

PRACTICE NOTE NO. 1/2017

AMENDMENT OF SECTION 15A OF THE INCOME TAX ACT 1967 ISSUES ON EFFECTIVE DATE

- 1.0 This Note is issued to provide guidance on the implementation of the amendment to section 15A of the Income Tax Act 1967 (the Act) in Budget 2017, specifically relating to contracts signed or services performed outside Malaysia prior to the coming into effect of the said amendment.
- 2.0 The amendment comes into effect on 17.1.2017.
- 3.0 With the amendment, any income which falls under paragraphs 4A(i) and 4A(ii) of the Act are now subject to withholding tax under section 109B of the Act irrespective of whether the services are performed in Malaysia or outside Malaysia.
- 4.0 The following are examples to demonstrate circumstances when withholding tax under section 109B of the Act is applicable.
- 4.1 For contracts signed and performed **after 17.1.2017**

The payments to non-resident are subject to withholding tax.

Example 1:

Contract period/ Service performance period	Implication
1.2.2017 – 31.1.2019	The payments are subject to withholding tax

- 4.2 For contracts signed **before 17.1.2017** and the services are performed outside of Malaysia before and after 17.1.2017.

Example 2:

Contract signed for period 1.12.2016 – 28.2.2017.

Service performance period	Implication
1.12.2016 – 16.1.2017	The payments are not subject to withholding tax
17.1.2017 – 28.2.2017	The payments are subject to withholding tax

- 4.3 For contracts signed and services performed outside of Malaysia **before 17.1.2017**, but the payments made after 17.1.2017.

The payments made after 17.1.2017 for services performed outside of Malaysia before 17.1.2017, are not subject to withholding tax.

Example 3:

Service performance period	Payment date	Implication
1.12.2016 – 16.1.2017	28.1.2017	The payments are not subject to withholding tax

- 4.4 For contracts signed and payment made **before 17.1.2017**, but services performed outside Malaysia after 17.1.2017.

The payments made before 17.1.2017 for services performed outside Malaysia after 17.1.2017, are not subject to withholding tax.

Example 4:

Service performance period	Payment date	Implication
17.1.2017 – 28.2.2017	1.12.2016	The payments are not subject to withholding tax

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

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