



GUIDELINES

TAX TREATMENT IN RELATION TO INCOME RECEIVED FROM ABROAD (AMENDMENT)

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TAX TREATMENT IN RELATION TO INCOME RECEIVED FROM ABROAD (AMENDMENT)

INLAND REVENUE BOARD OF MALAYSIA

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GUIDELINES OF THE DIRECTOR GENERAL

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**Director General of Inland Revenue,
Inland Revenue Board of Malaysia.**

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1. INTRODUCTION

- 1.1 This guideline is issued pursuant to the amendment of Paragraph 28 of Schedule 6, Income Tax Act 1967 (ITA 1967) by Finance Act 2021 [Act 833] which foreign income received in Malaysia by a person who is resident will be taxable effective from 1 January 2022.
- 1.2 The amendment of this provision is to provide equitable tax treatment on the foreign income with the income accrued in or derived from Malaysia in line with Malaysia's commitment towards compliance with international tax best practices.
- 1.3 However, there are tax exemptions given in relation to foreign income received in Malaysia by a resident subject to certain conditions.
- 1.4 Foreign income received in Malaysia which is eligible for the tax exemptions are as follows:
 - (a) Foreign dividend income received in Malaysia by a resident company, resident LLP and resident individual in relation to a partnership business in Malaysia [P.U.(A) 235/2022 and P.U.(A) 157/2024].
 - (b) All foreign income excluding income from a partnership business received in Malaysia by a resident individual [P.U.(A) 234/2022].
- 1.5 The exemption in paragraphs 1.4(a) does not apply to a resident carrying on the business of banking, insurance or sea or air transport.

2. OBJECTIVE

The objective of this guideline is to explain the tax treatment of foreign income received in Malaysia by a resident.

3. PROVISIONS OF THE LAW

- 3.1 Sections 3, 4, 7, 8, 61, 132, 133, paragraph 6(1)(p), Part XX of Schedule 1, paragraph 28 of Schedule 6 and Schedule 7 of the ITA 1967; and

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3.2 The relevant subsidiary legislation referred to in this guideline is the Income Tax Order as follows:

- (a) Income Tax (Exemption) Order 2022 [P.U.(A) 96/2022];
- (b) Income Tax (Exemption) Order (No. 5) 2022 [P.U.(A) 234/2022];
- (c) Income Tax (Exemption) Order (No. 6) 2022 [P.U.(A) 235/2022]; and
- (d) Income Tax (Exemption) (No. 6) Order 2022 (Amendment) Order 2024 [P.U.(A) 157/2024]

4. INTERPRETATION

The words used in this guideline have the following meaning:

- 4.1 "Cukai Makmur" means a one-off tax imposed on a company that have chargeable income exceeding RM100 million for the year of assessment (YA) 2022 as provided in Paragraph 2, Part I, Schedule 1 of the ITA 1967.
- 4.2 "Received in Malaysia" means transferred or brought into Malaysia whether in the form of cash or through electronic funds transfer; or both.
- 4.3 "Cash" means notes, coins and cheques.
- 4.4 "Electronic fund transfer" means bank transfer (e.g. credit transfer, debit transfer), payment card (debit card, credit card and charge card), electronic money (e-money), privately-issued digital assets (e.g. crypto-assets, stablecoins) and Central bank digital currency (CBDC).
- 4.5 "Bilateral tax credit" means tax credit in respect of income which is subject to Malaysian tax has been charged to foreign tax where the country who charged the tax has a Double Taxation Avoidance Agreement (DTA) with Malaysia under Section 132 of the ITA 1967. Bilateral tax credit only applicable if the "Elimination of Double Taxation" article is covered in the relevant DTA.

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- 4.6 "Unilateral tax credit" means tax credit for income subject to Malaysian tax that has been charged to foreign tax where the country who charged the tax does not have a DTA with Malaysia under Section 133 of the ITA 1967.
- 4.7 "Resident" means resident in Malaysia for the basis year for a year of assessment by virtue of section 7, 8 or subsection 61(3) of the ITA 1967.
- 4.8 "Foreign income " means the type of income under section 4 of the ITA 1967 that arises from sources outside Malaysia.
- 4.9 "Company" means a company which:
- (a) is incorporated or registered under the Companies Act 2016; or
 - (b) is incorporated under the Labuan Companies Act 1990 and the company has made an election under section 3A of the Labuan Business Activities Tax Act 1990 (from year of assessment 2022).
- 4.10 "Partnership" means a partnership in Malaysia registered under the Business Registration Act 1956 which is regulated by the Companies Commission of Malaysia.
- 4.11 "Limited Liability Partnership" means a limited liability partnership which is registered under the Limited Liability Partnerships Act 2012 based on the ITA 1967 and P.U.(A) 235/2022.

5 TAX TREATMENT

5.1 Foreign income received in Malaysia by a resident

- 5.1.1 Effective from 1 January 2022, generally, all types of foreign income received in Malaysia by a resident is subject to tax.
- 5.1.2 The list of foreign income which is subject to this tax treatment according to Section 4 of the ITA 1967 are as follows:
- (a) Business;
 - (b) Employment;

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- (c) Dividend, interest or discounts;
- (d) Rent, royalty or premium;
- (e) Pension, annuity or periodic payments; and
- (f) Other income other than from (a) to (e) above.

- 5.1.3 Expenses or deductions incurred in relation to foreign income received in Malaysia will be allowed subject to the provisions under the ITA 1967.
- 5.1.4 Foreign income received in Malaysia that has been taxed by other jurisdictions either through withholding tax or income tax, are eligible for bilateral or unilateral tax credit under the provisions of sections 132 and 133 of the ITA 1967.
- 5.1.5 A resident who is claiming tax credits must keep evidence that foreign tax has been imposed on that particular income.
- 5.1.6 Tax credit for a year of assessment has to be claimed within two (2) years after the end of that year of assessment. For more information, kindly refer to Public Ruling No. 11/2021 entitled "Bilateral Credit and Unilateral Credit".
- 5.1.7 If the tax credit claimed for a year of assessment exceeds the Malaysian tax payable on foreign income received in Malaysia, the excess tax credit shall be disregarded.
- 5.1.8 For the period of 1 January 2022 until 30 June 2022, foreign income received in Malaysia will be taxed at a rate of 3% under Part XX Schedule 1 of the ITA 1967.
- 5.1.9 Effective from 1 July 2022, foreign income received in Malaysia is subject to the prevailing tax rate.
- 5.1.10 The following are the examples for the tax treatment on foreign income received in Malaysia other than foreign income which is exempted from tax mentioned in paragraph 1.4:

Example 1

Dinamik Bhd. closes accounts on September 30th annually. The company has provided loans to related companies in Country A (with

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DTA) and Country B (without DTA). The company receives interest income from the loan for the period 1.7.2022 until 30.9.2022.

The loan rendered by Dinamik Bhd. to its related companies in Country A and Country B is a loan obtained from financial institutions in Malaysia which is charged interest of RM8,000 and RM20,000 respectively.

Income declared in the YA 2022 Income Tax Return Form (ITRF) as follows:

Details	RM
Gross business income from Malaysia (Allowable business expenses RM500,000)	2,500,000
Gross interest income from Malaysia (Interest expense on loans RM10,000)	60,000
Gross interest income from abroad received in Malaysia for the period 1.7.2022 until 30.9.2022:	
Gross interest income from Country A (Interest expense on loans RM8,000)	30,000
Gross interest income from Country B (Interest expense on loans RM20,000)	80,000
Approved donations	5,000

Gross interest income from loans has been subject to withholding tax in country A and country B as follows:

Country	Withholding Tax Rate (%)	Withholding Tax Amount (RM)
Country A	15	4,500
Country B	30	24,000

Tax computation for Dinamik Bhd for YA 2022 as follows:

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Details	RM	RM
Statutory income from business (Malaysia) (RM2,500,000 – RM500,000)		2,000,000
Statutory interest income (Malaysia) (RM60,000 – RM10,000)	50,000	
Statutory interest income from abroad:		
Interest on loans (Country A) (RM30,000 – RM8,000)	22,000	
Interest on loans (Country B) (RM80,000 – RM20,000)	60,000	
Aggregate statutory income from interest		132,000
Aggregate income		2,132,000
Less: Approved donations		(5,000)
Total income/Chargeable income		2,127,000
Tax at the rate of 24%		510,480
Less: Section 132 tax credit (Country A)	4,500 ¹	
Section 133 tax credit (Country B)	12,000 ²	(16,500)
Tax payable		<u>493,980</u>

Note:

¹Computation

(i) Bilateral credit (Tax Credit under Section 132 of the ITA 1967)

$$\begin{aligned}
 &= \frac{\text{Foreign income (statutory income) (RM)}}{\text{Total income (RM)}} \times \text{Malaysian tax payable before bilateral credit (RM)} \\
 &= \frac{30,000 - 8,000}{2,127,000} \times 510,480 \\
 &= \frac{22,000}{2,127,000} \times 510,480
 \end{aligned}$$

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$$= \text{RM5,280}$$

Or

foreign tax charged, whichever is lower

$$= \text{RM5,280 or foreign tax charges (RM4,500)}$$

$$= \text{RM4,500}^1$$

² Computation:

(i) Unilateral credit (Tax Credit under Section 133 of the ITA 1967)

$$= \frac{\text{Foreign income (statutory income) (RM)}}{\text{Total income (RM)}} \times \text{Malaysian tax payable before unilateral credit (RM)}$$

$$= \frac{80,000 - 20,000}{2,127,000} \times 510,480$$

$$= \frac{60,000}{2,127,000} \times 510,480$$

$$= \text{RM14,400}$$

Or

1/2 of foreign tax charged, whichever is lower

$$= \text{RM14,400 or } \frac{1}{2} \text{ of foreign tax charges (} \frac{1}{2} \times 24,000 = \text{RM12,000)}$$

$$= \text{RM12,000}^2$$

5.1.11 The tax treatment of foreign income received in Malaysia is divided into two periods as follows:

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Period	Tax Rate
1.1.2022 until 30.6.2022	3% from gross income
Effective from 1.7.2022	At the prevailing tax rate

Example 2

Hebat Bhd. closes accounts on 31st August every year. The company provides loans to related companies abroad. Gross interest income received from Country C (with DTA) and Country D (without DTA) in Malaysia on 5.5.2022 and 11.7.2022 amounting to RM800,000 and RM600,000 respectively.

Information related to the income of Syarikat Hebat Bhd for the year 2022 is as follows:

Income	RM
Gross business income (Malaysia) (Allowable business expenses RM500,000)	2,000,000
Gross interest income (Malaysia) (Interest expense on loans RM100,000)	500,000
Gross interest income from Country C received in Malaysia on 5.5.2022 (Interest expense on loans RM100,000)	800,000
Gross interest income from Country D received in Malaysia on 11.7.2022 (Interest expense on loans RM100,000)	600,000

Gross interest income from loans has been subject to withholding tax as follows:

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Country	Withholding Tax Rate (%)	Withholding Tax Amount (RM)
Country C	15	120,000
Country D	30	180,000

Tax computation for Hebat Bhd. for YA 2022 as follows:

Particulars	RM	RM
Statutory income from business (Malaysia) (RM2,000,000 – RM500,000)		1,500,000
Statutory interest income (Malaysia) (RM500,000 – RM100,000)	400,000	
Statutory interest income from abroad:		
Interest income on loans (Country C) [Interest expense of RM100,000 is not allowed because the interest was received in Malaysia on 5.5.2022 (during the period 1.1.2022 until 30.6.2022)].	800,000	
Interest income on loans (Country D) (RM600,000 – RM100,000)	500,000	
Total statutory interest income		1,700,000
Total income/Chargeable income		3,200,000
Tax at the rate of 3% (Country C) (RM800,000 x 3%)	24,000	
Tax at the rate of 24% [(RM400,000 + RM500,000 (Country D) + RM1,500,000) x 24%]	576,000	
Total Income Tax Charged		600,000

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Particulars	RM	RM
Less: Section 132 tax credit (Country C)	24,000 ³	
Section 133 tax credit (Country D)	90,000 ⁴	(114,000)
Tax payable		<u>486,000</u>

Note:

Computation of Tax Credit under Section 132 of the ITA 1967:

³Interest (Country C)

Computation of bilateral credit:

$$= \frac{\text{Foreign interest income (gross)(RM)}}{\text{Total income (related to the tax charged at the rate of 3\%)}} \times \text{Malaysian tax payable before bilateral credit (at the rate of 3\%) (RM)}$$

$$= \frac{\text{RM800,000}}{\text{RM800,000}} \times \text{RM24,000}$$

$$= \text{RM 24,000}$$

or

foreign tax charged, whichever is lower

$$= \text{RM24,000 or foreign tax charged of RM120,000}$$

$$= \text{RM24,000}^3 \text{ (The bilateral tax credit allowed)}$$

In determining the qualifying amount of tax credit to be claimed by Hebat Bhd on interest income from Country C, foreign income subject to Malaysian tax rate of 3% must be compared to the amount of foreign tax charged (RM120,000). Since the foreign income is taxed on the amount of gross income by virtue of Part XX, Schedule 1 of ITA 1967 separately and is not included in the determination of tax charged at the current rate (24%), the ratio of statutory foreign income to the total income subject to Malaysian tax at the rate of 24% is disregarded.

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Computation of Tax Credit under Section 133 of the ITA 1967:

⁴Interest (Country D)

- (i) Computation of the proportion of statutory income in respect of foreign income:

$$= \frac{\text{Foreign interest income (gross) (RM)}}{\text{Foreign and Malaysian interest income (gross) (excluding income received during the period 1.1.2022 – 30.6.2022) (RM)}} \times \frac{\text{Aggregate statutory income from interest (RM)}}{\text{Aggregate statutory income from interest (RM)}}$$

$$= \frac{\text{RM600,000}}{(\text{RM500,000} + \text{RM600,000})} \times \frac{(\text{RM1,700,000} - \text{RM800,000})}{\text{RM1,700,000}}$$

$$= \frac{\text{RM600,000}}{\text{RM1,100,000}} \times \text{RM900,000}$$

$$= \text{RM490,909.09}$$

- (ii) Computation of unilateral credit:

$$= \frac{\text{Foreign income (statutory income) (RM)}}{\text{Total income (RM)}} \times \frac{\text{Malaysian tax payable before unilateral credit (RM)}}{\text{Malaysian tax payable before unilateral credit (RM)}}$$

$$= \frac{\text{RM490,909}}{(\text{RM3,200,000} - \text{RM800,000})} \times \frac{(\text{RM600,000} - \text{RM24,000})}{\text{RM600,000}}$$

$$= \frac{\text{RM490,909}}{\text{RM2,400,000}} \times \text{RM576,000}$$

$$= \text{RM117,818.16}$$

or

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1/2 of foreign tax charged, whichever is lower

= RM117,818.16 or ½ of foreign tax charged

(½ x RM180,000 = RM90,000)

=RM90,000⁴

5.1.12 The following are the examples of the tax treatment of foreign income received in Malaysia which consist of income from more than one year of assessment.

Example 3

M Digital PLT (MDP) closes accounts on December 31st every year. Based on MDP's records, the total income of MDP is as follows:

Year of Assessment (YA)	Malaysia income (RM)	Gross interest from Country E (S\$)	Country E tax payable (S\$)	Interest after tax in Country E (S\$)	Interest from Country E received in Malaysia (S\$)
2020	100,000	50,000	7,500	42,500	-
2021	110,000	-	-	-	-
2022	120,000	45,000	6,750	38,250	-
2023	130,000	30,000	4,500	25,500	34,000

Interest has been taxed at the rate of 15% in Country E every year. Interest from Country E received in Malaysia is S\$34,000.

Foreign income received in Malaysia for a year of assessment must be identified by the taxpayer. Therefore, the interest income from Country E of S\$34,000 received in Malaysia in YA 2023 is identified by MDP which

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consists of interest for YA 2022 (S\$8,500) and interest for YA 2023 (S\$25,500).

If the foreign income received in Malaysia consist of income from more than one year of assessment, the taxpayer has to identify the relevant year of assessment in which income is brought into Malaysia.

The burden of proof is on the taxpayer during the audit.

In this example, MDP is eligible to claim a tax credit because the same income has been taxed twice where there is DTA between Malaysia and Country E. The date of remittance is on 15.12.2023 and the currency exchange rate is at RM2.2038 = S\$1.

The tax computation of MDP for YA 2023 and tax credit under Section 132 of the ITA 1967 is as follows:

Details	RM	RM
Income from Malaysia		130,000
Income from Country E received in Malaysia;		
Gross interest for YA 2023 (S\$30,000 x RM2.2038)	66,114	
Gross interest for YA 2022 (S\$34,000 – S\$25,500) / 85% = S\$8,500 / 0.85 = S\$10,000 (S\$10,000 x RM2.2038)	22,038	
Aggregate interest income from Country E received in Malaysia		<u>88,152</u>
Total income/Chargeable income		218,152
Computation of tax payable:		
Tax at rate 24% (RM218,152 x 24%)		52,356.48

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Details	RM	RM
Less : Section 132 tax credit		
(i) $(RM88,152 / RM218,152) \times RM52,356.48$	21,156.48	
Or		
(ii) Tax in Country E for YA 2023 (S\$4,500 x RM2.2038) = RM9,917.10		
Tax in Country E for YA 2022 (S\$10,000 x 15%) x RM2.2038 = RM3,305.70 Total tax in Country E for YA 2022 and YA 2023 = RM9,917.10 + RM3,305.70	13,222.80	
Whichever is lower		(13,222.80)
Tax payable		<u>39,133.68</u>

Example 4

The facts are the same as in Example 3 with the additional information that MDP has obtained an overdraft facility from Bank AK to make investments in Country E. MDP was able to prove that the investment made in Country E is fully financed through overdraft and the overdraft interest expense is not claimed in tax computation on interest income in Country E. The interest expense incurred by MDP is as follows:

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Year of Assessment (YA)	Overdraft interest expense related to investment in Country E (RM)
2020	10,000
2021	10,000
2022	10,000
2023	10,000

Tax computation of MDP for YA 2023 and tax credit under Section 132 of the ITA 1967 as follows:

Details	RM	RM
Income from Malaysia		130,000
Statutory income from Country E received in Malaysia:		
Interest for YA 2023 Gross interest: RM66,114 Less: Allowable expenses = RM10,000 (RM66,114 – RM10,000)	56,114	
Interest for YA 2022 Gross interest: RM22,038 Less: Allowable expenses = RM2,222 (S\$10,000/S\$45,000 x RM10,000) (RM22,038 – RM2,222)	19,816	
Aggregate statutory interest income from Country E		<u>75,930</u>
Total income/Chargeable income		205,930
Computation of tax payable:		
Tax at rate 24% (RM205,930 x 24%)		49,423.20

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Details	RM	RM
Less : Section 132 tax credit		
(RM75,930 / RM205,930) x RM49,423.20	18,223.20	
Or		
Total tax in Country E for YA 2022 and YA 2023	13,222.80	
Whichever is lower		(13,222.80)
Tax payable		<u>36,200.40</u>

**5.2 Foreign income received in Malaysia which is exempted from tax from
1 January 2022 until 31 December 2026**

Taxpayer's Category	Types of Tax- Exempt Income	Qualifying Conditions	
<ul style="list-style-type: none"> Company Limited Liability Partnership (LLP) Individual partner in relation to partnership business in Malaysia (IIP) 	Dividend	Option A	Comply with the participation exemption requirements that is: (a) The dividend income has been subjected to tax in the country of origin; and (b) The highest tax rate (headline tax) in the country of origin is not less than 15%; Or Option B
		Option B	Comply with the economic substance requirements.

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Taxpayer's Category	Types of Tax-Exempt Income	Qualifying Conditions
Individual	All types of income other than partnership income.	The income has been subjected to tax in the country of origin.

5.2.1 Foreign dividend income received in Malaysia by a resident company, resident LLP, and resident IIP (Company/ LLP/ IIP)

5.2.1.1 Foreign dividend income received in Malaysia by Company/ LLP/ IIP from 1 January 2022 until 31 December 2026 is exempted from tax subject to the following conditions:

Comply with the participation exemption requirements that is:

- (a) The dividend income has been subjected to tax in the country of origin; and
- (b) The highest tax rate (headline tax) in the country of origin is not less than 15%:

OR

Comply with the economic substance requirements.

5.2.1.2 For the purpose of tax exemption, a Company/ LLP/ IIP may choose whether to comply with the qualifying condition being participation exemption or economic substance requirements in paragraph 5.2.1.1.

5.2.1.3 Tax-exempt dividend is dividend paid by a foreign entity where their operating income has been subjected to foreign tax.

5.2.1.4 Qualifying Conditions

Comply with the participation exemption requirements as follows:

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(a) Dividend income is subject to tax in the country of origin which the income arises

In determining whether dividend has been subjected to tax in the country of origin where the income arises, the conditions are as follows:

- (i) Tax has been imposed in the country of origin on foreign dividend income received in Malaysia as follows:
 - (A) Tax paid or payable in the country of origin is either income tax or withholding tax; or
 - (B) Foreign dividend income received has been subjected to underlying tax.

Note:

- I. Underlying tax is an income tax paid or payable in the country of origin related to the underlying profit that arises from operating income in the country of origin where the income after tax is used to pay dividend.
- II. If the payer company (Company X) pays dividend out of dividend received from another company (Company Y) (either within the country which is the same as Company X or otherwise), the underlying tax paid by Company Y on the dividend cannot be considered as tax paid or payable by Company X for the purpose of these qualifying conditions (refer to the illustration in **Appendix 1**).

OR

- (ii) Tax is not imposed in the country of origin because foreign dividend is paid out of underlying profits

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arising from operating income in the country of origin which is not subjected to tax due to:

- (A) Unabsorbed losses or capital allowances;
- (B) Arising from capital gains;
- (C) Enjoyed tax incentives in compliance with substantive requirements in the country; or
- (D) Tax regulations under the tax consolidation regime in the country of origin (refer to the illustration in **Appendix 2(a)** and **2(b)**).

(b) The headline tax rate in the country of origin is not less than 15%

- (i) The foreign country headline tax rate refers to the highest corporate tax rate in the country of origin:
 - (A) in the year that dividend is subject to withholding tax: or
 - (B) in the year that dividend is received in Malaysia.
- (ii) The tax rate shall not be less than 15%.
- (iii) The headline tax rate is not necessarily the actual tax rate imposed on the foreign dividend income.

Example 5

United Ltd is a resident company in Country F. On 15.2.2021, United Ltd paid dividend to Deco Co. which is a resident in Malaysia with a tax rate imposed in Country F of 10%. The headline tax rate of Country F in YA 2021 is 20%.

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	<u>RM</u>
Gross dividend	20,000
Less: Tax rate (10%)	<u>2,000</u>
Net dividend	<u>18,000</u>

Deco Co. deposited the net dividend income of RM18,000 into its account in Country F. On 5.1.2022, Deco Co. transferred that income from Country F's account to its account in Malaysia.

The headline tax rate in Country F (20%) fulfilled the condition of not less than 15%, therefore, the dividend income received in Malaysia from Country F is tax-exempt.

Example 6

The foreign company pays dividend in year 2026 out of its underlying profit of year 2022. The dividend is received in Malaysia by a resident taxpayer in year 2026. No withholding tax is charged on that dividend when it is declared.

The headline tax rate refers to the year 2022.

Example 7

The facts are as in Example 6, however withholding tax is charged on the dividend when it is declared.

The headline tax rate refers to the year 2026.

(c) Comply with the economic substance requirements

- (i) A Company/ LLP/ IIP shall be regarded as having economic substance if it has:

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- (A) employed adequate number of employees with necessary qualifications to carry out the specified economic activities in Malaysia; and
 - (B) incur adequate amount of operating expenditure for carrying out the specified economic activities in Malaysia.
- (ii) As the mode of operation varies from industry to industry, it is neither feasible nor appropriate to specify any minimum threshold for the economic substance requirement as it would depend on the facts of each case. Factors that will be taken into account include:
 - (A) the number of employees having regard to the nature of the relevant activities, e.g. whether it is a capital or labour-intensive industry;
 - (B) whether the employees are employed on a full-time or part-time basis; and
 - (C) whether office premises have been used for undertaking the relevant activities and whether the premises are adequate for such activities.
- (iii) Specified economic activities means:
 - (A) Investment holding entity
 - Holding and managing its equity participation in other entities; or
 - Making necessary strategic decisions in respect of any assets the entity acquires, holds or disposes of; and managing and bearing principal risks in respect of such assets

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(B) Other than investment holding entity

In the case of a Company/ LLP/ IIP carrying out a trade, profession or business in Malaysia, specified economic activities refer to the business operations carried out.

- (iv) A service director who is employed based on a contract of service and not a contract for service can be considered as an employee. Therefore, a non-service director is not considered as an employee.
- (v) Outsourcing of specified economic activities by a Company/ LLP/ IIP to an outsourcing entity is permitted if the following conditions are complied:
 - (A) The specified economic activities are carried out by the outsourced entity in Malaysia;
 - (B) A Company/ LLP/ IIP has exercised adequate monitoring and control on the carrying out of the specified economic activities by the outsourced entity;
 - (C) The outsourced entity is generally expected to charge the Company/ LLP/ IIP a fee for the specified economic activities performed subject to the application of transfer pricing rules;
 - (D) The number of qualified employees employed and the amount of operating expenditure incurred by the outsourced entity in Malaysia are in line with the level of specified economic activities carried out by the outsourced entity; and

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- (E) If the outsourced entity provides services to more than one Company/ LLP/ IIP, computation of expenditure must be apportioned accordingly.

Example 8

Syarikat Yahada Sdn. Bhd. (SYSB) is a resident investment holding company in Malaysia.

SYSB own a subsidiary, Oceanic Trading Ltd. (OTL), which operates in Country G. On February 1, 2022, OTL paid dividend to SYSB with withholding tax at the rate of 18% in Country G.

The details of dividend received by SYSB:

	RM
Gross Dividend	80,000
Minus: Tax Rate (18%)	<u>14,400</u>
Net Dividend	<u>65,600</u>

SYSB received a net dividend of RM65,600 from OTL in Country G. SYSB only has 2 non-service directors appointed to carry out tasks of the company.

The conditions that SYSB has complied with is as follows:

Option A. Comply with the participation exemption requirements that is: Dividend has been subject to tax in the country of origin and the headline tax rate exceeds 15%:

Therefore, dividend received by SYSB is eligible for tax exemption for foreign income received in Malaysia. In this situation, SYSB no longer needs to comply with economic substance requirements to meet the tax exemption conditions.

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Example 9

Syarikat Alphacorp Sdn. Bhd. (SASB) is a resident company in Malaysia that conducts business in the information technology industry and has a subsidiary, BetaTech Ltd. (BTL), which operates in Country H.

SASB has a computer component manufacturing factory that employs 320 skilled and semi-skilled workers to operate the factory.

On 1 May 2022, BTL pays dividend to SASB with a withholding tax rate of 12% in Country H.

The details of the dividend received by SASB:

	<u>RM</u>
Gross Dividend	50,000
Minus: Tax Rate (12%)	<u>6,000</u>
Net Dividend	<u>44,000</u>

In this example, SASB comply with economic substance requirements because it employs a sufficient number of employees and incurs sufficient operating expenses.

Therefore, dividend received by SASB is eligible for tax exemption. Although the 15% headline tax condition cannot be complied with, SASB still fulfill the tax exemption conditions by complying with the economic substance requirements.

Example 10

Syarikat Energi SB (SESB) is a resident investment holding company in Malaysia involved in the real estate sector. The company only has one managing director and one company secretary operating in Seri Hartamas, Kuala Lumpur.

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The company's investment activities are outsourced by appointing Ultimate Solutions Sdn. Bhd (USSB) to carry out SESB's investment function activities. Monitoring and control are implemented on these outsourcing activities to ensure that economic substance requirements are met.

SESB has fulfilled all the outsourcing conditions as stated in paragraph 5.2.1.4 (c) (v).

Based on compliance with all the above conditions, SESB is considered to have economic substance for the company's outsourcing activities in Malaysia. Therefore, SESB is eligible for tax exemption for foreign dividend income received in Malaysia.

- 5.2.1.5 The tax treatment of foreign dividend received in Malaysia by Company/ LLP/ IIP from 1 January 2022 until 31 December 2026 can be referred to the illustrations in **Appendix 3**.

5.2.2 Foreign income received in Malaysia by a resident individual

- 5.2.2.1 All foreign income other than partnership income received in Malaysia by a resident individual from 1 January 2022 until 31 December 2026 is exempt from tax provided the income has been subjected to tax in the country of origin.

5.2.2.2 Qualifying conditions

In determining whether foreign income received has been taxed in the country of origin, the conditions are as follows:

- (a) Tax has been imposed in the country of origin on foreign income received in Malaysia where the tax paid or payable in the country of origin is income tax or withholding tax; or
- (b) Tax is not imposed in the country of origin due to certain reasons as follows:

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Foreign income other than dividend income	Foreign dividend income
<p>(i) Foreign income received in Malaysia is not subject to tax in the country of origin due to the country's taxation system.</p> <p>(ii) Foreign income received in Malaysia is not subject to tax in the country of origin because the individual's income does not reach the taxability amount in the country of origin.</p> <p>(iii) Income is given an exemption through a tax incentive.</p>	<p>(i) Foreign dividend income received by an individual in Malaysia has been subjected to underlying tax.</p> <p>(ii) Foreign dividend income is paid from underlying profits arising out of operating profits which has not been subjected to tax due to:</p> <p>(A) Unabsorbed losses or capital allowances;</p> <p>(B) Arising from capital gains;</p> <p>(C) Enjoyed tax incentives in compliance with substantive requirements in the country; or</p> <p>(D) Tax regulations under the tax consolidation regime in the country of origin.</p>

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Example 11

Foreign income received in Malaysia is not taxable due to the taxation's system in the country of origin

Amansyah, a Malaysian resident, worked as a petroleum welder with a company based in Brunei starting from 2020. He receives employment income from Brunei. Based on Brunei's taxation system, employment income received is not subjected to tax. In 2022, Amansyah plans to bring back his income to Malaysia.

Income received from employment in Brunei is not subject to tax in Brunei. Therefore, the employment income brought into Malaysia by Amansyah is exempted from tax in Malaysia as the conditions under P.U. (A) 234/2022 and this Guideline has been fulfilled.

Example 12

Foreign income received in Malaysia has been subjected to tax in the country of origin

Eric, a Malaysian resident, works as an accountant in an architectural firm in Singapore from 2020. Eric and his family live in Johor Bahru and he commutes from his house to Singapore every day. At the end of each month, he brings back the salary received from his employment in Singapore to Malaysia and the employment income is taxed in Singapore. Part of his salary was credited to a retirement fund in Singapore by his employer.

Under P.U.(A) 234/2022, income arising from Singapore brought into Malaysia by Eric is exempted from tax in Malaysia since the income has been taxed in Singapore.

Example 13

Foreign income received in Malaysia has been given incentive / tax exemption in the country of origin

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The facts are same as in Example 12 except that Eric has terminated his employment in Singapore on 31.3.2025. On 1.5.2025, Eric withdraws his retirement fund saving in Singapore and brings it into Malaysia.

Any saving in an approved retirement fund in Singapore are tax-exempt in Singapore. Based on P.U.(A) 234/2022 and this Guideline, the retirement fund which is brought into Malaysia by Eric is not taxable in Malaysia due to it being tax-exempt in Singapore.

5.2.3 Expenses or deductions incurred in relation to foreign income received in Malaysia by a resident

5.2.3.1 In determining taxable income from gross income for the basis period for a year of assessment, any expenses or deductions incurred in relation to the tax- exempt foreign income should be disregarded.

5.2.3.2 Therefore, part of the expenses or deductions related to foreign income brought into Malaysia which is exempted from tax under P.U.(A) 234/2022 and P.U.(A) 235/2022 should be disregarded.

Example 14

Lulu Sdn. Bhd. operates a business in Johor Bahru and is a shareholder of SS company in Singapore.

The following is the income declared in the YA 2022 ITRF:

Details	RM
Gross income from business	2,500,000
Allowable business expenses	500,000
Gross dividend from Singapore received in Malaysia (Expenses related to dividend income RM24,000)	100,000

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Tax computation of Lulu Sdn. Bhd. for YA 2022:

Details	RM	RM
Business statutory income (RM2,500,000 – RM500,000)		2,000,000
Foreign dividend income (gross) *exempted from tax under P.U.(A) 235/2022	100,000	-
Chargeable income		2,000,000
Tax payable at tax rate 24%		480,000

5.2.4 Record keeping of supporting documents and declaration of the foreign income which is tax-exempt

5.2.4.1 Taxpayers must keep documents such as dividend vouchers, notice of assessment or other documents in accordance with the provisions of Section 82 and Section 82A of the ITA 1967 which indicate that the income has been taxed outside Malaysia.

5.2.4.2 Taxpayers need to declare that the foreign income is eligible for tax exemption in the ITRF as follows:

- (a) Type and amount of foreign income;
- (b) Country where the income arises;
- (c) Headline tax rates of foreign country (for company / LLP/ IIP in Malaysia);
- (d) Amount of tax imposed by foreign country;
- (e) Individual income is not subject to foreign tax;
- (f) Dividend income received has been subjected to underlying tax;
- (g) No underlying tax is imposed due to certain reasons;
- (h) Confirmation letter or the approval of incentive / tax exemption from the tax jurisdictions of foreign country; and

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- (i) Any information to be determined other than in paragraph 5.2.4.2 (a) to (h).

5.2.4.3 Supporting documents as mentioned in paragraph 5.2.5.1 should be kept for auditing purposes.

5.2.4.4 Based on the provisions of Paragraph 9, Schedule 7 of the ITA 1967, any claim for bilateral credit for a year of assessment must be made in writing to Director General of Inland Revenue not more than two years after the end of the year of assessment.

6 TAX TREATMENT ON FOREIGN INCOME RELATED TO CUKAI MAKMUR

Any foreign income received in Malaysia in YA 2022 is not subjected to Cukai Makmur [P.U.(A) 96/2022].

Example 15

Good Glove Sdn. Bhd., a company engaged in glove manufacturing activities closed its accounts on 30th November every year. The company also provides loans to related companies outside Malaysia.

The income declared in the YA 2022 ITRF as follows:

Income	RM
Business statutory income (Malaysia)	150,000,000
Statutory interest income (foreign) received on 1.7.2022	25,000,000
Total income / Chargeable income	175,000,000

Tax payable for YA 2022 by Good Glove Sdn. Bhd. as follows:

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Chargeable Income (RM)	Income Tax Rate (%)	Tax Payable (RM)
Business statutory income (Malaysia):		
The first 100 million	24	24,000,000
Next 50 million	33	16,500,000
Statutory interest income (foreign):		
25 million	24	6,000,000
Tax payable		46,500,000

Example 16

Ro Ro Bhd, a company that carries out heavy machinery assembly activities, close its accounts on 31st October every year. The company also provides loans to related companies outside Malaysia.

Income declared in the ITRF YA 2022 as follows:

Income	RM
Business statutory income (Malaysia)	95,000,000
Interest statutory income (foreign) received in Malaysia on 15.8.2022	25,000,000
Total income / Chargeable income	120,000,000

The tax payable for YA 2022 by Syarikat Ro Ro Bhd.:

Chargeable Income (RM)	Income Tax Rate (%)	Tax Payable (RM)
Business statutory income (Malaysia):		
95 million	24	22,800,000
Statutory interest income (foreign)		
25 million	24	6,000,000

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Tax Payable	28,800,000
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Example 17

Sunset Sdn. Bhd., a resident company in Malaysia closes its accounts on 31st December every year.

Income of Sunset Sdn. Bhd. for YA 2022:

Details	RM
Gross business income (Malaysia)	120,000,000
Gross royalty income (foreign) * received in Malaysia on 1.2.2022 (Withholding tax is charged at rate of 10%)	10,000,000
Gross royalty income (foreign) ** received in Malaysia on 1.7.2022 (Withholding tax is charged at rate of 10%)	30,000,000
Rental income (paragraph 4(d))	20,000,000
Allowable business expenses	12,000,000
Approved donations	5,000,000
Note: * Without DTA ** With DTA	

Tax payable for YA 2022 by Sunset Sdn. Bhd.:

Details	RM	RM
Gross business income (Malaysia)		120,000,000
Less: Business expenses		12,000,000
Business statutory income		108,000,000

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Details	RM	RM
Statutory foreign royalty income (received in Malaysia on 1.2.2022)	10,000,000	
Statutory foreign royalty income (received in Malaysia on 1.7.2022)		30,000,000
Statutory rental income		20,000,000
Aggregate income		158,000,000
Less: Approved donation		5,000,000
Chargeable income		153,000,000
Apportionment of Chargeable Income: (1) Foreign income received in Malaysia during the period 1.7.2022 – 31.12.2022: $= \frac{\text{Foreign statutory income received in Malaysia (1.7.2022 – 31.12.2022)}}{\text{Aggregate income}} \times \text{Chargeable income}$ $= \frac{\text{RM30,000,000}}{\text{RM158,000,000}} \times \text{RM153,000,000}$ $= \text{RM29,050,633 (A)}$ (2) Income other than foreign income received in Malaysia during the period 1.7.2022 – 31.12.2022: Chargeable income – (A) $= \text{RM153,000,000} - \text{RM29,050,633}$ $= \text{RM123,949,367}$		
Tax Computation: (1) Foreign income received in Malaysia during the period 1.1.2022 – 30.6.2022 $= \text{RM10,000,000} \times 3\%$		
		300,000

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Details	RM	RM
Foreign income received in Malaysia during the period 1.7.2022 – 31.12.2022 = 29,050,633 x 24%	6,972,152	
(2) Income other than foreign income received in Malaysia during the period 1.7.2022 – 31.12.2022 = RM123,949,367 First RM100 million x 24%	24,000,000	
Next RM 23,949,367 x 33%	7,903,291	38,875,443
Total income tax charged		39,175,443
Less:		
Section 132 Tax Credit	3,000,000 ⁵	
Section 133 Tax Credit	300,000 ⁶	(3,300,000)
Tax payable		<u>35,875,443</u>

Note:

⁵Computation of bilateral tax credit (Section 132 of the ITA 1967) for royalty income:

$$\begin{aligned}
 &= \frac{\text{Statutory royalty income (Foreign)}}{\text{Total income}} \times \text{Malaysian tax payable before bilateral credit} \\
 &= \frac{\text{RM30,000,000}}{\text{RM153,000,000}} \times \text{RM38,875,443} \\
 &= \text{RM7,622,635.88} \\
 &= \text{RM7,622,635.88 or foreign tax charged of *RM3,000,000, whichever is lower}
 \end{aligned}$$

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= **RM3,000,000**⁵ (The bilateral tax credit allowed)

⁶ Computation of unilateral tax credit (Section 133 of the ITA 1967) for royalty income:

= RM300,000 or foreign tax charged of RM500,000

(1/2 x **RM1,000,000), whichever is lower

= **RM300,000**⁶ (The unilateral tax credit allowed)

7 DISCLAIMER

The examples in this Guideline are for illustrative purposes only and are not exhaustive.

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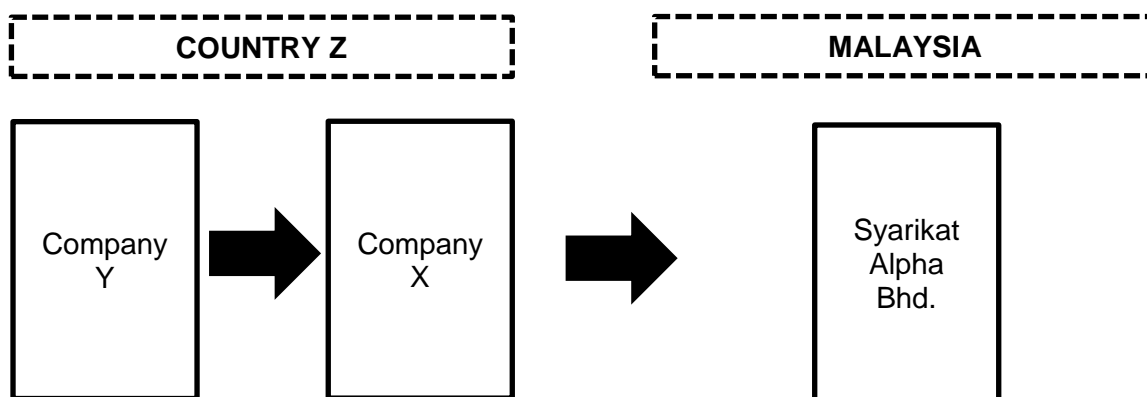
20 June 2024

c.c. LHDN.01/35/(S)/42/51/211

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Appendix 1

Foreign dividend received in Malaysia from foreign companies with a headline tax rate not less than 15%.

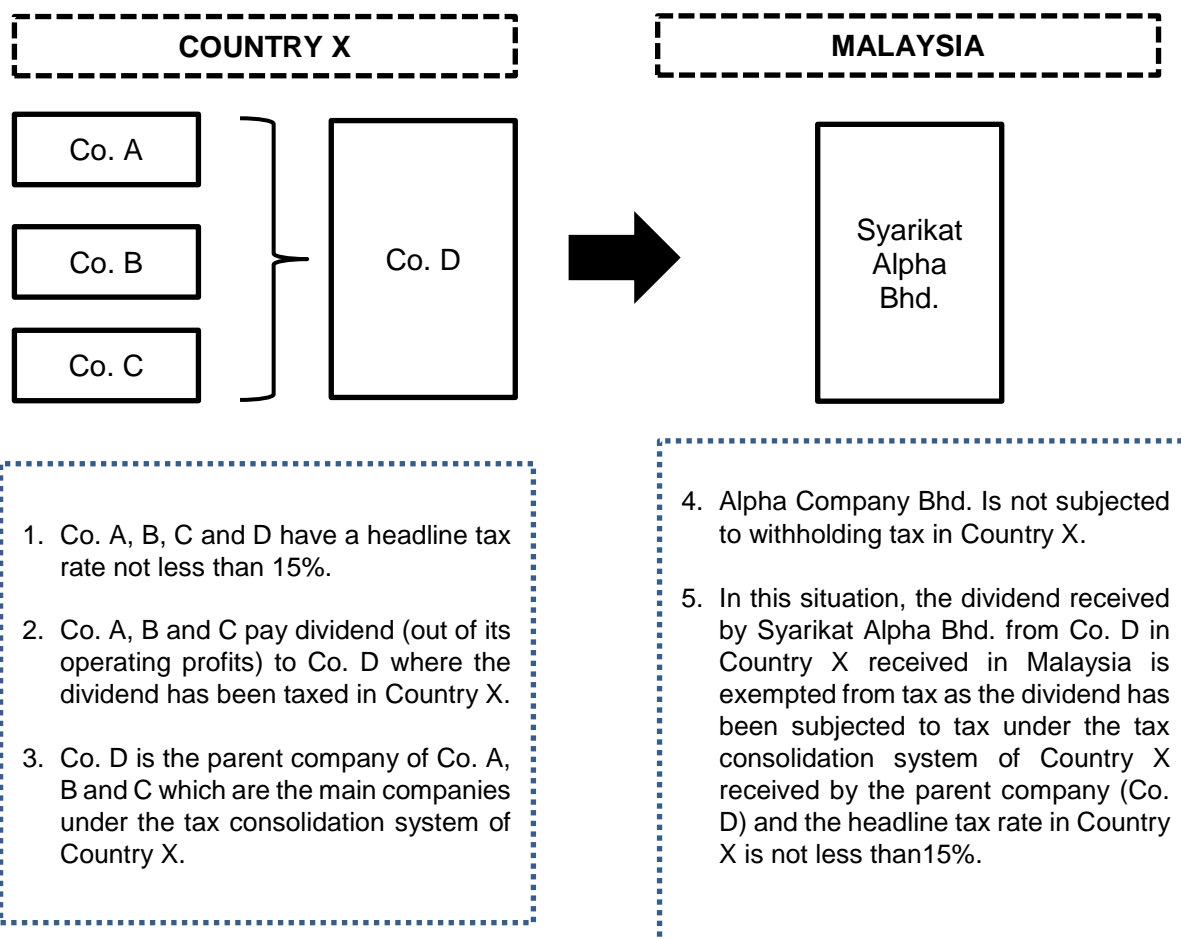


1. Company X and Company Y have a headline tax rate not less than 15%.
2. Tax is paid by Company Y out of its operating profits from which dividend are paid to Company X.
3. No tax is paid by Company X on dividend received from Company Y. Refer to Subsubparagraph 5.2.1.4 (a) (i) (B) (II).

4. There is no withholding tax paid by Syarikat Alpha Bhd. on dividend received from Company X.
5. Therefore, the dividend received by Syarikat Alpha Bhd. from Company X in Country Z is not tax-exempt.

Appendix 2(b)

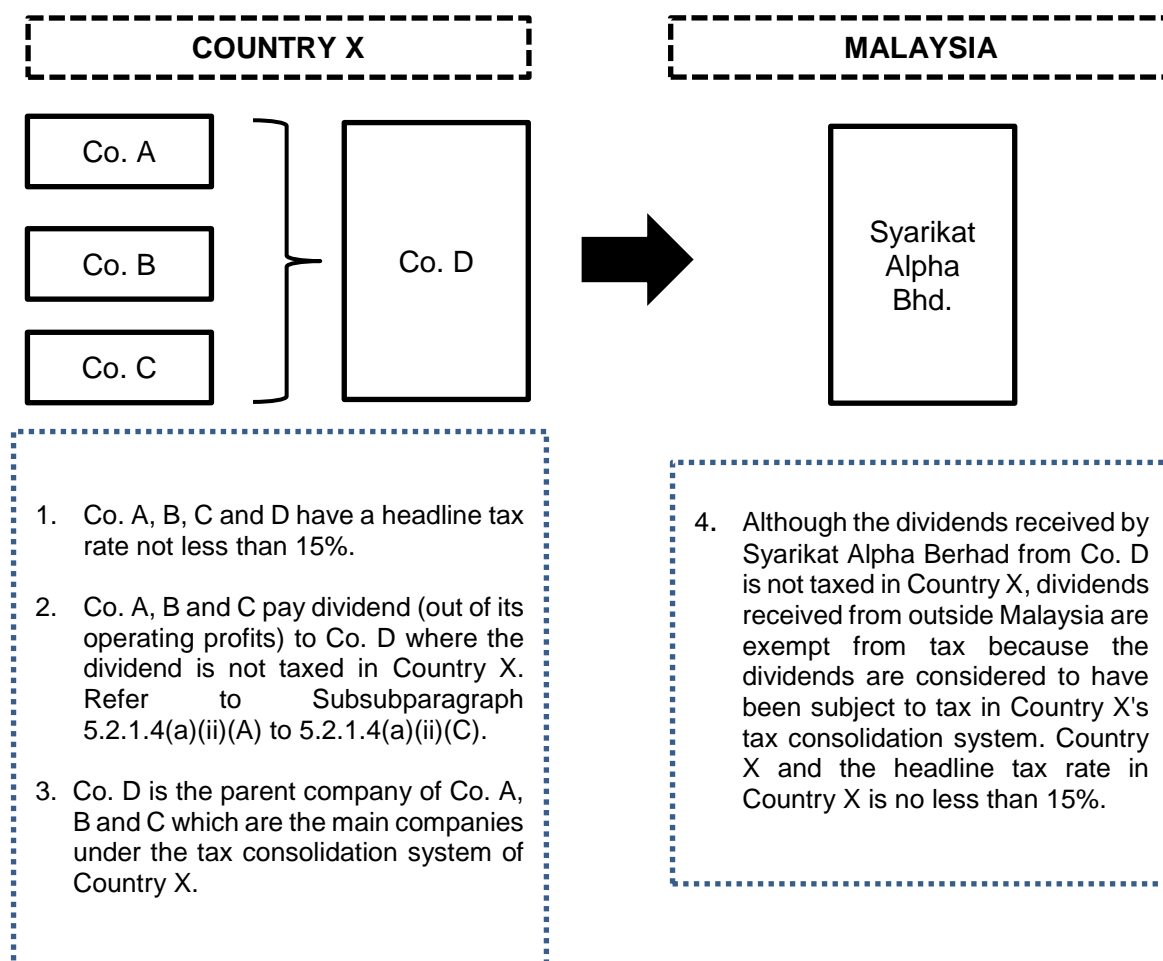
Foreign dividend received in Malaysia from the parent company from a group of companies located abroad with a headline tax rate not less than 15% and under the tax consolidation system.



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Appendix 2(a)

Foreign dividend received in Malaysia from the parent company from a group of companies located abroad with a headline tax rate not less than 15% and under the tax consolidation system.



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Appendix 3

The following table illustrates the tax treatment of foreign dividend received in Malaysia by a resident company, resident LLP or resident individual in relation to a partnership business in Malaysia from 1 January 2022 until 31 December 2026.

Scenario	Taxes are paid by foreign companies on its operating profits out of which dividends are paid to a resident company/ LLP/ IIP	Dividend received by a resident company/ LLP/ IIP are subject to Withholding Tax	Qualifying requirements are fulfilled (Option A atau Option B)						Dividends are tax-exempt	
			Option A				Option B			
			Subject to tax		Headline tax rates	Requirements fulfilled	Economic Substance requirement			
			Yes	No	More or atau less than 15%		Yes	No	Yes	No
1	No	No		/	≥15%	X	/		/	
2	No	Yes	/			/			/	
3	Yes	No	/			/			/	
4	Yes	Yes	/			/			/	
5	No	No		/	<15%	X	/		/	
6	No	Yes	/			X		/		/
7	Yes	No	/			X	/		/	
8	Yes	Yes	/			X		/		/