

PRACTICE NOTE NO. 3/2017

CLARIFICATIONS ON EFFECTIVE DATE OF INCOME TAX (EXEMPTION) (NO. 9) ORDER 2017 [P.U.(A) 323/2017]

- 1.0 This Note is issued to provide guidance on the implementation of the Income Tax (Exemption) (No. 9) Order 2017 [P.U.(A) 323/2017], specifically relating to **services performed outside Malaysia before and after this Income Tax Exemption Order (EO) comes into operation.**
- 2.0 With the EO, with effect from 6 September 2017, any income **from services which falls under paragraphs 4A(i) and 4A(ii) of the Income Tax Act 1967 (the Act) are not subject to withholding tax under section 109B if such services are performed outside Malaysia.**
- 3.0 The following are examples to demonstrate circumstances when withholding tax under section 109B of the Act is applicable or not.
- 3.1 For contracts signed and performed outside Malaysia **after 6.9.2017**, the payments made to non-residents are not subject to withholding tax.

Example 1:

Contract period/ Service performance period	Implication
6.9.2017 – 31.1.2019	The payments are not subject to withholding tax

- 3.2 For contracts signed **before 6.9.2017** and the services are performed outside of Malaysia before and after 6.9.2017.

Example 2:

Contract signed for period 1.2.2017 – 28.2.2018.

Service performance period	Implication
1.2.2017 – 5.9.2017	The payments are subject to withholding tax
6.9.2017 – 28.2.2018	The payments are not subject to withholding tax

- 3.3 For contracts signed and services performed outside of Malaysia **before 6.9.2017**, but payments are made after 6.9.2017, such payments are subject to withholding tax.

Example 3:

Service performance period	Payment date	Implication
1.2.2017 – 5.9.2017	10.10.2017	The payments are subject to withholding tax

- 3.4 For contracts signed and payment made **before 6.9.2017**, but services performed outside Malaysia after 6.9.2017, such payments are not subject to withholding tax.

Example 4:

Service performance period	Payment date	Implication
6.9.2017 – 28.2.2018	10.8.2017	<ul style="list-style-type: none">• The payments are not subject to withholding tax.• Eligible to claim for refund if the withholding tax has been paid.

**Director General of Inland Revenue
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