

TECHNICAL

Direct Taxation

EXEMPTION ORDERS FOR TOUR OPERATING BUSINESS

The following Exemption Orders were gazetted on 22 December 2016:-

[Income Tax \(Exemption\) \(No. 11\) Order \[P.U. \(A\) 345/2016\]](#)

[Income Tax \(Exemption\) \(No. 12\) Order \[P.U. \(A\) 346/2016\]](#)

These Orders were reported in our [e-CTIM TECH-DT 1/2017](#) dated 11 January 2017 and the provisions of these Orders are summarized in the table below.

Subject	(No. 11) Order	(No. 12) Order
<i>Effective period</i>	Has effect from year of assessment (YA) 2016 till YA2018	
<i>Definitions of terms</i> (Para. 2)	“Tour operating business” has the same meaning as assigned to it in the Tourism Industry Act 1992 [Act 482]	
		“local tourists” means individuals who are Malaysian citizens or resident in Malaysia.
<i>Qualifying person (QP)</i> (Para. 3)	A QP is a company which – (a) is resident in Malaysia; (b) is licensed under the Tourism Industry Act 1992 to carry out a tour operating business; (c) carries on a qualifying activity	
<i>Qualifying activity (QA)</i> (Para. 4)	Refers to a tour operating business which provides group inclusive tour package to or in Malaysia or any place within Malaysia utilized by tourists from outside Malaysia, inclusive of transportation by air, land or sea and accommodation.	Refers to a tour operating business which provides a domestic tour package for travel within Malaysia utilized by local tourists, inclusive of transportation by air, land or sea, and accommodation.
<i>Exemption</i> [Subpara. 5(1)]	Exemption from payment of income tax is granted to a QP in respect of statutory income from a QA for the basis period for a YA.	
<i>Conditions for exemption</i> [Subpara. 5(2) and 5(3)]	The total number of tourists from outside Malaysia for the QA must not be less than 750 in the basis period for a YA (to be verified in writing by an authorized officer of the Ministry of Tourism and Culture Malaysia).	The total number of local tourists for a QA must not be less than 1,500 in the basis period for a YA. Note: Subpara. 5(3) appears to be erroneous as it states that “the total number of <i>tourists from outside Malaysia</i> referred to in subparagraph (2) shall be verified

Subject	(No. 11) Order	(No. 12) Order
		by an authorized officer of the Ministry of Tourism and Culture Malaysia." Subparagraph 5(2) mentions only "local tourists."
<i>Separate source and accounts</i> (Para. 6)	If the QP carries on another activity other than the QA – <ul style="list-style-type: none">- each activity must be treated as a separate and distinct source of income;- separate accounts must be maintained for each activity.	

Members may read the Exemption Orders in full at the [Attorney General Chamber's website](#).

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