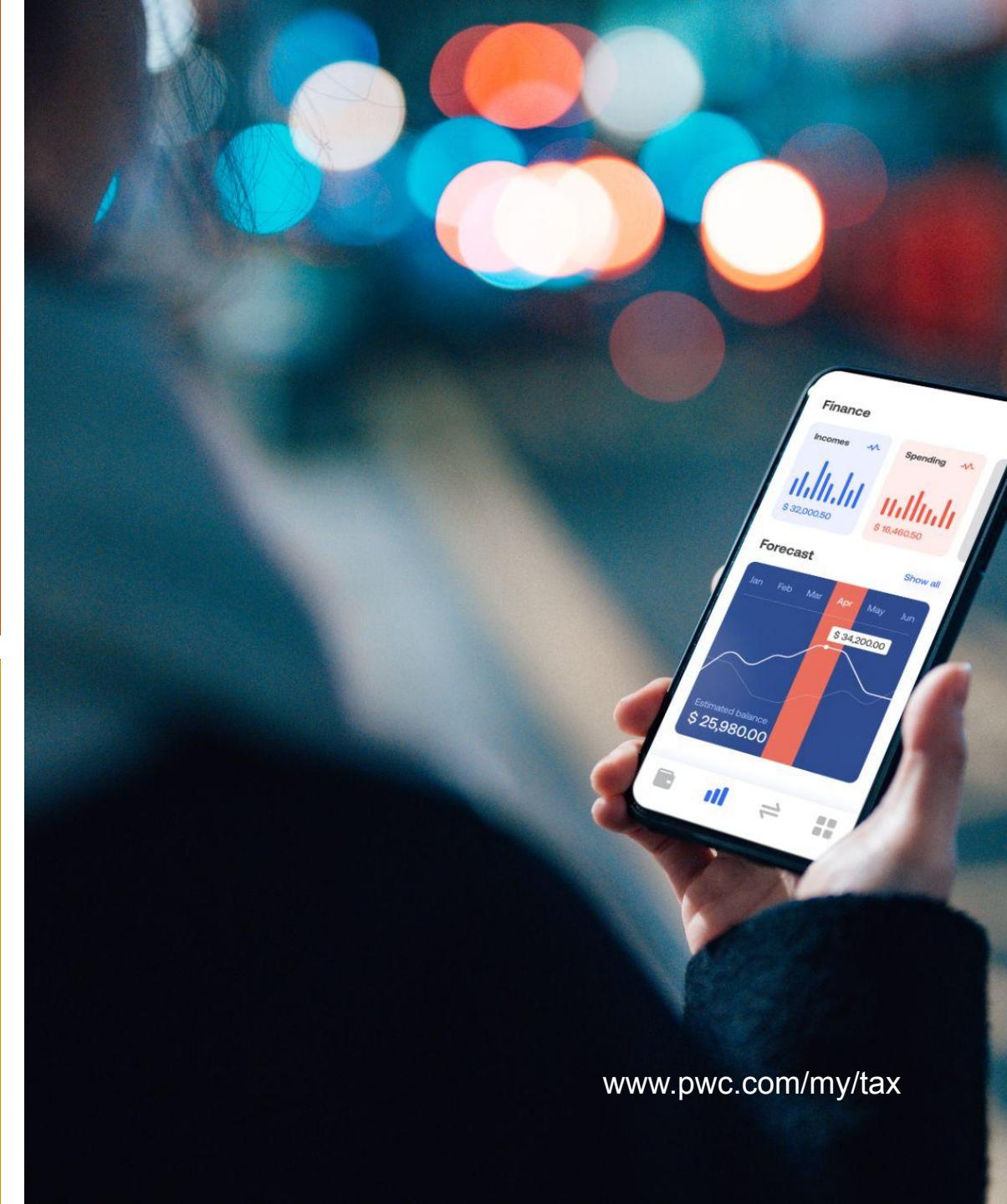




TaXavy

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Foreign-Sourced Income - Exemption Orders



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Tax Exemption on Foreign-Sourced Income (FSI)

Following the announcement made by the Ministry of Finance on 30 December 2021 in relation to tax exemption of specific types of FSI received from 1 January 2022 to 31 December 2026 (refer to [TaXavvy 32-2021](#)), the following Orders have been gazetted today:

- Income Tax (Exemption) (No. 5) Order 2022 - *Exemption of FSI received by resident individuals*
- Income Tax (Exemption) (No. 6) Order 2022 - *Exemption of foreign-sourced dividends received by resident companies, limited liability partnerships (LLPs) and individuals in relation to a partnership business in Malaysia*



A snapshot of the scope of exemption

Exemption period		Qualifying FSI received in Malaysia from outside Malaysia from 1 January 2022 to 31 December 2026 (5 years)
FSI exempted from tax	Resident individuals (excluding a source of income from a partnership business in Malaysia, which is received in Malaysia from outside Malaysia)	All sources of income under Section 4 of the Income Tax Act 1967, which comprise: <ul style="list-style-type: none"> (a) gains or profits from a business; (b) gains or profits from an employment; (c) dividends, interest or discounts; (d) rents, royalties or premiums; (e) pensions, annuities or other periodical payments not falling under any of the above; and (f) gains or profits not falling under any of the above.
	Resident individuals (in respect of dividend income received through a partnership business in Malaysia)	Dividend income which is received in Malaysia from outside Malaysia (Resident companies carrying on the business of banking, insurance, sea or air transport, continue to be taxed on income from wherever derived.)
	Resident companies and LLPs	

Note: Companies and LLPs will continue to be subject to tax on other types of FSI other than dividend income (e.g. interest, royalty, branch profits, etc) that is received in Malaysia from outside Malaysia from 1 January 2022 at the following income tax rates:

- *Amounts received from 1 January 2022 to 30 June 2022 - 3% gross*
- *Amounts received after 30 June 2022 - prevailing income tax rate*

Other salient points

Meaning of “income received in Malaysia from outside Malaysia”	<p>Income arising from outside Malaysia which is brought into Malaysia.</p>
Qualifying conditions	<ol style="list-style-type: none"> 1. The FSI received in Malaysia shall have been subject to foreign tax, i.e. tax of a similar character to income tax under the law of the territory where the income arises (“subject to foreign tax condition”); and 2. In relation to <u>dividend income</u>, the highest rate of tax of a similar character to income tax charged under the law of the territory where the income arises <u>at that time</u> is not less than 15% (“minimum 15% foreign tax rate condition”). <p>The Exemption Order states that both the above conditions are subject to compliance with conditions imposed by the Minister of Finance as specified in the guidelines issued by the Inland Revenue Board (IRB). The guidelines is pending issuance by the IRB.</p> <p><i>Comment: Clarity is required from the IRB on whether the minimum 15% foreign tax rate refers to the prevailing tax rate at the time when the:</i></p> <p class="list-item-l1">(i) <i>income arises/is derived in the foreign country; or</i></p> <p class="list-item-l1">(ii) <i>income is received in Malaysia.</i></p>
Deductions related to FSI exempted from tax	<p>Any deduction in relation to the FSI that is exempted from tax under the Exemption Orders shall be disregarded in computing the chargeable income of the qualifying person.</p>



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