



## Tax Espresso A snappy delight

## Greetings from Deloitte Malaysia Tax Services

**Definitions of “Plant” and “Machinery” for  
Reinvestment Allowance (RA)**

### Quick links:

[Deloitte Malaysia](#)

[Inland Revenue Board](#)

### Takeaways:

[Definitions of “Plant” and  
“Machinery” for  
Reinvestment Allowance](#)

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[Income Tax \(Exemption\)  
\(No. 3\) Order 2016 \[P.U. \(A\)  
113/2016\]](#)

The Finance Act 2015 (Act 773) inserted the definitions of “plant” and “machinery” in Paragraph 9 of Schedule 7A to the Income Tax Act 1967 (ITA) as follows:

- ✓ “Plant” means an apparatus used in respect of a **manufacturing** activity, which is **directly used in carrying out that activity in a factory**;
- ✓ “Machinery” means a device or apparatus consisting of fixed and moving parts that work together to perform function in respect of a **manufacturing** activity, which is **directly used in carrying out that activity in a factory**.

The definition of “manufacturing” was also amended by deleting the words “size, shape,”. Nevertheless, there is no consequential amendment to the list of the activities excluded from the definition of “manufacturing” as provided under Schedule 7A of the ITA.

The above amendments take effect from year of assessment (YA) 2016 and subsequent YAs.

It appears that the new definitions of “plant” and “machinery” are inserted to coincide with the stand taken by the Inland Revenue Board (IRB) to restrict the claim of RA to those plant or machinery used/involved in the manufacturing process/activity, or transforming raw materials into an end product. In the case of *Ketua Pengarah Hasil Dalam Negeri (KPHDN) v OKA Concrete Industries Sdn Bhd (High Court)*, the KPHDN disallowed the RA claim on tipper lorries, crane, weighbridge, etc. on the grounds that they were not part of the production process or were not used in the production process. However, the High Court upheld the decision made by the SCIT that was in favour of the taxpayer.

Income Tax (Exemption) (Amendment) (No. 3) Order 2016 [P.U.(A) 106/2016]

Income Tax (Exemption) (Amendment) (No. 2) Order 2016 [P.U.(A) 105/2016]

Income Tax (Exemption) (Amendment) Order 2016 [P.U.(A) 104/2016]

Income Tax (Exemption) (No. 2) Order 2016 [P.U. (A) 90/2016]

Stamp Duty (Exemption) Order 2016 [P.U. (A) 68/2016]

Events:

GST: A year in review  
Date: 19 May 2016  
Venue: Menara LGB  
Kuala Lumpur

Latest Malaysian Tax Developments Affecting Companies  
Date: 31 May 2016  
Venue: Menara LGB  
Kuala Lumpur

Important deadlines:

Due date for 2017 tax estimates for companies with June year-end (31 May 2016)

6th month revision of tax estimates for companies with November year-end (31 May 2016)

9th month revision of tax estimates for companies with August year-end (31 May 2016)

Following the introduction of the definition of “plant” and “machinery” in Schedule 7A to the ITA, plant or machinery that is not directly used in carrying out the manufacturing activity such as a forklift is not eligible for RA claim even though it is used in a factory (within the same building or within the same curtilage as a building used as a factory) to move raw materials or finished goods.

Statutory filing of 2015 tax returns for companies with October year-end (31 May 2016)

## Gazette Orders

### **Income Tax (Exemption) (No. 3) Order 2016 [P.U. (A) 113/2016]**

Subject to the conditions as stipulated in P.U. (A) 113/2016, an individual resident in Malaysia is exempted from the payment of income tax in respect of the profits from an investment made from 1 April 2016 to 31 March 2019 and received within three consecutive YAs starting from the first YA the profits are received by the individual. The investment made is to finance a venture or project undertaken by a small and medium enterprise. P.U. (A) 113/2016 was gazetted on 26 April 2016 and deemed to have come into operation on 1 April 2016.

### **Income Tax (Exemption) (Amendment) (No. 3) Order 2016 [P.U.(A) 106/2016]**

P.U.(A) 106/2016 was gazetted to amend Paragraph 1(2) of the Income Tax (Exemption) Order 2014 [P.U.(A) 150/2014] to extend the exempt period to YA 2020. P.U. (A) 150/2014 exempts a qualifying company from the payment of income tax in respect of statutory income derived from a business of providing fund management services to business trust or real estate investment trust in Malaysia which is managed in accordance with *Syariah* principles and certified by the Securities Commission.

### **Income Tax (Exemption) (Amendment) (No. 2) Order 2016 [P.U.(A) 105/2016]**

P.U.(A) 105/2016 was gazetted to amend Paragraph 1(2) of the Income Tax (Exemption) (No. 6) Order 2008 [P.U.(A) 255/2008] to extend the exempt period to YA 2020. P.U. (A) 255/2008 exempts a company resident in Malaysia from the payment of income tax in respect of statutory income derived from a business of providing fund management services to local investors in Malaysia where the fund is managed in accordance with *Syariah* principle certified by the Securities Commission for each YA during the exempt period.

## **Income Tax (Exemption) (Amendment) Order 2016 [P.U.(A) 104/2016]**

P.U.(A) 104/2016 was gazetted to amend Paragraph 1(2) of the Income Tax (Exemption) (No. 15) Order 2007 [P.U.(A) 199/2007] to extend the exempt period to YA 2020. P.U. (A) 199/2007 exempts a company resident in Malaysia from the payment of income tax in respect of statutory income derived from a business of providing fund management services to foreign investors in Malaysia where the fund is managed in accordance with *Syariah* principle certified by the Securities Commission for each YA during the exempt period.

## **Income Tax (Exemption) (No. 2) Order 2016 [P.U. (A) 90/2016]**

Effective YA 2016, a person is exempted from the payment of income tax in the basis period for a YA in relation to gains or profits derived, in lieu of interest, from *sukuk wakala* in accordance with the principle of *Wakala*. This exemption order is applicable to *sukuk wakala* with the nominal value of up to USD1,500,000,000.00, other than convertible loan stock, issued by the Malaysia Sukuk Global Berhad (formerly known as 1Malaysia Sukuk Global Berhad).

## **Stamp Duty (Exemption) Order 2016 [P.U. (A) 68/2016]**

Following the announcement in the 2014 Budget, P.U. (A) 68/2016 was gazetted on 23 March 2016 and deemed to have come into operation on 1 January 2015. Subject to the conditions as stipulated in the P.U. (A) 68/2016, stamp duty exemption is granted on any instrument of loan agreement or financing according to *Syariah* executed on or after 1 January 2015 but not later than 31 December 2017 between specified banks and a small and medium enterprise which has obtained the approval from the secretariat for Green Lane Policy of the Ministry of Finance.

We invite you to explore other tax related information at:

<http://www2.deloitte.com/my/en/services/tax.html>

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