

TaXavvy

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Income Tax (Exemption)(No. 9) Order 2017

Payments to non-residents for services under sections 4A(i) & (ii) rendered outside Malaysia are now exempted from withholding tax.

Section 4A of the Income Tax Act 1967:

“...income of a person not resident in Malaysia... in respect of :

- (i) Amounts paid in consideration of services rendered ... in connection with the use of property or rights belonging to, or the installation or operation of any plant, machinery or other apparatus purchased from, such person;
- (ii) Amounts paid in consideration of technical advice, assistance or services rendered in connection with technical management or administration of any scientific, industrial or commercial undertaking, venture, project or scheme.

Background

- Prior to 17 January 2017, payments of the above to non-residents (NRs) which were derived from Malaysia under section 15A were subject to withholding tax (WHT) under section 109B only if the services were performed in Malaysia.
- Budget 2017 introduced changes effective from 17 January 2017, which resulted in the above payments being taxable to the NR irrespective of whether the services were performed in or outside Malaysia.

Income Tax (Exemption) (No. 9) Order 2017

- The above order gazetted on 24 October 2017, exempts a NR from payment of tax on income under sections 4A(i) & (ii) which is rendered / performed outside Malaysia.
- The WHT provisions under section 109B would not apply to the above income.
- **Effective date:** Services rendered from 6 September 2017.

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