

TECHNICAL

Direct Taxation

[INCOME TAX \(EXEMPTION\) \(NO. 2\) 2015 \(AMENDMENT\) ORDER 2018 \[P.U. \(A\) 396/2018\]](#)

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 Multimedia Super Corridor companies.

P.U.(A)	Citation	Commencement
396/2018	Income Tax (Exemption) (No. 2) 2015 (Amendment) Order 2018	Deemed to have effect from 1/7/2018 and ends on 30/6/2021 except for paragraphs 2 and 5(b) which comes into operation on 31/12/2018 (date of publication in the Gazette).

Main Amendments and Objectives

The table below highlights the *main* amendments in each 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/ Remarks
<i>Principal Order (PO) – Income Tax (Exemption) (No. 2) Order 2015 [P.U.(A) 50/2015]</i>		
2	Amends paragraph 1(2) of PO	Inserts an ending date (30/6/2021) for the effective period of the PO.
3	Substitutes a new definition of "qualifying company" (QC) in paragraph 2.	The definition of "qualifying company" is amended to refer to the new paragraph 2A which states the requirements for eligibility to be a QC.
4	Inserts a new paragraph 2A after paragraph 2.	The new paragraph 2A defines a QC as one which meets the conditions listed under items (a) to (e). Item (e) states the conditions relating to the requirement for substantial activities for preferential tax treatment.
5(b)	Amends paragraph 3 by inserting new paragraphs (2A), (2B) and (2C) after paragraph (2)	Introduces grandfathering rules relating to compliance with the requirements found in paragraph 2A 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	Amends paragraph 4 (Extension of Exemption	The amended paragraph 4 states that the Minister may, "on or before 30 June 2018, extend the

Paragraph (#) of this Order	Amendment	Purpose/ Remarks
	Period)	exemption period ..." whereas no deadline was stated previously.

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

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