

**P.U. (A) 201.**

**INCOME TAX ACT 1967**

**INCOME TAX (EXEMPTION) (NO. 10) ORDER 1998**

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967, the Minister makes the following order:

1. This order may be cited as the **Income Tax (Exemption) (No. 10) Order 1998** and shall have effect from the year of assessment 2000.
2. For the purposes of this Order-

“enterprise of TECO” means an enterprise carried on by a resident of TECO;

“interest” means income from debt-claims of every kind, whether or not secured by mortgage, and whether or not carrying a right to participate in the debtor’s profits, and in particular, income from government securities and income from bonds or debentures;

“international traffic” means any transport by a ship or aircraft operated by an enterprise of TECO except when the ship or aircraft is operated solely between places in TECO;

“permanent establishment” means-

- (a) a fixed place of business through which the business of an enterprise of TECO is wholly or partly carried on. It shall include especially-
  - (i) a place of management;
  - (ii) a branch
  - (iii) an office;
  - (iv) a factory;
  - (v) a workshop;
  - (vi) a mine, oil well, quarry or other places of extraction of natural resources;
  - (vii) a plantation, farm, orchard or vineyard;
  - (viii) a building site, construction, installation and assembly project which exists in the aggregate for more than six months in a calendar year or for more than six consecutive months overlapping two calendar years;

- (b) an enterprise of TECO that carries on supervisory activities in Malaysia for more than six months in connection with a construction, installation or assembly project which is being undertaken in Malaysia;
- (c) a person acting in Malaysia on behalf of an enterprise of TECO notwithstanding he has no fixed place of business in Malaysia if-
  - (i) he has, and habitually exercises a general authority in Malaysia to conclude contracts in the name of the enterprise; or
  - (ii) he maintains in Malaysia a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders on behalf of the enterprise; or
  - (iii) he regularly secures orders in Malaysia wholly or almost wholly for the enterprise;

“person” comprises an individual, a company and any other body of persons which is treated as a person for tax purposes;

“professional services” includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants;

“resident of TECO” means any person who is a resident in accordance with the taxation laws applicable in TECO;

“technical fees” means payment of any kind to any person, other than to an employee of the person making the payments, in consideration for any services of a technical, managerial or consultancy nature; and

“TECO” means the area represented by the Taipei Economic and Cultural Office in Malaysia.

3. The Minister exempts a person who is a resident of TECO in respect of income from-

*Business Profits*

3.1 Profits of an enterprise of TECO that carries on business in Malaysia not through a permanent establishment.

*Profits from Shipping and Air Transport*

3.2 The operation of ships or aircraft in international traffic, including share of profits from the participation in a pool, a joint business or an international operating agency and profits from the rental of ships or aircraft on a full (time or voyage) or bareboat basis and from the rental of containers and related equipment, which is incidental to the international operation of ships or aircraft.

*Interest*

3.3 Interest paid to a resident of TECO who is the beneficial owner of the interest equal to an amount arrived at by the following formula:

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

where A is the gross amount of interest derived from Malaysia;

B is the difference between the tax rate pursuant to Part II, Schedule 1 and 10 percent; and

C is the tax rate pursuant to Part II, Schedule 1.

*Technical Fees*

3.4 Technical fees paid to a resident of TECO who is the beneficial owner of the technical fees equal to an amount arrived at by the following formula;

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

where A is the gross amount of technical fees derived from Malaysia;

B is the difference between the tax rate pursuant to part V, Schedule 1 and 7.5 percent; and

C is the tax rate pursuant to Part V, Schedule 1.

*Independent Personal Services*

3.5 Professional services or other independent activities of a similar character-

(a) if his stay in Malaysia is for a period or periods amounting to or in aggregate of less than 183 days in the calendar year concerned; or

(b) if the remuneration for his services in Malaysia does not exceed 3,000 U.S. Dollars or the equivalent in Malaysian Ringgit in the calendar year concerned.

*Dependent Personal Services*

3.6 An employment exercised in Malaysia if-

(a) the recipient is present in Malaysia for a period or periods amounting to or in the aggregate of less than 183 days in the calendar year concerned; and

(b) the remuneration is paid by, or on behalf of an employer who is not a resident of Malaysia; and

- (c) the remuneration is not borne by a resident or a permanent establishment which the employer has in Malaysia.

*Artistes and Sportsmen*

- 3.7 Activities exercised in Malaysia as or by an entertainer, such as a theater, motion picture, radio or television artiste, or a musician, or as a sportsman, if the visit to Malaysia is directly or indirectly supported wholly or substantially from public funds of TECO.

*Teachers and Researchers*

- 3.8 Teaching or research (other than those undertaken primarily for the private benefit of a specific person or persons) or both at a public university, college or other similar public institutions at the invitation of such public institutions provided that the individual is a resident of TECO immediately before making the visit to Malaysia and that visit is for a period not exceeding two years solely for that purpose and such remuneration is subject to tax in TECO.

*Students and Trainees*

- 3.9 (a) All remittances from abroad for the purposes of his maintenance, education, study, research or training;
- (b) Any amount of grant, allowance or award; and
- (c) Any remuneration not exceeding 3,000 U.S. Dollars or the equivalent in Malaysian Ringgit per annum in respect of services in Malaysia provided the services are performed in connection with his study, research or training or are necessary for the purposes of his maintenance, and he is a resident of TECO immediately before making a visit to Malaysia and is temporarily present in Malaysia solely-
  - (i) as a student at a recognized university, college, school or other similar recognized educational institutions in Malaysia;
  - (ii) as a business or technical apprentice; or
  - (iii) as recipient of a grant, allowance or award for the primary purpose of study, research or training from the relevant authorities in TECO or in Malaysia or from a scientific, educational, religious or charitable organization or under a technical assistance programme entered into between the relevant authorities in TECO and in Malaysia.

- 4. Where income mentioned in the preceding paragraphs is subject to tax under the laws in force in TECO by reference to the amount thereof which is remitted to or received in TECO and not by reference to the full amount thereof, then the exemption to be allowed under this Order shall apply to so much of the income as is remitted to or received in TECO.

Made 4 May 1998.

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LHDN. 01/23/(S)/273/23.]

ANWAR IBRAHIM,  
*Minister of Finance*

*[To be laid before the Dewan Rakyat pursuant to subsection 127(4) of the  
Income Tax Act 1967]*