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TO ALL MEMBERS

TECHNICAL

Direct Taxation

1. [Income Tax \(Deduction for Expenditure on Issuance of Islamic Securities\) Rules 2011 \[P.U. \(A\) 443/2011\]](#)

In [Paragraph 26](#) of the 2012 Budget Speech and [Appendix 4](#) it was proposed that expenses on the issuance of Islamic securities based on *Wakalah* principle approved by the Securities Commission or the Labuan Financial Services Authority be given a deduction for the purpose of income tax computation.

Following from the above, the Rules now prescribe that expenditure incurred for the issuance of Islamic securities approved by the Securities Commission or the Labuan Financial Services Authority shall be allowed a deduction in arriving at the adjusted income of the business of a Malaysian resident company. These rules are effective from the year of assessment 2012 until the year of assessment 2015.

2. [Income Tax \(Exemption\) \(No.10\) Order 2011 \[P.U. \(A\) 444/2011\]](#)

In [Paragraph 26](#) of the 2012 Budget Speech and [Appendix 5](#) it was proposed that the existing tax incentives (for years of assessment 2009 to 2011) in respect of non-ringgit *sukuk* be extended from year of assessment 2012 until 2014.

Further to this, the Order exempts the following persons resident in Malaysia from the payment of income tax in respect of the statutory income derived from the regulatory activity of dealing in securities and related to a *sukuk*-dealing business:-

- a) a holder of a Capital Markets Services Licence;
- b) a registered person under Schedule 4 [paragraph 76(1)(a)] of the Capital Markets and Services Act 2007 (CMSA); and
- c) a registered person under subsection 76(2) of the CMSA, where such dealing is carried on through the proprietary account of such person.

Where a person carries on a business or activity of dealing in securities referred to in the above and any other business or activity, each of such businesses or activities shall be treated as a separate and distinct source of business or activity of that person. A separate account has to be maintained for the income derived from the business of dealing in securities mentioned above.

3. [Income Tax \(Exemption\) \(No.11\) Order 2011 \[P.U. \(A\) 445/2011\]](#)

In [Paragraph 26](#) of the 2012 Budget Speech and [Appendix 5](#) it was proposed that the existing tax incentives of non-ringgit *sukuk* be extended, to be applicable from year of assessment 2012 until 2014.

Further to this, the Order exempts the following persons resident in Malaysia from the payment of tax in respect of the statutory income derived from the regulatory activity of dealing in securities and advising on corporate finance, related to the arranging, underwriting and distribution of *sukuk*:-

A person who under the Capital Markets and Services Act, 2007 -

- a) is a holder of a Capital Markets Services Licence granted under section 61 of that Act;
- b) is specified to be a registered person under Schedule 4 of that Act; or
- c) is a registered person under subsection 76(2) of that Act.

A separate account has to be maintained for the income derived from the business of dealing in securities and advising on corporate finance mentioned above.

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