

## CIRCULAR

Date:	03 October 2024	Ref No.:	ID/ALL/HYF-JW-TK-AZ/024-24
To:	UTMC, IUTA, CUTA, PRS Providers, IPRA AND CPRA		
Attn:	Authorised Representative/Chief Executive Officer		

### **GAZETTE ORDERS ON EXEMPTION OF UNIT TRUSTS FROM CAPITAL GAINS TAX (CGT) AND INCOME TAX ON FOREIGN SOURCED INCOME (FSI)**

---

Following the announcement by the Finance Minister II to exempt the imposition of CGT as well as FSI on unit trusts, the Ministry of Finance has issued two exemption orders under the Income Tax Act 1967 (“ITA”) to provide relief to eligible unit trusts. These orders were gazetted on 19 September 2024:

- **Income Tax (Unit Trust) (Exemption) Order 2024** (“CGT Order”)
- **Income Tax (Unit Trust in Relation to Income Received in Malaysia from Outside Malaysia) (Exempt) Order 2024** (“FSI Order”)

We have summarised key points from several tax consultants' views on each order for Members and Distributors to take note of:

#### **1.0 CGT Order [P.U.(A) 249/2024]**

- a) Effective from **1 January 2024 to 31 December 2028**, the CGT Order exempts qualifying unit trust resident in Malaysia from payment of income tax in respect of any gains or profits arising from:
- i. The disposal of shares of a company incorporated in Malaysia which is not listed on the stock exchange (“Unlisted Shares”); and
  - ii. The disposal of shares under Section 15C of the ITA (“15C Shares”).

*[Note: Gains or profits received from the disposal of 15C Shares refer to the gains/profits on the disposal of capital asset which is a share of a controlled company incorporated outside Malaysia (“Foreign Co”) which shall be deemed to be derived from*

*Malaysia where at the date of acquisition of the shares of Foreign Co, the Foreign Co owns real property situated in Malaysia or shares of another controlled company (“RPC”)\* or both where the defined value of the real estate or shares of RPC or both is more than 75% of the value of the Foreign Co’s total tangible assets.]*

- b) The term “qualifying unit trust” is not specifically defined under the CGT Order, but it excludes unit trusts approved by the Securities Commission as Real Estate Investment Trusts or Property Trust Funds listed on Bursa Malaysia.
- c) The exemption applies to the “payment of income tax”, but the qualifying unit trust must still calculate the chargeable income from the disposal of Unlisted Shares and 15C Shares. Losses from the disposal of shares shall be allowed as a deduction in accordance with Sections 65E(5) and (6) of the ITA.
- d) The CGT Order also provides that the qualifying unit trust must still submit the return or statement of accounts or to furnish any other information under the ITA. In other words, the qualifying unit trust must prepare and submit the respective tax returns within the stipulated deadlines (i.e. within 60 days from the disposal). The current CGT Return Form requires the applicable Exemption Order to be referenced for any exempt disposal.

## **2.0 FSI Oder [P.U.(A) 250/2024]**

- a) Effective from **1 January 2024 to 31 December 2026**, the FSI Order exempts qualifying unit trusts from the payment of income tax in respect of the gross income from all sources under Section 4 of the ITA which is received in Malaysia from outside Malaysia. As such the scope of this exemption includes all foreign-sourced income and gross income on disposal of capital assets arising from outside Malaysia.

*[Note: With reference to Section 61(1)(b) of the Act, gains from realisation of investments (other than real property) are treated as income under Section 4(aa) of the Act from 1 January 2024.]*

- b) Under the FSI Order, the term “qualifying unit trust” refers to a unit trust resident in Malaysia managed by a management company, and the qualifying unit trust has income received in Malaysia from outside Malaysia but excludes unit trusts approved by the Securities Commission as Real Estate Investment Trusts (REITs) or Property Trust Funds listed on Bursa Malaysia. The FSI Order also defines “management company”.
- c) The qualifying unit trust or the management company of the qualifying trust must meet with the conditions outlined by the Director General under Section 134A of the ITA, including:
  - i. The gross income of the qualifying unit trust has been subjected to tax of a similar character to income tax under the law of the territory which the income arises and the highest rate of tax of a similar character to income tax under the law of the territory which the income arises at that time is not less than 15%: or
  - ii. The management company of the qualifying unit trust employs an adequate number of employees in Malaysia and incur an adequate amount of operating expenditure in Malaysia.
- d) The FSI Order specifies that any deduction related to the exempted income shall be disregarded when determining the chargeable income of the qualifying unit trust. Consequently, the qualifying unit trust must identify expenses which are attributable to the derivation of the exempted foreign source income. Additional guidance is needed to clarify whether special deduction for expenses under Section 63B of the Act needs to be apportioned and allocated to the exempted foreign source income.
- e) Similar to the CGT Order, qualifying unit trusts under the FSI Order must continue to comply to the requirement to submit the return or statement of accounts or to furnish any other information under the ITA.

Enclosed are copies of the gazette orders for your reference.

For organisation-specific clarification, please be advised to consult your respective tax advisors. Should you require further information or clarification on behalf of the industry, contact the Industry Development Team at [ID@fimm.com.my](mailto:ID@fimm.com.my).

Thank you.

Yours faithfully



**Heow Yen Fen**  
**General Manager, Industry Services Division**  
**FEDERATION OF INVESTMENT MANAGERS MALAYSIA**



20 September 2024  
20 September 2024  
P.U. (A) 249

WARTA KERAJAAN PERSEKUTUAN

*FEDERAL GOVERNMENT  
GAZETTE*

PERINTAH CUKAI PENDAPATAN  
(UNIT AMANAH) (PENGEQUALIAN) 2024

*INCOME TAX (UNIT TRUST) (EXEMPTION) ORDER 2024*

DISIARKAN OLEH/  
PUBLISHED BY  
JABATAN PEGUAM NEGARA/  
ATTORNEY GENERAL'S CHAMBERS

AKTA CUKAI PENDAPATAN 1967

PERINTAH CUKAI PENDAPATAN (UNIT AMANAH) (PENGECUALIAN) 2024

PADA menjalankan kuasa yang diberikan oleh perenggan 127(3)(b) Akta Cukai Pendapatan 1967 [*Akta 53*], Menteri membuat perintah yang berikut:

**Nama dan permulaan kuat kuasa**

1. (1) Perintah ini bolehlah dinamakan **Perintah Cukai Pendapatan (Unit Amanah) (Pengecualian) 2024**.

(2) Perintah ini berkuat kuasa mulai 1 Januari 2024 hingga 31 Disember 2028.

**Pengecualian**

2. (1) Menteri mengecualikan suatu unit amanah yang layak yang bermastautin di Malaysia daripada pembayaran cukai pendapatan berkenaan dengan apa-apa laba atau keuntungan yang diterima daripada pelupusan syer suatu syarikat yang diperbadankan di Malaysia yang tidak tersenarai di bursa saham dan daripada pelupusan syer di bawah seksyen 15c Akta.

(2) Bagi maksud Perintah ini, unit amanah yang layak yang disebut dalam subperenggan (1) tidak termasuk suatu unit amanah yang diluluskan oleh Suruhanjaya Sekuriti sebagai Amanah Pelaburan Harta Tanah atau Tabung Amanah Harta yang tersenarai di Bursa Malaysia.

(3) Pelupusan syer yang disebut dalam subperenggan (1) hendaklah dibuat mulai 1 Januari 2024 hingga 31 Disember 2028.

(4) Tiada apa-apa jua dalam subperenggan (1) boleh melepaskan atau disifatkan telah melepaskan unit amanah yang layak itu daripada mematuhi apa-apa kehendak untuk mengemukakan apa-apa penyata atau penyata akaun atau untuk memberikan apa-apa maklumat lain di bawah Akta.

**Kerugian daripada pelupusan syer**

3. Dalam menentukan pendapatan kena cukai yang dikecualikan di bawah subperenggan 2(1), apa-apa kerugian daripada pelupusan syer itu hendaklah dibenarkan sebagai potongan mengikut subseksyen 65E(5) dan (6) Akta.

**Ketidakpakaian**

4. Perintah ini tidak terpakai bagi pelupusan syer yang disebut dalam subperenggan 2(1) yang laba atau keuntungan daripada pelupusan syer itu dikenakan cukai sebagai suatu pendapatan perniagaan di bawah perenggan 4(a) Akta.

Dibuat 19 September 2024

[MOF.TAX(S)700-2/1/261;LHDN.AY.A 600-12/1/7(29)-365; PN(PU2)80/JLD.112]

DATUK SERI AMIR HAMZAH AZIZAN  
*Menteri Kewangan II*

*[Akan dibentangkan di Dewan Rakyat menurut subseksyen 127(4) Akta Cukai Pendapatan 1967]*

## INCOME TAX ACT 1967

## INCOME TAX (UNIT TRUST) (EXEMPTION) ORDER 2024

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

**Citation and commencement**

1. (1) This order may be cited as the **Income Tax (Unit Trust) (Exemption) Order 2024**.

(2) This Order has effect from 1 January 2024 to 31 December 2028.

**Exemption**

2. (1) The Minister exempts a qualifying unit trust resident in Malaysia from the payment of income tax in respect of any gains or profit received from the disposal of shares of a company incorporated in Malaysia which is not listed on the stock exchange and from the disposal of shares under section 15C of the Act.

(2) For the purposes of this Order, the qualifying unit trust referred to in subparagraph (1) shall not include a unit trust which is approved by the Securities Commission as a Real Estate Investment Trust or Property Trust Fund listed on Bursa Malaysia.

(3) The disposal of shares referred to in subparagraph (1) shall be made from 1 January 2024 to 31 December 2028.

(4) Nothing in subparagraph (1) shall absolve or be deemed to have absolved the qualifying unit trust from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the Act.



**Loss from disposal of shares**

3. In ascertaining the chargeable income exempted under subparagraph 2(1), any loss from the disposal of shares shall be allowed as a deduction in accordance with subsections 65E(5) and (6) of the Act.

**Non-application**

4. This Order shall not apply to a disposal of shares referred to in subparagraph 2(1) where gains or profits from the disposal of shares is chargeable to tax as a business income under paragraph 4(a) of the Act.

Made 19 September 2024

[MOF.TAX(S)700-2/1/261;LHDN.AY.A 600-12/1/7(29)-365; PN(PU2)80/JLD.112]

DATUK SERI AMIR HAMZAH AZIZAN  
*Minister of Finance II*

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



20 September 2024  
20 September 2024  
P.U. (A) 250

WARTA KERAJAAN PERSEKUTUAN

*FEDERAL GOVERNMENT  
GAZETTE*

PERINTAH CUKAI PENDAPATAN  
(UNIT AMANAH BERHUBUNG DENGAN PENDAPATAN  
YANG DITERIMA DI MALAYSIA DARI LUAR MALAYSIA)  
(PENGECCUALIAN) 2024

*INCOME TAX (UNIT TRUST IN RELATION TO INCOME  
RECEIVED IN MALAYSIA FROM OUTSIDE MALAYSIA)  
(EXEMPTION) ORDER 2024*

DISIARKAN OLEH/  
PUBLISHED BY  
JABATAN PEGUAM NEGARA/  
ATTORNEY GENERAL'S CHAMBERS

AKTA CUKAI PENDAPATAN 1967

PERINTAH CUKAI PENDAPATAN (UNIT AMANAH BERHUBUNG DENGAN PENDAPATAN YANG DITERIMA DI MALAYSIA DARI LUAR MALAYSIA) (PENGECCUALIAN) 2024

PADA menjalankan kuasa yang diberikan oleh perenggan 127(3)(b) Akta Cukai Pendapatan 1967 [Akta 53], Menteri membuat perintah yang berikut:

**Nama dan permulaan kuat kuasa**

1. (1) Perintah ini bolehlah dinamakan **Perintah Cukai Pendapatan (Unit Amanah berhubung dengan Pendapatan yang Diterima di Malaysia dari Luar Malaysia) (Pengeccualian) 2024**.

(2) Perintah ini berkuat kuasa mulai 1 Januari 2024 hingga 31 Disember 2026.

**Pengeccualian**

2. (1) Menteri mengeccualikan suatu unit amanah yang layak daripada pembayaran cukai pendapatan berkenaan dengan pendapatan kasar daripada semua punca pendapatan di bawah seksyen 4 Akta yang diterima di Malaysia dari luar Malaysia dalam tempoh asas bagi suatu tahun taksiran.

(2) Unit amanah yang layak yang disebut dalam subperenggan (1) hendaklah suatu unit amanah yang bermastautin di Malaysia yang diuruskan oleh syarikat pengurusan dan unit amanah yang layak itu mempunyai pendapatan yang diterima di Malaysia dari luar Malaysia tetapi tidak termasuk suatu unit amanah yang diluluskan oleh Suruhanjaya Sekuriti sebagai Amanah Pelaburan Harta Tanah atau Tabung Amanah Harta yang tersenarai di Bursa Malaysia.

(3) Bagi maksud Perintah ini, unit amanah yang layak atau syarikat pengurusan bagi unit amanah yang layak itu hendaklah, dalam tempoh asas bagi suatu tahun taksiran, mematuhi syarat yang dikenakan oleh Menteri sebagaimana yang dinyatakan dalam garis panduan yang dikeluarkan oleh Ketua Pengarah di bawah seksyen 134A Akta, yang hendaklah termasuk syarat yang berikut:

- (a) pendapatan kasar unit amanah yang layak itu telah tertakluk kepada cukai yang serupa sifatnya dengan cukai pendapatan di bawah undang-undang wilayah yang pendapatan itu terbit dan kadar tertinggi cukai yang serupa sifatnya dengan cukai pendapatan di bawah undang-undang wilayah yang pendapatan itu terbit pada masa itu adalah tidak kurang daripada lima belas peratus; atau
- (b) syarikat pengurusan bagi unit amanah yang layak itu hendaklah mengambil kerja bilangan pekerja yang mencukupi di Malaysia dan melakukan amaun perbelanjaan operasi yang mencukupi di Malaysia.

(4) Apa-apa potongan berhubung dengan pendapatan yang dikecualikan di bawah perenggan ini tidak diambil kira bagi maksud menentukan pendapatan kena cukai unit amanah yang layak itu.

(5) Tiada apa-apa jua dalam perenggan ini boleh melepaskan atau disifatkan telah melepaskan unit amanah yang layak itu daripada mematuhi apa-apa kehendak untuk mengemukakan apa-apa penyata atau penyata akaun atau untuk memberikan apa-apa maklumat lain di bawah Akta.

(6) Bagi maksud perenggan ini, “syarikat pengurusan” ertinya suatu syarikat yang dilesenkan oleh Suruhanjaya Sekuriti yang melaluinya atau yang bagi pihaknya suatu unit suatu unit amanah yang layak—

- (a) telah atau dicadangkan untuk diterbitkan, atau ditawarkan bagi langganan atau pembelian; atau
- (b) yang berkenaan dengannya suatu pelawaan untuk melanggan atau membeli telah dibuat,

dan termasuklah mana-mana orang yang pada masa itu menjalankan fungsi syarikat pengurusan itu.

**Ketidakpakaian**

3. Perintah ini tidak terpakai bagi unit amanah yang layak yang menjalankan perniagaan perbankan, insurans, pengangkutan laut atau pengangkutan udara.

Dibuat 19 September 2024

[Perb.MOF.TAX(S)700-2/7/758; Perb.LHDN.AY.A600-12/1/7(29)-348; PN(PU2)80/JLD.112]

DATUK SERI AMIR HAMZAH AZIZAN  
*Menteri Kewangan II*

*[Akan dibentangkan di Dewan Rakyat menurut subseksyen 127(4)  
Akta Cukai Pendapatan 1967]*

INCOME TAX ACT 1967

INCOME TAX (UNIT TRUST IN RELATION TO INCOME RECEIVED IN MALAYSIA  
FROM OUTSIDE MALAYSIA) (EXEMPTION) ORDER 2024

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [*Act 53*], the Minister makes the following order:

**Citation and commencement**

1. (1) This order may be cited as the **Income Tax (Unit Trust in relation to Income Received in Malaysia from Outside Malaysia) (Exemption) Order 2024**.

(2) This Order has effect from 1 January 2024 to 31 December 2026.

**Exemption**

2. (1) The Minister exempts a qualifying unit trust from the payment of income tax in respect of the gross income from all sources of income under section 4 of the Act which is received in Malaysia from outside Malaysia in the basis period for a year of assessment.

(2) The qualifying unit trust referred to in subparagraph (1) shall be a unit trust resident in Malaysia managed by a management company and the qualifying unit trust has income received in Malaysia from outside Malaysia but does not include a unit trust which is approved by the Securities Commission as Real Estate Investment Trust or Property Trust Fund listed on Bursa Malaysia.

(3) For the purposes of this Order, the qualifying unit trust or the management company of the qualifying unit trust shall, in the basis period for a year of assessment, comply with the conditions imposed by the Minister as specified in the guidelines issued by the Director General under section 134A of the Act, which shall include the following conditions:

- (a) the gross income of the qualifying unit trust has been subjected to tax of a similar character to income tax under the law of the territory which the income arises and the highest rate of tax of a similar character to income tax under the law of the territory which the income arises at that time is not less than fifteen per cent; or
- (b) the management company of the qualifying unit trust shall employ an adequate number of employees in Malaysia and incur an adequate amount of operating expenditure in Malaysia.

(4) Any deduction in relation to the income exempted under this paragraph shall be disregarded for the purpose of ascertaining the chargeable income of the qualifying unit trust.

(5) Nothing in this paragraph shall absolve or be deemed to have absolved the qualifying unit trust from complying with any requirement to submit any return or statement of account or to furnish any other information under the Act.

(6) For the purposes of this paragraph, “management company” means a company licensed by the Securities Commission by which or on whose behalf a unit of a qualifying unit trust—

- (a) has been or is proposed to be issued, or offered for subscription or purchase; or
- (b) in respect of which an invitation to subscribe or purchase has been made,

and includes any person for the time being exercising the functions of the management company.

**Non-application**

3. This Order shall not apply to a qualifying unit trust carrying on the business of banking, insurance, sea transport or air transport.

Made 19 September 2024

[Perb.MOF.TAX(S)700-2/7/758; Perb.LHDN.AY.A600-12/1/7(29)-348; PN(PU2)80/JLD.112]

DATUK SERI AMIR HAMZAH AZIZAN  
*Minister of Finance II*

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