

**TECHNICAL**

**Direct Taxation**

**INCOME TAX EXEMPTION FOR COMPANIES ACHIEVING INCREASE IN EXPORT SALES**

The following Exemption Orders were recently gazetted.

Citation		P.U. (A) (All dated 7/6/2019)	Effective from	Replacing repealed legislation
Income Tax (Exemption) (No. #) Order 2019				
1.	<a href="#">(No. 5)</a>	161	YA 2016	Income Tax (Exemption) (No. 17) Order 2005 [P.U.(A) 158/2005]
2.	<a href="#">(No. 6)</a>	162	YA 2016	Income Tax (Allowance for Increased Exports) Rules 1999 [P.U.(A) 128/1999]
3.	<a href="#">(No. 7)</a>	163	YA 2016 till YA 2020	

**Definitions**

Meanings of words found in the Order are found in paragraph 2 of each respective Order and the words are similarly defined in all the Orders. The meanings of words in *italics* which are underlined below are found in paragraph 2 of each respective Order.

**Exemption**

The exemption granted under each Order and conditions for exemption are summarized below:

<b>(No. 5) Order</b>	<b>(No. 6) Order</b>	<b>(No. 7) Order</b>
<b>Exemption</b> Income tax exemption is granted to – - a <u>qualifying company (QC)</u> which achieves increase in <u>export</u> sales of <u>agricultural produce</u> or product from <u>manufacturing</u> , in respect of income derived from export sales in the basis period (BP) for a year of assessment (YA). [Para. 3(1)] (A QC is defined in S2 as one which is incorporated under the Companies Act 2016 and resident in Malaysia.)		
- The exemption applies to a QC – [Para. 3(2)] (a) the value of increased exports of which is at least 50% in a BP for a YA; (b) which penetrates a new market for export as determined by the Malaysia External Trade Development Corporation; or (c) which is awarded an Export Excellence Award by the Minister responsible for international trade and industry, to a company for achieving the highest increase in export sales for a YA.		

**Conditions for exemption**

The exemption is subject to the following conditions –

<b>(No. 5) Order</b>	<b>(No. 6) Order</b>	<b>(No. 7) Order</b>
(a) at least 60% of the issued share capital of the QC is owned directly by Malaysian citizen (sic);		(a) the QC has a paid-up ordinary share capital not

(b) the agricultural produce is planted, reared or caught by the QC; and (c) the product from manufacturing is manufactured by the QC. [Para. 3(3) of Or. (No. 5) and para. 3(2) of Or. (No. 6)]	exceeding RM 2.5 million at the beginning of the BP for a YA; Conditions (b) and (c) are the same as for Or. (No.5) and Or. (No. 6). [Para.3(2)]
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### Amount to be exempted

The amount of income to be exempted is determined in accordance with para. 4(1) of each respective Order –

<b>(No. 5) Order</b>	
The amount of income to be exempted in relation to a QC referred to in –	
<b>Subparagraph</b>	<b>Amount exempted % of the value of increased exports*</b>
(a) 3(2)(a)	- 30
(b) 3(2)(b)	- 50
(c) 3(2) (c)	- 100
* The determination of increased exports is provided for in paras. 5(1) and 5(2)	
Above amounts of exempted income are subject to a maximum of 70% of the statutory income of the QC for a YA.	
<b>(No. 6) Order</b>	
<b>Qualifying Company</b>	<b>Amount exempted % of the value of increased exports</b>
(a) exporting manufacturing products, where the manufacturing product exported attains at least 30% of <i>value added</i> *	- 10
(b) exporting manufacturing products, where the manufacturing product exported attains at least 50% of value added	- 15
(c) exporting agricultural produce	- 10
* Defined in para. 4(3) to mean "the sale price of goods at the factory price which is less the total cost of raw material"	
Above amounts of exempted income are subject to a maximum of 70% of the statutory income of the QC for a YA.	
<b>(No. 7) Order</b>	
<b>Qualifying Company</b>	<b>Amount exempted % of the value of increased exports</b>
(a) exporting manufacturing products, where the manufacturing product exported attains at least 20% of <i>value added</i> *	- 10
(b) exporting manufacturing products, where the manufacturing product exported attains at least 40% of value added	- 15
(c) exporting agricultural produce	- 10
* Defined in para. 4(3) to mean "the sale price of goods at the factory price which is less the total cost of raw material"	
Above amounts of exempted income are subject to a maximum of 70% of the statutory income of the QC for a YA	

### Other Provisions

The following provisions in each Order are similar. (Please refer to the paragraphs indicated under each Order for details relating to the relevant provision.)

Subject	Order	(No. 5)	(No. 6)	(No. 7)
		Paragraph #		
<b>Insufficiency of Income</b> Provision to allow carry-forward of exempt income to be deducted in a subsequent year where there is insufficient statutory income for a YA.		6	6	6
<b>Separate source and separate account</b> Requirements for separation of source and maintenance of separate accounts where the QC carries on another activity in relation to export of agricultural produce or product from manufacturing other than that which qualifies for exemption under each respective Order.		7	7	7
<b>Non-application</b> Situations where the relevant Order is not applicable (where the QC has been granted any incentive/ exemption/ deduction under any of the legislations listed under items (a) to (d) of the relevant paragraph).		8	8	8
<b>Schedule</b> The exemption under each Order is not applicable to the export of – (a) product from manufacturing which is subject to prohibition of exports under the Customs Act 1967; and (b) product from manufacturing which is listed in the Schedule.		3(4)	3(3)	3(3)

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

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