

The Impact Of Residence Status On Foreign Sourced Income Remitted To Malaysia

In the Budget 2022 announcement on 29 October 2021, you would have noted that an income tax exemption for foreign-sourced income ("FSI") received in Malaysia by a Malaysian **resident** person (which includes individuals, companies, etc.) will no longer be applicable from 1 January 2022. This means that, moving forward, the exemption for this FSI would only be applicable to a **non-resident** person in Malaysia.

The FSI would possibly include a wide spectrum of classes of income – from foreignsourced business income, employment income and other income, such as commission income, etc. to foreign-sourced passive income, such as dividend, interest and rental income, etc.

In this issue of TaxSnaps, we will look at the circumstances determining the **residence** status of individuals.

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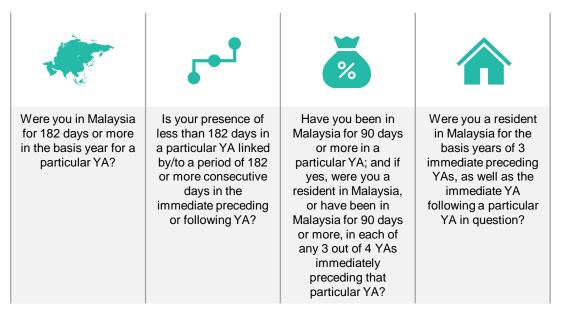
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Most people would have heard of the 182-day test, that is, an individual must be present physically in Malaysia for 182 days or more in a basis year for a particular year of assessment ("YA"), to determine if the individual is a Malaysian tax resident.

However, the 182-day test is not the only test provided in the Income Tax Act 1967 ("ITA").

There are, in fact, 3 further tests that we need to consider in order to determine the residence status of an individual in Malaysia. These tests include the "travelling patterns" of the individual's "in/out" of Malaysia that covers preceding YAs and even, "future" YA!

Here are a few pertinent questions that a tax expert would ask in helping you to determine your tax residence status:



These tax residence tests are intricate, and it is possible for individuals who are not familiar with the nitty-gritty of the Malaysian income tax law to "wrongly" determine their residence status in Malaysia for FSI purposes. It is therefore important to engage tax experts for a proper determination of your tax residence status.



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