INCOME TAX (DEDUCTION FOR INVESTMENT IN AN APPROVED FOOD PRODUCTION PROJECT) RULES 2011

PU (A) 167
29 April 2011

IN exercise of the powers conferred by paragraph 154(1)(b) read together with paragraph 33(1)(d) of the Income Tax Act 1967 [*Act 53*], the Minister makes the following rules:

CITATION AND COMMENCEMENT

1(1) These rules may be cited as the **Income Tax (Deduction for Investment in an Approved Food Production Project) Rules 2011**.

1(2) These Rules are deemed to have come into operation on 1 October 2005.

INTERPRETATION

2 For the purposes of these Rules, unless the context otherwise requires—

"investment" means an investment in the form of cash or holding of paid-up share capital in respect of ordinary shares in a related company;

"approved food production project" means a project in relation to—

(a) planting of kenaf, vegetables, fruits, herbs or spices;
(b) aquaculture;
(c) rearing of cows, buffaloes, goats or sheep; or
(d) deep sea fishing,

and is deemed to be as a separate and distinct business;

"related company" means a company incorporated under the Companies Act 1965 [*Act 125*] where at least 70 per centum of its paid-up share capital in respect of ordinary shares are directly owned by a company that made an investment for the purpose of an approved food production project.

APPLICATION

3 These Rules shall apply to a company incorporated under the Companies Act 1965 and resident in Malaysia—

(a) who has made an investment in its related company undertaking a new approved food production project under the Income Tax (Exemption) (No. 3) Order 2011 [*P.U. (A) 166/2011*]; and
(b) who has made an application to the Minister through the Minister charged with the responsibility for an approved food production project, on or after 1 October 2005 but not later than 31 December 2015.

DEDUCTION

4(1) Subject to these Rules, for the purpose of ascertaining the adjusted income of a company from its business, there shall be allowed as a deduction in the basis period for a year of assessment an amount equivalent to the value of investment for the sole purpose of financing the project referred to in paragraph 3(a) undertaken by the related company.

4(2) The value of investment referred to in subrule (1) which is claimed as a deduction—

(a) shall be equivalent to the expenditure incurred by the related company in the basis period for the same year of assessment;
(b) shall be made for a period and up to an amount as approved by the Minister through the Minister charged with the responsibility for the approved food production project; and
(c) shall not be disposed of within five years from the date of the last investment made if such investment is in the form of holding of paid-up share capital in respect of ordinary shares.

4(3) Subject to subrules (4) and (5), where a company which has made an investment in the form of holding of paid-up share capital in respect of ordinary shares and claimed a deduction in respect of that investment under subrule (1) receives an amount as consideration for the disposal of such shares, the amount so received by that company shall be added in ascertaining its adjusted income for the year of assessment in basis period in which that amount was received.

4(4) The amount referred to in subrule (3) shall not exceed the total deductions allowed in relation to that investment.

4(5) Subrule (3) shall not apply where the disposal of the shares referred to in subrule (3) take place after five years from the date of the last investment in the form of paid-up share capital in respect of ordinary shares is made in the related company.

CESSATION OF DEDUCTION

5 Where an investment is made by a company for the purpose of the project referred to in paragraph 3(a), that deduction to the company shall be ceased in the basis period for a year of assessment in which the period of exemption of the related company commences upon the related company having its first statutory income from that project.

NON-APPLICATION

6 These Rules shall not apply to a company—

(a) which has been granted an exemption for an approved food production project under the Income Tax (Exemption) (No. 3) Order 2011 [*P.U. (A) 166/2011*];
(b) which has been granted an exemption for an approved food production project under the Income Tax (Exemption) (No. 9) Order 2006 [*P.U. (A) 50/2006*]; or
(c) which has been granted an exemption for an approved food production project under the Income Tax (Exemption) (No. 10) Order 2006 [*P.U. (A) 51/2006*].