



Taxavvy

6 April 2022 | Issue 6-2022

Exemption of Foreign-Sourced Income from Cukai Makmur



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Under the Budget 2022 measure, a special one-off tax which is called “Cukai Makmur” at the rate of 33% is to be imposed on non-MSMEs* for the year of assessment (YA) 2022 as follows:

Chargeable income	Tax rate
1st RM100 million	24%
Every RM in excess of RM100 million	33%

At the same time, the tax exemption on foreign-sourced income (FSI) received by any person (other than a resident company carrying on the business of banking, insurance, or sea or air transport) under Paragraph 28, Schedule 6 of the Income Tax Act 1967, was removed for Malaysian residents from 1 January 2022.

The above raised concerns as to whether FSI which is subject to Malaysian income tax will also be subject to Cukai Makmur at the same time.

The Income Tax (Exemption) Order 2022 has been gazetted on 5 April 2022 to provide exemption from Cukai Makmur on the FSI received in Malaysia. The Exemption order is effective for YA 2022.

**Refers to companies which are commonly referred to as “micro, small and medium enterprises” or “MSMEs” which qualify for the 17% preferential tax rate on the first RM600,000 chargeable income.*

Income Tax (Exemption) Order 2022 - Salient points

Effective period

It is effective to a company which has income received in Malaysia from outside Malaysia (as defined) from 1 July 2022.

Exemption from Cukai Makmur

The portion of chargeable income in respect of income received in Malaysia from outside Malaysia in the basis period for YA 2022 is exempted from the application of Cukai Makmur (i.e. the 33% tax rate), computed based on a prescribed formula (refer below).

The prevailing corporate income tax of 24% will be applicable to the amount exempted from Cukai Makmur.

Prescribed formula

The portion of chargeable income to be exempted is computed based on the prescribed formula as follows:

$$A/B \times C$$

A:	Statutory income in relation to income received in Malaysia from outside Malaysia in the basis period for YA 2022
B:	Aggregate income in the basis period for YA 2022
C:	Chargeable income of the company in the basis period for YA 2022

Definition

“company” is a company incorporated or registered under the Companies Act 2016 and resident in Malaysia.

“income received in Malaysia from outside Malaysia” means income arising from outside Malaysia which is brought into Malaysia.

Illustration

The following is a high-level illustration on the application of the exemption and applicable tax rates on chargeable income:

	Scenario 1 RM (million)	Scenario 2 RM (million)	Scenario 3 RM (million)	Scenario 4 RM (million)
Gross income from foreign-sourced interest received from 1 July 2022 (Note 1)	25	25	25	25
Less: Deductible expenses	(0)	(0)	(5)	(5)
Statutory income from foreign-sourced interest income received from 1 July 2022 (A)	25	25	20	20
Statutory income from Malaysian-sourced business income (D)	95	115	115	115
Aggregate income (B) = (A + D)	120	140	135	135
Less: Approved donation	-	-	-	(5)
Chargeable income (C)	120	140	135	130
Portion of chargeable income exempted from Cukai Makmur [E = (A/B x C)] taxed @ 24%	$25/120 \times 120 = 25$	$25/140 \times 140 = 25$	$20/135 \times 135 = 20$	$20/135 \times 130 = 19$
Portion of chargeable income subject to the determination of Cukai Makmur (C - E)	95	115	115	111
- 1st RM100 million taxed @ 24%	95	100	100	100
- Amount in excess of RM100 million taxed @ 33%	nil	15	15	11

Note 1

FSI received during the period from **1 January 2022 to 30 June 2022** is subject to tax at 3% on gross amount pursuant to Part XX of Schedule 1 of the Income Tax Act 1967.

Tax exemption of FSI received by companies and individuals

The Ministry of Finance has previously announced on 30 December 2021 (refer to [TaXavvy 32/2021](#)) that subject to conditions, the following FSI received from 1 January 2022 to 31 December 2026 (5 years) will be exempt from Malaysian income tax:

- Dividend income received by resident companies and limited liability partnerships
- All classes of income received by resident individuals, except for resident individuals who carry on business through a partnership.

The guidelines and legislation for the above exemption are still pending.

Connect with us

Kuala Lumpur

Jagdev Singh

jagdev.singh@pwc.com
+60(3) 2173 1469

Penang & Ipoh

Kang Gaik Hong

gaik.hong.kang@pwc.com
+60(4) 238 9225

Melaka

Benedict Francis

benedict.francis@pwc.com
+60(7) 218 6000

Tan Hwa Yin

hwa.yin.tan@pwc.com
+60(6) 270 7300

Johor Bahru

Benedict Francis

benedict.francis@pwc.com
+60(7) 218 6000

Kuching

Lee Yuien Siang

yuien.siang.lee@pwc.com
+60(8) 252 7202

Cynthia Ng

cynthia.hh.ng@pwc.com
+60(3) 2173 1438

Labuan

Jennifer Chang

jennifer.chang@pwc.com
+60(3) 2173 1828

Corporate Tax Compliance & Advisory

Consumer & Industrial Product Services

Margaret Lee

margaret.lee.seet.cheng@pwc.com
+60(3) 2173 1501

Steve Chia

steve.chia.siang.hai@pwc.com
+60(3) 2173 1572

Specialist services

Corporate Services

Lee Shuk Yee

shuk.yee.x.lee@pwc.com
+60(3) 2173 1626

Japanese Business Consulting

Yuichi Sugiyama

yuichi.sugiyama@pwc.com
+60(3) 2173 1191

Clifford Yap

clifford.eng.hong.yap@pwc.com
+60(3) 2173 1446

Tax Reporting & Strategy

Lavindran Sandragasu

lavindran.sandragasu@pwc.com
+60(3) 2173 1494

Emerging Markets

Fung Mei Lin

mei.lin.fung@pwc.com
+60(3) 2173 1505

Energy, Utilities & Mining

Lavindran Sandragasu

lavindran.sandragasu@pwc.com
+60(3) 2173 1494

China Desk

Lorraine Yeoh

lorraine.yeoh@pwc.com
+60(3) 2173 1499

Korea Desk

Keegan Ong

keegan.sk.ong@pwc.com
+60(3) 2173 1684

People & Organisation

Kartina Abdul Latif

kartina.a.latif@pwc.com
+60(3) 2173 0153

Lee Shuk Yee

shuk.yee.x.lee@pwc.com
+60(3) 2173 1626

Financial Services

Jennifer Chang

jennifer.chang@pwc.com
+60(3) 2173 1828

Services & Infrastructure

Lim Phaik Hoon

phaik.hoon.lim@pwc.com
+60(3) 2173 1535

Dispute Resolution

Tai Weng Hoe

weng.hoe.tai@pwc.com
+60(3) 2173 1600

Indirect Tax

Raja Kumaran

raja.kumaran@pwc.com
+60(3) 2173 1701

Chan Wai Choong

wai.choong.chan@pwc.com
+60(3) 2173 3100

Geeta Balakrishnan

geeta.b.balakrishnan@pwc.com
+60 (3) 2173 1652

Tax Technology

Yap Sau Shiung

sau.shiung.yap@pwc.com
+60(3) 2173 1555

Technology, Media, and Telecommunications

Heather Khoo

heather.khoo@pwc.com
+60(3) 2173 1636

Global Mobility Services

Sakaya Johns Rani

sakaya.johns.rani@pwc.com
+60(3) 2173 1553

Hilda Liow

hilda.liow.wun.chee@pwc.com
+60(3) 2173 1638

International Tax Services / Mergers and Acquisition

Gan Pei Tze

pei.tze.gan@pwc.com
+60(3) 2173 3297

Transfer Pricing

Anushia Soosaipillai

anushia.joan.soosaipillai@pwc.com
+60(3) 2173 1419



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