	/			/
6	No	Yes	/				/		/
7	Yes	No	/			/			/
8	Yes	Yes	/				/		/