e-CIRCULAR TO MEMBERS

CHARTERED TAX INSTITUTE OF MALAYSIA (225750-T)

e-CTIM TECH-DT 3/2019 **9 January 2019**

TO ALL MEMBERS

TECHNICAL

Direct Taxation

RECENT GAZETTE ORDERS, RULES AND REGULATIONS

1. Gazette Orders, Rules and Regulations in relation to 2019 Budget and Finance Act 2018

NO	P.U. (A)	Title	Date Gazetted/ (Commencement)	Remarks *(Refer to the respective Orders, Rules and Regulations for full details)*
1.	372/2018	Real Property Gains Tax (Exemption) (No. 3) Order 2018	31 December 2018/ (Came into operation on 1 January 2019)	Real Property Gains Tax ("RPGT") exemption on chargeable gain from disposal of chargeable asset, other than shares, on or after 1 January 2019 by citizen/ permanent resident (the disposal is in the 6th year onwards, after acquisition date). The disposal contract is conditional on obtaining Government/ State Government approval and is executed before 1 January 2019, and the said approval is obtained in 2019 onwards.
2.	375/2018	Income Tax (Deductions Not Allowed for Payment Made to Labuan Company by Resident) Rules 2018	31 December 2018/ (Came into operation on 1 January 2019)	Deductions not allowed for payment by resident to Labuan company [S.39(1)(r) of the Income Tax Act ("ITA") 1967].
3.	383/2018	Income Tax (Requirements for Insurer Carrying on Re-Insurance Business) Rules 2018	31 December 2018/ (Effective from the year of assessment ("YA") 2019)	Substance requirements (full time employees and annual operating expenditure) for insurer who carries on re-insurance business [S.60A(3) of the ITA 1967].
4.	384/2018	Income Tax (Requirements For Takaful Operator Carrying On Re-Takaful Business) Rules 2018	31 December 2018/ (Effective from YA 2019)	Substance requirements for takaful operator who carries on re-takaful business [S.60AA(1)(b) of the ITA 1967].
5.	392/2018	Labuan Business Activity Tax (Requirements for Labuan Business Activity) Regulations 2018	31 December 2018/ (Came into operation on 1 January 2019)	Substance requirements for Labuan entity carrying on Labuan business activity [S.2B(1)(b) of the Labuan Business Activity Tax Act 1990].

2. **Gazette Orders and Regulations in relation to compliance with the Organisation for Economic Co-operation and Development (OECD) BEPS Action Plan 5 - Forum on Harmful Tax Practices (FHTP) requirements** *(Refer to our e-CTIM TECH-DT 90/2018 dated 10 December 2018)*

NO	P.U. (A)	Title	Date Gazetted/ (Commencement)	Remarks *(refer to the respective Orders and Regulations for full details)*
1.	332/2018	Promotion of Investments (Exclusion of Income for MSC Status Company) Regulations 2018	26 December 2018/ (Refer to the Regulations for commencement)	Includes provisions for exclusion of intellectual property ("IP") income and non-IP income in respect of Multimedia Super Corridor ("MSC") status company.
2.	335/2018	Promotion of Investments (Determination of Assets Under Section 29B in Respect of MSC Status Companies) (Revocation) Order 2018	26 December 2018/ (Came into operation on 1 January 2019)	Revokes the P.U. (A) 50/2001 on determination of assets in respect of MSC status company, for which capital expenditure incurred are qualifying capital expenditure for purposes of investment tax allowance under S.29B of the Promotion of Investments Act 1986. Includes savings provisions.
3.	336/2018	Promotion of Investments (Promoted Activities and Promoted Products for High Technology Companies) (Amendment) Order 2018	26 December 2018/ (Deemed to come into operation on 1 July 2018)	Amends the [P.U. (A) 59/2012]. Includes provisions for exclusion of IP income in respect of high technology company.
4.	381/2018	Income Tax (Exemption) (No. 2) 2009 (Amendment) Order 2018	31 December 2018/ (Refer to the Order for commencement)	Amends the P.U. (A) 156/2009. Includes provisions for substance requirements and exclusion of IP income in respect of BioNexus status company.
5.	382/2018	Income Tax (Exemption) (No. 20) 2007 (Amendment) Order 2018	31 December 2018/ (Refer to the Order for commencement)	Amends the P.U. (A) 418/2007. Includes provisions for substance requirements, tax exemption and exclusion of IP income in respect of Iskandar Development Region ("IDR") status company.
6.	385/2018	Income Tax (Exemption) (No. 6) Order 2018	31 December 2018/ (Effective from YA 2018)	Includes provisions for substance requirements, tax exemption and exclusion of IP income in respect of principal hub.
7.	386/2018	Income Tax (Exemption) (No. 7) Order 2018		
8.	387/2018	Income Tax (Exemption) (No. 8) Order 2018		

NO	P.U. (A)	Title	Date Gazetted/ (Commencement)	Remarks *(refer to the respective Orders and Regulations for full details)*
9.	388/2018	Income Tax (Exemption) (No. 9) Order 2018	31 December 2018/ (Effective from YA 2018)	Includes provisions for substance requirements, tax exemption and exclusion of IP income in respect of qualifying company carrying on qualifying activity in relation to green technology.
10.	389/2018	Income Tax (Exemption) (No. 10) Order 2018	31 December 2018/ (Came into operation on 1 January 2019)	Includes provisions for substance requirements, tax exemption and exclusion of IP income in respect of MSC status company.
11.	390/2018	Income Tax (Exemption) (No. 11) Order 2018	31 December 2018/ (Deemed effective from 20 November 2012)	Includes provisions for allowance on qualifying capital expenditure incurred by qualifying company carrying on qualifying activity in the Sabah Development Corridor ("SDC").
12.	391/2018	Income Tax (Exemption) (No. 12) Order 2018	31 December 2018/ (Refer to the Order for commencement)	Includes provisions for substance requirements, tax exemption and exclusion of IP income in respect of qualifying company carrying on qualifying activity in the SDC.
13.	393/2018	Income Tax (Exemption) (No. 6) 2016 (Amendment) Order 2018	31 December 2018/ (Deemed effective from 16 October 2017)	Amends the P.U. (A) 159/2016. Includes provisions for substance requirements and exclusion of IP income in respect of qualifying person in relation to the East Coast Economic Region ("ECER").
14.	394/2018	Income Tax (Exemption) (No. 7) 2016 (Amendment) Order 2018	31 December 2018/ (Deemed to come into operation on 16 October 2017)	Amends the P.U. (A) 160/2016. Includes provisions for substance requirements, requirements for exemption rates, and exclusion of IP income in respect of qualifying person in relation to the ECER.
15.	395/2018	Income Tax (Exemption) (No. 17) 2007 (Amendment) Order 2018	31 December 2018/ (Refer to the Order for commencement)	Amends the P.U. (A) 371/2007. Includes provisions for substance requirements and exclusion of IP income in respect of BioNexus status company.
16.	396/2018	Income Tax (Exemption) (No.	31 December 2018/	Amends the P.U. (A)

NO	P.U. (A)	Title	Date Gazetted/ (Commencement)	Remarks *(refer to the respective Orders and Regulations for full details)*
		2) 2015 (Amendment) Order 2018	(Refer to the Order for commencement)	50/2015. Includes provisions for substance requirements and exclusion of IP income in respect of MSC status company.

3. Other Gazette Orders

NO	P.U. (A)	Title	Date Gazetted/ (Commencement)	Remarks *(refer to the respective Orders for full details)*
1.	368/2018	Real Property Gains Tax (Exemption) Order 2018	31 December 2018/ (Deemed to come into operation on 1 January 2010)	RPGT exemption on chargeable gain from disposal by individual of building in Node Medini acquired from developer.
2.	369/2018	Real Property Gains Tax (Exemption) (No. 2) Order 2018	31 December 2018/ (Deemed to come into operation on 1 January 2010)	RPGT exemption on chargeable gain from disposal by IDR status company of building in Node Medini acquired from developer.

Members may read the Gazette Orders, Rules and Regulations in full at the official website of the Attorney-General's Chambers.

You may write to the Institute at technical@ctim.org.my or secretariat@ctim.org.my in respect of any suggestions, concern or comments you may have on the Gazette Orders, Rules and Regulations.

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.