

## GES NewsFlash

# Malaysia — Public Ruling No.12/2011

February 8, 2012

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**PR No. 12/2011 on “Tax exemption on employment income of non-citizen individuals working for certain companies in Malaysia”**

### Background

The Malaysian Inland Revenue Board (MIRB) issued a new public ruling (PR) on 20 December 2011 i.e., PR No. 12/2011 on “Tax exemption on employment income of non-citizen individuals working for certain companies in Malaysia.”

Effective date: Year of assessment 2011.

### Overview

This ruling explains the treatment of employment income derived by non-citizen individuals working for an operational headquarters company, regional office, international procurement center company, or regional distribution center company in Malaysia.

### Non-citizen individuals working with certain companies

Non-citizen individuals working at the following companies are accorded the following tax treatment:

1. Operational Headquarters Company (OHQ) and Regional Office (RO)

With effect from the year of assessment 2003, non-citizen individuals are exempted from the payment of income tax in respect of income derived from an employment with an OHQ or RO exercised outside Malaysia.

As such, they would be taxed only on the portion of their chargeable income attributable to the number of days they are present, i.e., exercising their employment in Malaysia.

2. International Procurement Center Company (IPC) and Regional Distribution Center Company (RDC)

With effect from the year of assessment 2008, the above exemption in (1) above is extended to non-citizen individuals who are employed by an IPC or RDC.

The amount of income that is exempted is determined according to the following formula:

$$\frac{A \times C}{B}$$

Where,

A - Number of days in the calendar year he is in employment with the OHQ, RO,

IPC, or RDC exercised outside Malaysia. The number of days outside Malaysia does not include vacation leave overseas.

B - Number of days in the calendar year he is in employment with the OHQ, RO, IPC, or RDC. The number of days is the entire period of employment inclusive of vacation leave overseas.

C - Chargeable income for a calendar year attributable to an OHQ, RO, IPC, or RDC.

### Tax exemption under Malaysian domestic law — 60-day rule

Under Schedule 6 Paragraph 21 of the Income Tax Act (ITA)1967, employment income of a non-citizen individual who is employed under an OHQ, RO, IPC or RDC may be exempted from tax if the employment was exercised in Malaysia under one of the following conditions:

- a) For a period or periods that together do not exceed 60 days in a basis year for a calendar year
- b) For a continuous period not exceeding 60 days if the employment period overlaps two (2) calendar years
- c) For a continuous period not exceeding 60 days which overlaps the basis year for two (2) successive calendar years and for a period or periods which together with that continuous period do not exceed 60 days

### Documents required for claim of exemption

To substantiate a claim for exemption, the following documents may be acceptable for audit purposes:

- a) A copy of the employment contract
- b) A confirmation from the employer as to the number of days the employment is exercised in Malaysia and outside Malaysia

Examples are provided in the PR to illustrate the factors mentioned above.

#### Deloitte's view

There is now more clarity and guidance from the MIRB in the determination of the tax exemption on employment income of non-citizen individuals working for certain companies, i.e., OHQ, RO, IPC, or RDC in Malaysia. This will enable them to determine the amount of income that is exempted by using the formula provided in the PR.

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#### People to contact

If you have any questions concerning the issues in this GES NewsFlash, please contact one of the tax professionals at our Deloitte offices as follows:

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