

TECHNICAL

Direct Taxation

[INCOME TAX \(EXEMPTION\) \(NO. 20\) 2007 \(AMENDMENT\) ORDER 2018 \[P.U. \(A\) 382/2018\]](#)

General

We refer to our [e-CTIM TECH-DT 90/2018](#) which highlighted the information provided by the Ministry of Finance on **Malaysia's Participation in the Forum on Harmful Tax Practices (FHTP)**. In line with Malaysia's commitment to FHTP, amendments to legislation relating to tax incentives that have been identified for FHTP evaluation have been gazetted. The following Amendment Order that was gazetted on 31/12/2018 (refer to our [e-CTIM TECH-DT 3/2019](#)) relates to Iskandar Development Region (IDR)-status companies.

P.U.(A)	Citation	Commencement
382/2018	Income Tax (Exemption) (No. 20) 2007 (Amendment) Order 2018	Deemed to have effect from 16/10/2017, except for the following: <div> <div>Paragraph</div> <div>- 2, 3(a), 5(a), 5(b) and 5(c), and 7, 8 and 9 (except for paragraph 9 in relation to item 6 of the Schedule)</div> <div>- Paragraph 9 in relation to item 6 of the Schedule</div> </div> <div> <div>Deemed to have effect from –</div> <div>- Year of assessment 2007</div> <div>- 1/11/2016</div> </div>

Main Amendments and Objectives

The table below highlights the *main* amendments in this Order, and the purpose of the amendment (in relation to compliance with FHTP requirements). Please refer to the [Amendment Order](#) for the wording of each amendment, as well as other amendments not highlighted here.

Paragraph (#) of this Order	Amendment	Purpose
<i>Principal Order (PO) – Income Tax (Exemption) (No. 20) Order [P.U.(A) 418/2007]</i>		
3(b)	Substitutes definition of "IDR-status company" (ISC) in paragraph 2 with a new definition.	Refers to the new paragraph 2A containing the definition of "IDR-status company", which incorporates new substance requirements for preferential tax treatment.
4	Introduces a new paragraph 2A after paragraph 2	Lists the requirements that must be met by an ISC, including substance requirements [items (d)(i) to (iii)].
5(a)	Substitutes paragraph 3(1) with a new one.	Whereas the previous paragraph 3(1) grants exemption to an ISC " <i>in respect of its statutory income derived from a qualifying activity provided to any person situated—</i> <i>(a) both within an approved node and outside Malaysia; or</i>

Paragraph (#) of this Order	Amendment	Purpose
		<i><u>(b) outside Malaysia only,</u></i> the underlined words have been deleted in the new paragraph 3(1)
5(d)	Inserts new paragraphs (2A), (2B) and (2C) after paragraph 3(1)	Introduces grandfathering rules that apply to existing companies enjoying this incentive.
6	Inserts a new paragraph 3A after paragraph 3.	Excludes intellectual property (IP) income from exemption under this incentive.
7	Inserts a new paragraph 4A after paragraph 4	Invests the Minister with power to withdraw the exemption granted upon failure to comply with any condition imposed.
8	Amends paragraph 7 on "Non-Application".	This Exemption Order is not applicable to an ISC which commences its qualifying activity in an approved node after 31 December 2020 (previously 31 December 2015)
9	Inserts a new Schedule after paragraph 7.	The Schedule lists 6 sectors [column (2)] and the qualifying activities for each Sector [column (3)]

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

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