

TECHNICAL

Direct Taxation

**LEGISLATIVE PROCESS TO AMEND EXISTING TAX INCENTIVES – COMPLYING WITH FHTP**

We refer to our [e-CTIM TECH-DT 90/2018](#) dated 10 December 2018 which highlighted the information provided by the Ministry of Finance on **Malaysia's Participation in the Forum on Harmful Tax Practices** (FHTP). In compliance with the timelines under "Timelines For Complying with Tax Incentives Gazette under FHTP", legislation under the Promotion of Investments Act 1986 (PIA) to amend existing intellectual property (IP) and non-IP incentives, have been recently gazetted. The following were gazetted on 26 December 2018 (reported in our [e-CTIM TECH-DT 3/2019](#) dated 9 January 2019):

	P.U.(A)	Citation	Commencement
1.	332/2018	<a href="#">Promotion of Investments (Exclusion of Income For MSC Status Companies) Regulations 2018</a>	Para 3(1)(a) is deemed to come into operation on 1/7/2018.
2.	336/2018	<a href="#">Promotion of Investments (Promoted Activities and Promoted Products For High Technology Companies) (Amendment) Order 2018</a>	Deemed to come into operation on 1/7/2018.
3.	335/2018	<a href="#">Promotion of Investments (Determination Of Assets Under Section 29B In Respect of MSC Status Companies) (Revocation) Order 2018</a>	Came into operation on 1/1/2019.

**Objectives and application**

P.U.(A) (#)	Applies to	Objective
1. <a href="#">(332/2018)</a>	MSC status company (MSC Co) which has been granted pioneer status under the PIA on or before 30 June 2018 (reg. 2)	<b>Exclusion of IP income</b> from of tax relief (reg. 3) <i>In ascertaining income for the purpose of tax relief –</i> (a) for the period on or after 1/7/2018 but before 1/7/2021, royalty and other income derived from a <u>new IP right</u> but not from an <u>existing IP right</u> , of which the MSC Co is the owner or licensee, is disregarded; (b) For the period on or after 1/7/2021, royalty and other income derived from all <u>IP rights</u> of which the MSC Co is the owner or licensee, shall be disregarded.
	MSC Co granted pioneer status –	<b>Exclusion of non-IP income</b> (reg. 4) <i>In ascertaining income for the purpose of tax relief –</i>
	(a) on or before <a href="#">16/10/2017</a>	<u>Non-IP income</u> – (i) derived after 30/6/2021 shall be disregarded; (ii) derived after 31/12/2018 from any promoted activity approved after 16/10/2017 as the pioneer business of the MSC Co shall be disregarded.
	(b) after 16/10/2017	Non-IP income derived after 31/12/2018 shall be disregarded.
	<i>Meanings of the words underlined above are specified in the Regulations.</i>	
2. <a href="#">(336/2018)</a>	High technology company (HTC)	<b>Exclusion of IP income</b> (Para. 2A) The <a href="#">Promotion of Investments (Promoted Activities and Promoted Products for High Technology Companies) Order 2012 [P.U. (A) 59/2012]</a> is amended by inserting a new para.

P.U.(A) (#)	Applies to	Objective
		2A which states that <i>in ascertaining the income of a HTC arising from promoted activities and promoted products of the HTC –</i>
		(a) for the period on or after 1/7/2018 but before 1/7/2021, royalty and other income derived from a <u>new IP right</u> , but not from an <u>existing IP right</u> , of which the HTC is the owner or licensee, shall be disregarded; (b) for the period on or after 1/7/2021, royalty and other income derived from all IP rights of which the HTC is the owner or licensee, shall be disregarded.
	<i>Meanings of the words underlined above are specified in the Order.</i>	
3. <a href="#">(335/2018)</a>	MSC status companies	<b>Revocation</b> (para. 2) The Promotion of Investments (Determination of Assets under section 29B in respect of MSC Status Companies) Order 2001 [P.U.(A) 50/2001] is revoked.
	Savings provision	Any investment tax allowance given under section 29B of the PIA to any MSC Co immediately before the coming into operation of this Order, shall on the coming into operation of this Order, be continued as if the principal Order had not been revoked by this Order.

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

#### Disclaimer

This document is meant for the members of the Chartered Tax Institute of Malaysia (CTIM) only. CTIM has taken all reasonable care in the preparation and compilation of the information contained in this e-CTIM. CTIM herein expressly disclaims all and any liability or responsibility to any person(s) for any errors or omissions in reliance whether wholly or partially, upon the whole or any part of this e-CTIM.