

TECHNICAL

Direct Tax

**INCOME TAX EXEMPTION – NEW ORDER ISSUED: RAPID COMPLEX**

The following Exemption Order made under paragraph 127(3)(b) of the Income Tax Act 1967 (ITA) have been recently gazetted:

**Income Tax (Exemption) (No. 2) Order 2014 [P.U.(A) 166]**

This Order is deemed to have come into operation from the year of assessment (YA) 2011. The main provisions of the Order are summarized below:

Exemption	
<u>Para. No. &amp; Heading</u> 4 “Exemption”	<u>Summary</u> <ul style="list-style-type: none"> <li>The Minister (of Finance) exempts a <i>qualifying person</i>* resident in Malaysia from payment of income tax in respect of 50% of its statutory income derived from a <i>qualifying activity</i>* for a period of 5 consecutive YA beginning from the YA in the basis period immediately after the <i>exemption period</i>*.</li> <li>* These terms are defined in paragraph 2 of the Order</li> <li>Exempt “statutory income” is determined after deducting allowances under Schedule 3 of the ITA, notwithstanding that no claim for such allowances have been made.</li> </ul>
Definitions	
2. “Interpretation”	The following terms are defined: <ul style="list-style-type: none"> <li>“<i>qualifying activity</i>” (QA) – refers to any of 5 activities specified under para. 2(1), carried out by a qualifying person in <i>RAPID Complex</i>*.</li> <li>*This term is also defined here to refer to a complex of specified plants and facilities located in Pengerang, Johor. RAPID stands for Refinery and Petrochemical Integrated Development.</li> <li>“<i>qualifying person</i>” (QP) – means Petroleum Nasional Berhad (PNB), or any company incorporated under the Companies Act 1965 (CA) in which PNB holds at least 51% of the paid up capital in ordinary shares; or any other company incorporated under the CA which carries out QA within the RAPID Complex, in which PNB holds (directly or indirectly) ordinary shares.</li> <li>“<i>exemption period</i>” – means the period where a QP is granted exemption from income tax under the Income Tax (Exemption) (No. 7) Order 2013</li> </ul>

Conditions of Eligibility	
3. "Application"	This Order applies to a QP who has made an application in writing in respect of its QA to the Malaysian Investment Development Authority (MIDA) within 90 days before the expiry of the exemption period (as defined above).
7. "Condition"	The granting of exemption is subject to conditions stated by MIDA in its approval letter.
8. "Non-application"	A QP is not eligible for tax exemption under this Order under specified circumstances stated in paragraphs 8(a) to 8(d). These include situations where the QP has made a claim for reinvestment allowances under Schedule 7A of the ITA, or has been granted incentives under the Promotion of Investment Act 1986, or has failed to comply with the conditions for approval specified by MIDA.
Other Matters	
5. "Losses"	Any amount of adjusted loss incurred from the QA prior to 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 QA in the years following the exempt years of assessment until the whole amount is fully utilized.
6. "Separate source and account"	Where a QA is being carried on with other activities/ projects within or outside RAPID Complex, each of such activity or project will be treated as a separate and distinct source or business. A separate account must be maintained for income derived from the QA.

You may read the Order in full at the official website of the [Attorney-General's Chambers](#).

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