

TECHNICAL

Direct Taxation

TAX INCENTIVE FOR EAST COAST ECONOMIC REGION (ECER) – TAX EXEMPTION FOR NON-RESIDENTS AND NON-APPLICATION OF WITHHOLDING TAX

[Income Tax \(Exemption\) \(No. 10\) Order 2016 \[P.U. \(A\) 163/2016\]](#)

The above Order was gazetted on 13 June 2016. It is deemed to have come into operation on 13 June 2008.

The salient points in the Order are summarized below:

Definitions (Paragraphs 2 – 3)

The meanings of following words are provided in paragraphs 2 - 3:

Para	Word	Meaning
2	Qualifying person (QP)	A QP is a person or a company – (a) incorporated under the Companies Act 1965 and resident in Malaysia; and (b) which carries on a qualifying activity.
3	Qualifying activity (QA)	A QA is an activity as set out in column (3) of the <u>Schedule</u> in this Order in relation to the sector as set out in column (2) in respect of which exemption is given under – (a) <u>the Income Tax (Exemption) (No. 4) Order 2016 [P.U.(A) 157/2016]</u> (b) <u>the Income Tax (Exemption) (No. 5) Order 2016 [P.U.(A) 158/2016]</u> (c) <u>the Income Tax (Exemption) (No. 6) Order 2016 [P.U.(A) 159/2016]</u> (d) <u>the Income Tax (Exemption) (No. 7) Order 2016 [P.U.(A) 160/2016]</u>

Exemption (paragraph 4)

Exemption from income tax is granted in respect of the following income of a non-resident person which is received from a QP for the purposes of a QA:

- (a) fees for technical advice, assistance or services under S4A(ii) of the Income Tax Act 1967 (ITA); or
- (b) royalty under S4(d) of the ITA.

To qualify for exemption, the payments by the QP to the non-resident person must be made on or after 13 June 2008 but not later than 31 December 2020.

Non-application (paragraph 5)

S109 and S109B of the ITA shall not apply to the income exempted under this Order.

The [Schedule](#) in this Order lists the sectors and the qualifying activities (related to each respective sector) which are referred to in subparagraph 4(1) under this Order.

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

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