



INLAND REVENUE BOARD OF MALAYSIA

RESIDENCE STATUS OF INDIVIDUALS

PUBLIC RULING NO. 11/2017

Translation from the original Bahasa Malaysia text

DATE OF PUBLICATION: 22 DECEMBER 2017



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Published by
Inland Revenue Board of Malaysia

Second edition

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DIRECTOR GENERAL'S PUBLIC RULING

Section 138A of the Income Tax Act 1967 (ITA) provides that the Director General is empowered to make a Public Ruling in relation to the application of any provisions of the ITA.

A Public Ruling is published as a guide for the public and officers of the Inland Revenue Board of Malaysia. It sets out the interpretation of the Director General in respect of the particular tax law and the policy as well as the procedure applicable to it.

The Director General may withdraw this Public Ruling either wholly or in part, by notice of withdrawal or by publication of a new ruling.

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

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1. Objective

The objective of this Public Ruling (PR) is to explain the determination of residence status for individuals.

2. Relevant Provisions of the Law

- 2.1 This PR takes into account laws which are in force as at the date this PR is published.
- 2.2 The provision of the Income Tax Act 1967 (ITA) related to this PR is section 7.
- 2.3 The relevant subsidiary law referred to in this PR is Income Tax (Exemption) (No. 7) Order 2008 [P.U. (A) 351/2008] and Income Tax (Exemption) (No. 7) (Amendment) Order 2009 [P.U. (A) 211/2009].

3. Interpretation

The words used in this PR have the following meaning:

- 3.1 "Non-resident individual" means an individual other than a resident individual.
- 3.2 "Resident individual" is an individual resident in Malaysia for the basis year for a year of assessment (YA) as determined under section 7 of the ITA.

4. Significance of Residence Status

4.1 Residence status for income tax purposes

Residence status is a question of fact and is one of the main criteria that determines an individual's liability to Malaysian income tax. Liability to tax is determined on a year to year basis.

4.2 Tax treatment of resident and non-resident individuals

The residence status of an individual liable to tax in Malaysia determines whether an individual is taxed as a resident or a non-resident of Malaysia. The basic distinction in the tax treatment of an individual who is a resident or a non-resident of Malaysia is as follows:

Item	Resident	Non-Resident
Tax rate	Taxed at the rate as specified in Paragraph 1, Part I, Schedule 1 of the ITA	Taxed at the rate as specified in Paragraph 1A, Part I, Schedule 1 of the ITA

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Item	Resident	Non-Resident
Personal relief	Entitled to claim	Not entitled to claim
Rebates	Entitled to claim rebate under subsection 6A(2) of the ITA if chargeable income does not exceed RM35,000	Not entitled to claim
Withholding tax	<p>Certain receipts may be subject to withholding tax such as:</p> <p>i) Distribution of income from real estate investment trust (REITs) (withholding tax under section 109D of the ITA – final tax); and</p> <p>ii) Interest from persons as stated in subsection 109C(4) of the ITA i.e:</p> <ul style="list-style-type: none"> - bank or Islamic bank licensed under the Financial Services Act 2013 or the Islamic Financial Services Act 2013 *; - registered co-operative society *; - Bank Simpanan Nasional; - Bank Pertanian Malaysia; - Lembaga Urusan dan Tabung Haji *; - Malaysia Building Society Bhd *; atau - other institution that maybe approved by the Minister <p>(withholding tax under section 109C of the ITA – final tax).</p> <p>* interest received are exempted under P.U.(A)</p>	<p>Certain receipts may be subject to withholding tax such as:</p> <p>i) Interest¹ (except as exempted) (withholding tax under section 109 of the ITA – final tax);</p> <p>ii) Royalties² (withholding tax under section 109 of the ITA – final tax);</p> <p>iii) Remuneration or other income in respect of services performed or rendered in Malaysia by a public entertainer (withholding tax under section 109A of the ITA – final tax);</p> <p>iv) Special classes of income³ under section 4A of the ITA (withholding tax under section 109B of the ITA – final tax);</p> <p>v) Service portion of contract payments (withholding tax under section 107A of the ITA);</p> <p>vi) Distribution of income from a real estate investment trust⁴ (REITs)</p>

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Item	Resident	Non-Resident
	211/2009]	<p>exempted under section 61A of the ITA (withholding tax under section 109D of the ITA – final tax);</p> <p>vii) Distribution of income of a family fund, family <i>re-takaful</i> or general fund under section 60AA of the ITA (withholding tax under section 109E of the ITA; and</p> <p>viii) Other income⁵ falling under paragraph 4(f) of the ITA (withholding tax under section 109F of the ITA - final tax)</p>

¹⁻⁵ Reference has to be made to the relevant agreements for the avoidance of double taxation for any variation in tax rates, if applicable.

5. Determination of Residence Status

- 5.1 Generally, the resident status of an individual for a basis year for a YA is determined by reference to the physical presence of that individual in Malaysia and not by his nationality or citizenship. In certain situations, the physical presence for the basis years preceding and following a particular YA has to be taken into consideration also in determining the residence status of an individual.
- 5.2 If an individual resides in Malaysia permanently, the question of determining his residence status would not arise. However, citizens of Malaysia are not automatically tax residents. The rules governing the determination of residence status will still apply.
- 5.3 In determining the residence status, an individual is considered to be physically present in Malaysia for a whole day although he is present in Malaysia for part(s) of a day.

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Example 1

Damien, a senior accountant at a holding company in Australia was sent by his employer to examine and assist in the accounts of the company's branch in Malaysia. His period of stay in Malaysia was as follows:

Date of Arrival	Date of Departure	Number of Days
1.1.2017 (11p.m.)	11.1.2017 (2a.m.)	11

Damien was present in Malaysia in the year 2017 for a period of 11 days.

6. Circumstances Determining Residence Status

There are 4 sets of circumstances in which an individual can qualify as a resident in Malaysia for the basis year for a YA. If an individual does not fall within any of these 4 categories, then he is a non-resident for that basis year.

6.1 In Malaysia for 182 days or more in a basis year
[Paragraph 7(1)(a) of the ITA]

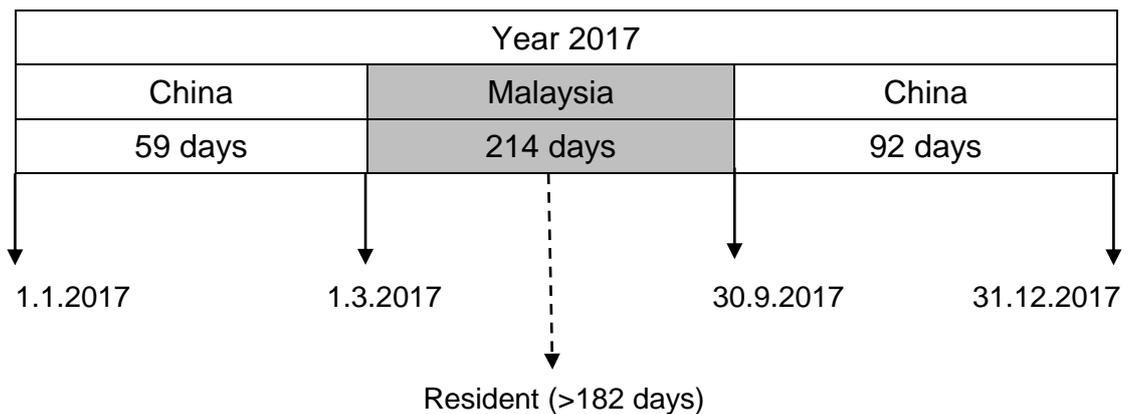
If an individual is in Malaysia in the basis year for a YA for a period or periods amounting in all to 182 days or more, he is resident in Malaysia for that basis year.

Example 2

Marion Woo, a viticulturist from China was in Malaysia to conduct a research project. Her period of stay in Malaysia was as follows:

Period of Stay in Malaysia	Number of Days
1.3.2017 - 30.9.2017	214

The situation is summarized as follows:



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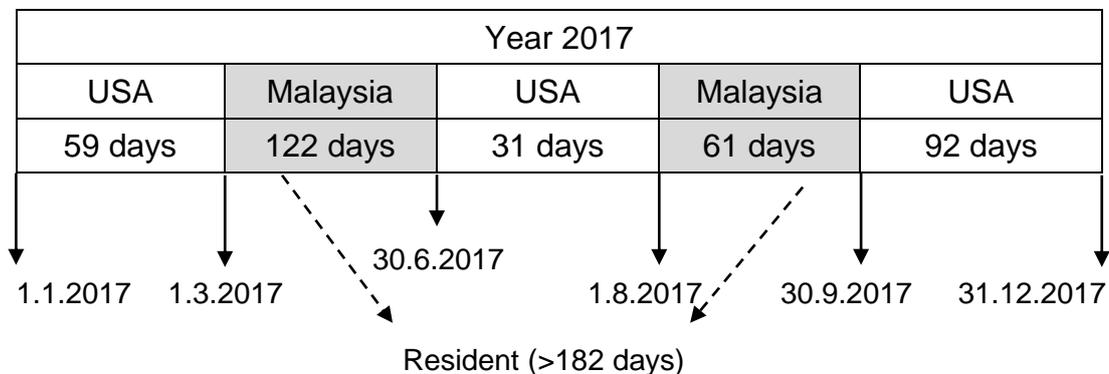
Marion was a resident in Malaysia for the basis year for the YA 2017 because he was present in Malaysia for more than 182 days in the year 2017.

Example 3

Josephine, a talented self-employed computer programmer from the United States of America (USA) was in Malaysia to carry out contract works for a multinational company. Her period of stay in Malaysia was as follows:

Period of Stay in Malaysia	Number of Days
1.3.2017 - 30.6.2017	122
1.8.2017 - 30.9.2017	61
	} = 183

The situation is summarized as follows:



Josephine was a resident in Malaysia for the basis year for the YA 2017 since she was present in Malaysia for periods amounting to more than 182 days in the year 2017.

Note:

The period of stay in Malaysia does not have to be consecutive days.

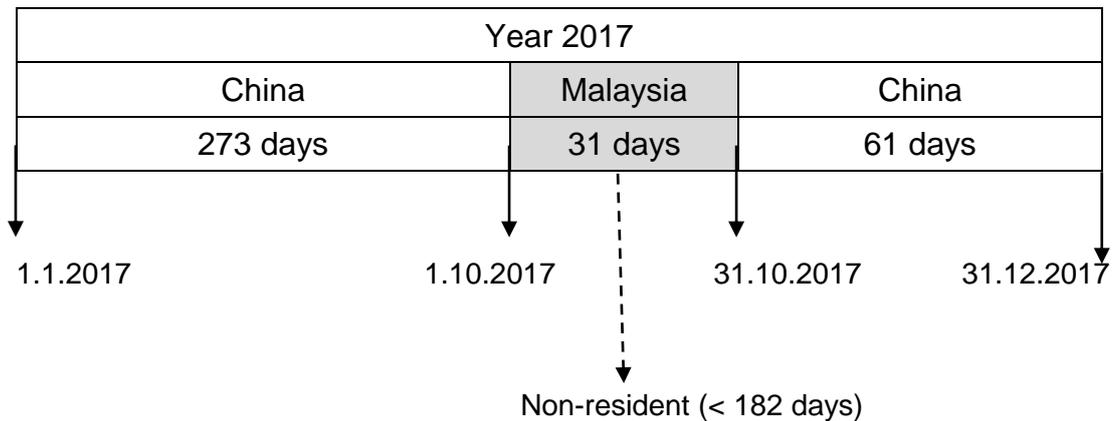
Example 4

Aniq, a businessman from China was in Malaysia to promote the sale of his products at an international trade fair in Kuala Lumpur. His period of stay was as follows:

Period of Stay In Malaysia	Number of Days
1.10.2017 - 31.10.2017	31

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The situation is summarized as follows:



Aniq was a non-resident in Malaysia for the basis year for the YA 2017 as he was present in Malaysia for less than 182 days in the year 2017.

6.2 In Malaysia for less than 182 days in a basis year
 [Paragraph 7(1)(b) of the ITA]

6.2.1 If an individual is in Malaysia in the basis year for a particular YA for a period of less than 182 days but the period is linked by or to:

- i) another period of 182 or more consecutive days throughout which he was in Malaysia in the basis year for the YA preceding that particular YA; or
- ii) another period of 182 or more consecutive days throughout which he is in Malaysia in the basis year for the YA immediately following that particular YA

that individual qualifies as a resident in Malaysia for the basis year for that particular YA.

6.2.2 In calculating the period of less than 182 days or the period of 182 days or more consecutive days, relaxation is given where the period of temporary absence (period during which an individual is not in Malaysia) shall be taken to form part of that:

- i) period of less than 182 days; and/or
- ii) period of 182 days or more consecutively,

provided that the individual must be in Malaysia immediately prior to and after that temporary absence.

6.2.3 Temporary absences allowed are –

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- i) absence which is connected with the individual’s service in Malaysia such as attending conferences or seminars or study abroad;
- ii) absence owing to ill-health involving the individual or a member of his immediate family (immediate family means parent, spouse and children); and
- iii) absence in respect of social visits not exceeding 14 days in the aggregate (social visits include any form of vacation outside Malaysia including vacation to home country).

Example 5

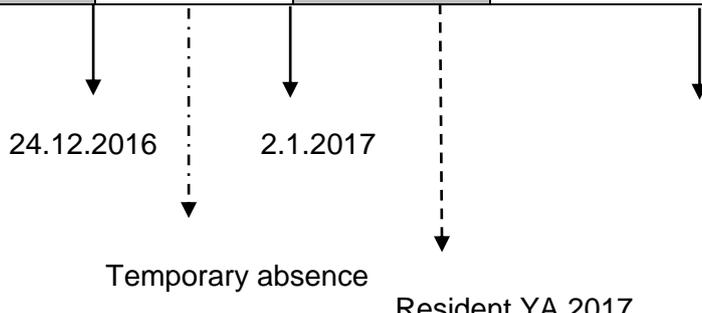
Marshall, a medical doctor was in Malaysia to fulfill a contract with a private hospital. His period of stay in Malaysia and in the United Kingdom (UK) was as follows:

Period of Stay In Malaysia/UK	Number of Days
15.5.2016 - 23.12.2016 (Malaysia)	223
24.12.2016 - 31.12.2016 (UK)	8 (social visit)
1.1.2017 - 2.1.2017 (UK)	2 (social visit)
3.1.2017 - 31.3.2017 (Malaysia)	88

Marshall left Malaysia on 1.4.2017.

The situation is summarized as follows:

Year 2016		Year 2017		
UK	Malaysia	UK	Malaysia	UK
134 days	223 days	10 days	88 days	275 days



Marshall was a resident in Malaysia for the YA 2017 as he was in Malaysia for 88 days in 2017 (that period), which is linked by a

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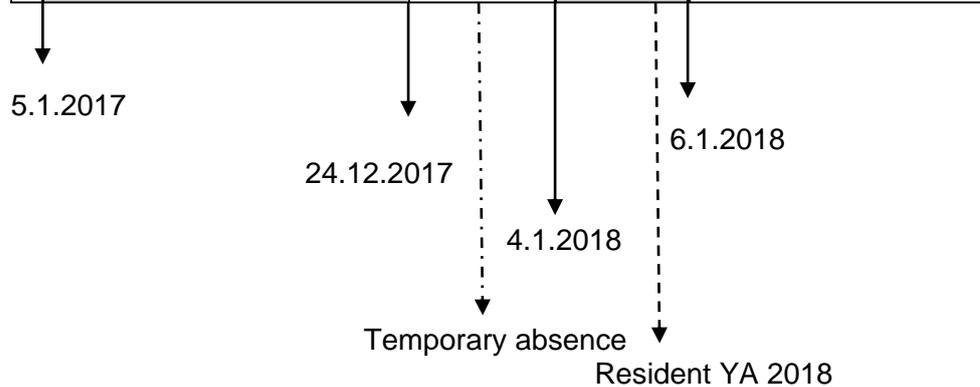
Example 7

The facts are the same as in Example 6 except that Nari Jong returned to Malaysia on 4.1.2018.

Period of Stay in Malaysia/South Korea	Number of Days
5.1.2017 - 23.12.2017 (Malaysia)	353
24.12.2017 - 31.12.2017 (South Korea)	8
1.1.2018 - 3.1.2018 (South Korea)	3
4.1.2018 - 6.1.2018 (Malaysia)	3

The situation is summarized as follows:

Year 2017		Year 2018	
Malaysia (M'sia)	South Korea	M'sia	South Korea
353 days	11 days	3 days	359 days



5.1.2017

24.12.2017

4.1.2018

6.1.2018

Temporary absence

Resident YA 2018

Nari Jong was a resident in Malaysia for the basis year for the YA 2018 as she was in Malaysia for 3 days in 2018 (that period), which is linked by a period of more than 182 consecutive days in 2017 (such period) throughout which she was considered to be in Malaysia although she was temporarily absent for 11 days on a social visit. The temporary absence is considered as part of that period and such period as her social visit did not exceed 14 days and she was in Malaysia before and after the temporary absence.

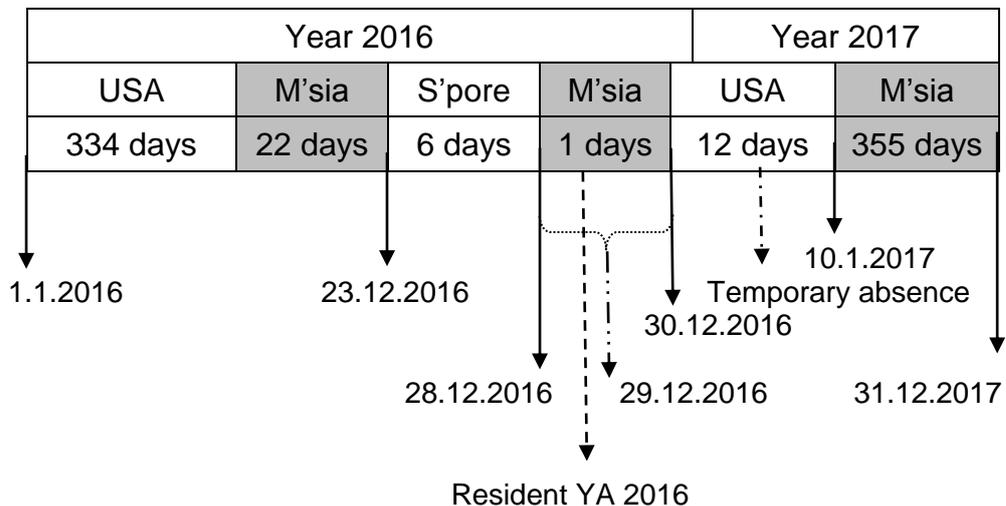
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Example 8

Jenner, a researcher from the USA had the following period of stay in Malaysia, Singapore and USA:

Period of Stay In Malaysia/Singapore/USA	Number of Days
1.12.2016 - 22.12.2016 (Malaysia)	22
23.12.2016 - 28.12.2016 (Singapore)	6 (social visit)
29.12.2016 - 29.12.2016 (Malaysia)	1
30.12.2016 - 31.12.2016 (USA)	2 (social visit)
1.1.2017 - 10.1.2017 (USA)	10 (social visit)
11.1.2017 - 31.12.2017 (Malaysia)	355

The situation is summarized as follows:



Jenner was a resident in Malaysia for the basis year for the YA 2016 because he was in Malaysia for 1 day (29.12.2016) in 2016 (that period), which is linked to a period of more than 182 consecutive days in the year 2017 (such period), throughout which Jenner was considered to be in Malaysia although he was temporarily absent for 12 days on a social visit. The temporary absence is considered as part of that period and such period as the social visit did not exceed 14 days and Jenner was in Malaysia before and after the temporary absence.

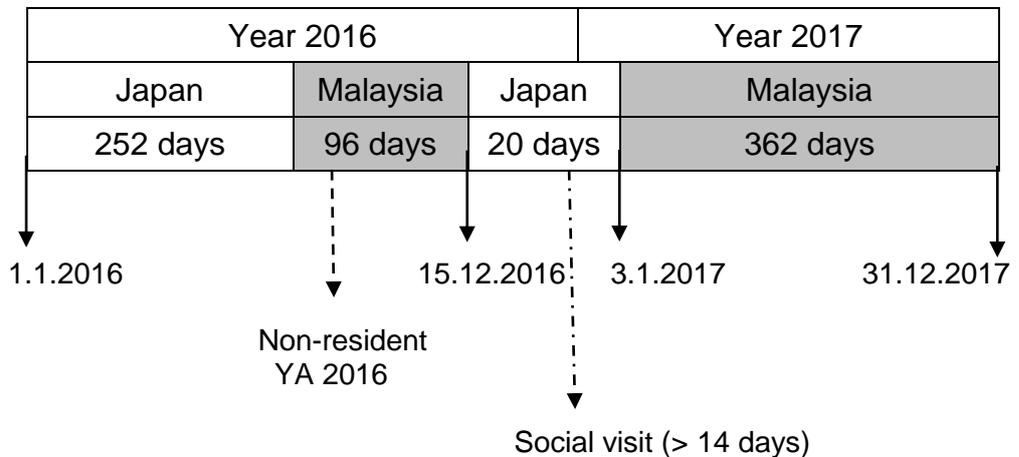
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Example 9

Hideki, a university professor from Japan commenced employment on 10.9.2016 at a local university in Malaysia. His stay in Malaysia and Japan was as follows:

Period of Stay in Malaysia/Japan	Number of Days
10.9.2016 - 14.12.2016 (Malaysia)	96
15.12.2016 - 31.12.2016 (Japan)	17 (social visit)
1.1.2017 - 3.1.2017 (Japan)	3 (social visit)
4.1.2017 - 31.12.2017 (Malaysia)	362

The situation is summarized as follows:



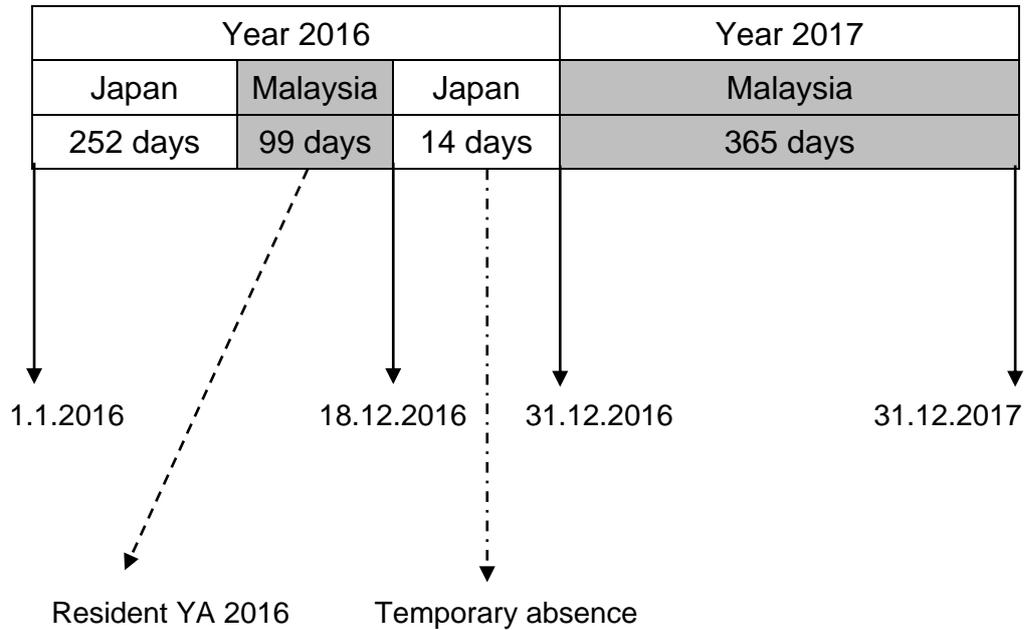
Hideki was a non-resident in Malaysia for the basis year for the YA 2016 as he was in Malaysia for only 96 days in 2016 and that period is not linked to another period of more than 182 days in 2017 since his social visit exceeded 14 days.

Example 10

The facts are the same as in Example 9, except that Hideki left Malaysia on 17.12.2016 and returned to Malaysia on 1.1.2017.

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The situation is summarized as follows:



Hideki was a resident in Malaysia for the YA 2016 as he was in Malaysia for 99 days in 2016 (that period), which is linked to a period of more than 182 consecutive days in 2017 (such period), throughout which Hideki was in Malaysia. The temporary absence is considered as part of that period as the social visit did not exceed 14 days and Hideki was in Malaysia before and after the temporary absence.

Note:

If Hideki had left Malaysia for another social visit not exceeding 14 days within the period from 1.1.2017 to 1.7.2017, then Hideki would not be in Malaysia for a period of more than 182 consecutive days in 2017. The temporary absence in 2017 would not be part of the 182 days or more consecutive days in 2017 as the limit of 14 days for social visits had been utilised in 2016. In such a situation, Hideki will not be considered a resident in Malaysia for the YA 2016.

6.3 In Malaysia for 90 days or more
[Paragraph 7(1)(c) ITA]

6.3.1 If an individual is in Malaysia in the basis year for a particular YA for a period or periods amounting in all to 90 days or more (the days need not be consecutive days), he is resident for that particular YA if in each of any 3 out of 4 YAs immediately preceding that particular YA he was either:

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- i) resident in accordance with section 7 of the ITA; or
- ii) in Malaysia for a period or periods amounting in all to 90 days or more.

Example 11

Jeanette, an advertising director from Singapore has the following periods of stay in Malaysia:

Year	Period of Stay	Number of Days
2013	1.5.2013 - 23.11.2013	207
2014	1.5.2014 - 20.5.2014	20
2015	1.1.2015 - 30.9.2015	273
2016	1.3.2016 - 30.10.2016	244
2017	1.1.2017 - 20.2.2017	51
	1.4.2017 - 31.5.2017	61
		} = 112

The residence status of Jeanette is as follows:

Basis Year	Residence Status	Paragraph
2013	Resident	7(1)(a) ITA
2014	Non-resident	-
2015	Resident	7(1)(a) ITA
2016	Resident	7(1)(a) ITA
2017	Resident	7(1)(c)(i) ITA

For the basis year 2017, Jeanette was a resident in Malaysia pursuant to subparagraph 7(1)(c)(i) of the ITA as –

- i. she was in Malaysia for periods amounting to more than 90 days in the basis year 2017 (112 days); and
- ii. for 3 out of the 4 immediately preceding basis years, she was resident in accordance with section 7 of the ITA (basis years 2013, 2015 and 2016).

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Example 12

Watson, a musician from Poland has the following periods of stay in Malaysia:

Year	Period of Stay	Number of Days
2013	1.10.2013 - 15.10.2013	15
2014	1.3.2014 - 31.3.2014 1.5.2014 - 30.6.2014	31 } 61 } = 92
2015	1.4.2015 - 15.7.2015	106
2016	1.10.2016 - 31.12.2016	92
2017	1.8.2017 - 30.11.2017	122

The residence status of Watson is as follows:

Basis Year	Residence Status	Paragraph
2013	Non-resident	-
2014	Non-resident	-
2015	Non-resident	-
2016	Non-resident	-
2017	Resident	7(1)(c)(ii) ITA

For the basis year 2017, Watson was a resident in Malaysia pursuant to subparagraph 7(1)(c)(ii) of the ITA as –

- i. he was in Malaysia for a period amounting to more than 90 days in the basis year 2017 (122 days); and
- ii. for 3 out of 4 immediately preceding basis years, he was in Malaysia for a period or periods amounting in all to 90 days or more in the basis year in question (basis years 2014, 2015, 2016).

- 6.3.2 An individual need not be resident in Malaysia for all 3 out of 4 immediately preceding basis years or be in Malaysia for 90 days or more for all 3 out of 4 immediately preceding basis years. It will suffice if he is resident for 2 of those basis years and present in Malaysia for 90 days or more in one of those basis years or vice versa.

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Example 13

Oliver, a chef from Italy has the following periods of stay in Malaysia:

Year	Period of Stay	Number of Days
2013	1.5.2013 - 20.5.2013	20
2014	1.1.2014 - 31.12.2014	365
2015	1.1.2015 - 21.1.2015	21
2016	1.6.2016 - 31.8.2016	92
2017	1.1.2017 - 30.4.2017	120

The resident status of Oliver is as follows:

Basis Year	Residence Status	Paragraph
2013	Non-resident	-
2014	Resident	7(1)(a) ITA
2015	Resident	7(1)(b) ITA
2016	Non-resident	-
2017	Resident	7(1)(c) ITA

For the basis year 2017, Oliver was a resident in Malaysia by virtue of paragraph 7(1)(c) of the ITA as:

- i. he was in Malaysia for a period amounting to more than 90 days in the basis year 2017 (120 days); and
- ii. in 3 out of 4 immediately preceding basis years he was resident (basis year 2014 and 2015) and was in Malaysia for more than 90 days (basis year 2016).

- 6.3.3 If an individual is in Malaysia in the basis year for a particular YA for a period or periods amounting in all to 90 days or more (the days need not be consecutive days), he is resident for that particular YA if he is either a resident or present in Malaysia for 90 days or more in each of the 3 YAs preceding that particular YA.

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Example 14

Lennard, a geologist from United Kingdom has the following periods of stay in Malaysia:

Year	Period of Stay	Number of Days
2013	Was not in Malaysia	-
2014	1.5.2014 - 31.12.2014	245
2015	1.1.2015 - 31.12.2015	365
2016	1.1.2016 - 30.4.2016	121
	1.6.2016 - 1.8.2016	62
		} = 183
2017	1.1.2017 - 1.4.2017	91

The residence status of Lennard is as follows:

Basis Year	Residence Status	Paragraph
2013	Non-resident	-
2014	Resident	7(1)(a) ITA
2015	Resident	7(1)(a) ITA
2016	Resident	7(1)(a) ITA
2017	Resident	7(1)(c) ITA

For the basis year 2017, Lennard was a resident in Malaysia by virtue of paragraph 7(1)(c) of the ITA as:

- i. he was in Malaysia for a period amounting to more than 90 days in the basis year 2017 (91 days); and
- ii. in 3 out of 4 immediately preceding basis years he was resident in Malaysia (basis years 2014, 2015 and 2016).

Example 15

Hadid, a computer analyst from India has the following periods of stay in Malaysia:

Year	Period of Stay	Number of Days
2014	1.3.2014 - 10.12.2014	285
2015	16.3.2015 - 31.5.2015	77
	1.6.2015 - 25.8.2015	86
	28.10.2015 - 31.12.2015	65
		} = 228
2016	1.6.2016 - 1.7.2016	61

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Year	Period of Stay	Number of Days
	15.9.2016 - 5.12.2016	82 = 143
2017	1.2.2017 - 15.5.2017	104

The residence status of Hadid is as follows:

Basis Year	Residence Status	Paragraph
2014	Resident	7(1)(a) ITA
2015	Resident	7(1)(a) ITA
2016	Non-resident	-
2017	Resident	7(1)(c) ITA

For the basis year 2017, Hadid was a resident in Malaysia by virtue of paragraph 7(1)(c) of the ITA as:

- i. he was in Malaysia for a period amounting to more than 90 days in the basis year 2017 (104 days); and
- ii. in 3 out of 4 immediately preceding basis years he was resident (basis years 2014 and 2015) and was in Malaysia for more than 90 days (basis year 2016).

- 6.4 Not in Malaysia or in Malaysia for a period of less than 90 days in the basis year
[Paragraph 7(1)(d) ITA]

An individual is considered to be resident for the basis year for a YA if he is resident for the immediately following basis year and had been resident for the 3 immediately preceding basis years. Therefore, an individual can be a resident in Malaysia pursuant to paragraph 7(1)(d) of the ITA even though he might never actually have been in Malaysia at all during that basis year.

Example 16

Rasputin, a lecturer from Russia had the following period of stay in Malaysia:

Year	Period of Stay	Number of Days
2013	11.10.2013 - 31.12.2013	82
2014	1.1.2014 - 31.12.2014	365
2015	1.1.2015 - 30.9.2015	274

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Year	Period of Stay	Number of Days
2016	1.4.2016 - 4.4.2016	4
2017	1.4.2017 - 31.12.2017	275

The residence status of Rasputin is as follows:

Basis Year	Residence Status	Paragraph
2013	Resident	7(1)(b) ITA
2014	Resident	7(1)(a) ITA
2015	Resident	7(1)(a) ITA
2016	Resident	7(1)(d) ITA
2017	Resident	7(1)(a) ITA

For the YA 2016, Rasputin was a resident in Malaysia although he was in Malaysia for only 4 days as he:

- i. was a resident in the basis year 2017, that is the following basis year; and
- ii. had been a resident for each of the 3 immediate preceding basis years i.e. 2013, 2014 and 2015.

Example 17

Andy Chou, an accountant from Hong Kong has the following periods of stay in Malaysia:

Year	Period of Stay	Number of Days
2013	1.1.2013 - 31.10.2013	304
2014	1.1.2014 - 31.12.2014	365
2015	1.1.2015 - 21.1.2015	21
2016	Was not in Malaysia	-
2017	15.5.2017 - 23.12.2017	223

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The residence status of Andy Chou is as follows:

Basis Year	Residence Status	Paragraph
2013	Resident	7(1)(a) ITA
2014	Resident	7(1)(a) ITA
2015	Resident	7(1)(b) ITA
2016	Resident	7(1)(d) ITA
2017	Resident	7(1)(a) ITA

Even though Andy Chou was not in Malaysia in the basis year 2016, he was a resident in Malaysia for that basis year as he –

- i. was resident for the basis year 2017, that is the following basis year; and
- ii. was resident for each of the 3 immediately preceding basis years i.e. 2013, 2014 and 2015.

6.5 Malaysian citizens employed in the public service/statutory authority [Subsection 7(1B) of the ITA]

A Malaysian citizen is deemed a resident in Malaysia for the basis year for a particular YA if he is:

- i) employed in the public services or service of a statutory authority in Malaysia; and
- ii) not in Malaysia at any day in the basis year for that particular YA by reason of -
 - a) having or exercising his employment outside Malaysia; or
 - b) attending any course of study in any institution or professional body outside Malaysia which is fully sponsored by the employer.

Example 18

Ikmal, a Malaysian ambassador to the USA had the following period of stay in Malaysia/USA:

Period of Stay in Malaysia/USA	Number of Days
1.1.2016 - 31.12.2016 (USA)	365
1.1.2017 - 15.1.2017 (Malaysia)	15
16.1.2017 - 31.12.2017 (USA)	350

For the YA 2016 and 2017, Ikmal is deemed a resident in Malaysia pursuant to subsection 7(1B) of the ITA because he:

- i. is a citizen of Malaysia;
- ii. is employed in the public services in Malaysia; and
- iii. is exercising his employment outside Malaysia by virtue of his employment which requires him to carry out his duties overseas.

Example 19

Zalikha, a Malaysian citizen was married to a French national in 2012. Since her marriage, she has resided in France and only visited her family in Malaysia for periods of less than two weeks in each year. When the Malaysian Tourism representative office in France needed a French translator, Zalikha applied for the post and was recruited on 1.3.2017.

For the year of assessment 2017 and subsequent years, Zalikha is not deemed a resident of Malaysia although she is a Malaysian citizen and working with a Malaysian government agency in France. This is because she was locally recruited in France and is not considered an employee in the public services or a statutory authority in Malaysia.

Example 20

Johan, a Malaysian citizen is an employee of the Malaysia External Trade Development Corporation. He was posted to Chengdu, China to serve at the representative office as a trade commissioner. His period of stay in Malaysia/China was as follows:

Period of Stay in Malaysia/China	Number of Days
1.1.2016 - 31.5.2016 (Malaysia)	152
1.6.2016 - 31.12.2016 (China)	214
1.1.2017 - 31.12.2017 (China)	365

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For the YA 2016 and 2017, Johan is deemed a resident of Malaysia pursuant to subsection 7(1B) of the ITA because he is:

- i. a citizen of Malaysia;
- ii. employed in the service of a statutory authority in Malaysia; and
- iii. exercising his employment outside Malaysia as he is required by his employer, a statutory body in Malaysia, to work in China.

Example 21

Imran, an officer with the Ministry of Tourism went on study leave to pursue an MBA course in the United Kingdom (UK). He was sponsored by the Government of Malaysia. His period of stay in Malaysia and UK was as follows:

Period of Stay In Malaysia/UK	Number of Days
1.1.2016 - 1.4.2016 (Malaysia)	92
2.4.2016 - 31.12.2016 (UK)	274
1.1.2017 - 31.12.2017 (UK)	365

For the YAs 2016 and 2017, Imran is deemed to be a resident in Malaysia pursuant to subsection 7(1B) of the ITA because he is:

- i. a citizen of Malaysia;
- ii. employed in the public services in Malaysia; and
- iii. attending a course outside Malaysia which is fully-sponsored by his employer, the Government of Malaysia.

Example 22

Elizabeth Yow, a Malaysian citizen works in a multinational company in Kuala Lumpur. After working for a few years, she obtained a full sponsorship from her employer to pursue a bachelor's degree course in Australia. Her period of stay in Malaysia and Australia was as follows:

Period of Stay in Malaysia/Australia	Number of Days
1.1.2016 - 30.11.2016 (Australia)	334
1.12.2016 - 31.12.2016 (Malaysia)	31
1.1.2017 - 10.2.2017 (Malaysia)	41
11.2.2017 - 31.12.2017 (Australia)	324

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For the YAs 2016 and 2017, the residence status of Elizabeth Yow is determined in accordance to subsection 7(1) of the ITA. Subsection 7(1B) of the ITA is not applicable as Elizabeth Yow is not an employee in the public services or a statutory authority in Malaysia.

Elizabeth Yow is a non-resident in Malaysia for the YAs 2016 and 2017 in accordance with subsection 7(1) of the ITA.

7. Dual Residence Status and Agreements for the Avoidance of Double Taxation

7.1 Malaysia has entered into agreements with a number of countries that avoid double taxation by allocating taxing rights over bilateral income flows between the respective treaty partners.

7.2 An individual who is a resident in one of the countries for a basis year may also be a resident of that other country for purposes of a double tax agreement. Where an individual is a resident of both countries, the avoidance of double tax agreements (DTA) generally contain certain *tie breaker* tests to establish residence solely in one of the countries for purposes of the agreement.

7.3 Article 4 of the Malaysian DTA states the test for residence and the tie breaker for dual residence. The tie breaker test provides that a dual resident be treated solely as a resident of the treaty partner country for purposes of the agreement. The terms of the relevant DTA should be referred to when determining tax liability. However, Malaysian resident status is still applicable for purposes of the general application of the domestic law, so that the individual's income remains assessable to Malaysian tax.

8. Updates and Amendment

PR No. 6/2011 has been updated and new paragraphs and examples have been inserted as follows:

	Amendment
This PR replaces the PR No. 6/2011 dated 16.5.2011.	The contents of this PR are essentially the same as in the previous PR with the following amendments:

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	Amendment	
	Paragraph	Explanation
	2.3	This new paragraph is inserted to state the relevant subsidiary law referred to in paragraph 4.2 of this PR.
	4.2	<p>The word 'Schedule 1' is inserted in the table under the 'Tax Rate' item.</p> <p>Item 'Withholding tax' under the 'Resident' column in the table is amended due to the amendment made to subsection 109C(4) of the ITA by Finance Act 2017 [Act 785] which is effective from 30.6.2013 and also to provide further information on the Income Tax (Exemption) (No.7) (Amendment) Order 2009 regarding the interests received by a resident.</p>
	6.2.4	Paragraph 6.2.4 in the previous PR is deleted.
	6.3.3, Example 14 and 15	This new paragraph and examples are inserted to provide further clarification in relation to paragraph 7(1)(c) of the ITA.
	Example 14, 15, 16, 17, 18, 19 and 20	Examples 14, 15, 16, 17, 18, 19 and 20 in the previous PR are renumbered as Examples 16, 17, 18, 19, 20, 21 and 22.

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