

INCOME TAX (GREEN TECHNOLOGY INCENTIVE) (ASSET) (ORDER) 2024

PU (A) 243

17th September 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 (Green Technology Incentive) (Asset) (Exemption) Order 2024**.
- 1(2)** This Order is deemed to have come into operation on 25 October 2013.

INTERPRETATION

2 In these Order —

“green technology asset” means a green technology product, equipment or system which is used to conserve the natural environment and resources, to minimize or reduce the negative impact of human activities;

“Malaysian Green Technology and Climate Change Corporation” means a company incorporated under the Companies Act 2016 [Act 777];

“qualifying capital expenditure” means an expenditure as provided under paragraph 4;

“qualifying company” means a company as provided under paragraph 3.

QUALIFYING COMPANY

3 A qualifying company referred to in this Order is a company which—

- (a) is incorporated under the Companies Act 2016 and resident in Malaysia;
- (b) has made an application for a verification of green technology asset in writing to the Malaysian Green Technology and Climate Change Corporation and the application is received—
- i. on or after 25 October 2013 but not later than 31 December 2023; or
 - ii. on or after 1 January 2022 but not later than 31 December 2023 for the purchase of a green technology asset under the rainwater harvesting system;
- (c) has made the application referred to in subparagraph (b) within the period of two years from the date qualifying capital expenditure was incurred by the company in relation to the purchase of a green technology asset;
- (d) has complied with any condition imposed by the Minister in relation to the application referred to in subparagraph (b); and

- (e) has obtained a verification letter for a green technology asset in relation to the application referred to in subparagraph (b).

QUALIFYING CAPITAL EXPENDITURE

- 4(1)** A qualifying capital expenditure referred to in this Order is a capital expenditure incurred by a qualifying company in relation to a purchase of a green technology asset used in Malaysia solely for the purpose of carrying on its business.
- 4(2)** The qualifying capital expenditure referred to in subparagraph (1) shall not include capital expenditure incurred on the purchase of a green technology asset which is provided wholly or partly for the use of a director or an individual who is a member of the management or administration, or clerical staff, of that qualifying company.

EXEMPTION

- 5(1)** The Minister exempts a qualifying company in the basis period for a year of assessment from the payment of income tax in respect of the statutory income derived from its business, which is equivalent to the amount of qualifying capital expenditure incurred by the qualifying company for the purchase of a green technology asset in the basis period for that year of assessment.
- 5(2)** The date of the qualifying capital expenditure incurred by the qualifying company shall be within the period from 25 October 2013 to 31 December 2023.
- 5(3)** Nothing in subparagraph (1) shall absolve or is deemed to have absolved the qualifying company from complying with any requirement to submit any return or statement of account or to furnish any other information under the Act.

STATUTORY INCOME

- 6(1)** Subject to subparagraph (2), the statutory income referred to in subparagraph 5(1) in the basis period for each year of assessment shall be determined after deducting the allowances which falls to be made under Schedule 3 to the Act notwithstanding that no claim for such allowances has been made.
- 6(2)** Where a green technology asset is used for the purpose of carrying on its business is also used for the purposes of other businesses other than the business, then the amount of allowances which falls to be made under Schedule 3 to the Act shall be deducted as is reasonable having regard to the extent to which the green technology asset is used for the purpose of carrying on its business.
- 6(3)** The amount of statutory income so exempt referred to in subparagraph 5(1) shall not exceed seventy per cent for each year of assessment.
- 6(3)** Where, by reason of the restriction of the exemption to seventy per cent of the statutory income pursuant to subparagraph (3) or of the absence or insufficiency of the statutory income of the qualifying company from the business, exemption cannot be granted or cannot be granted in full as the qualifying company is entitled under subparagraph 5(1) for that year of assessment, so much of the amount as cannot be exempt for that year of assessment shall be deemed to be a qualifying capital expenditure incurred for the purposes of subparagraph 5(1) for the first subsequent year of

assessment and so on for subsequent years of assessment until such amount to which the qualifying company is so entitled is exempted.

DISPOSAL OF GREEN TECHNOLOGY ASSET

- 7 Where a qualifying capital expenditure is incurred by a qualifying company on a purchase of a green technology asset that is used for the purposes of its business and such green technology asset is disposed of at any time within the period of five years from the date of acquisition of the green technology asset, the exemption granted in respect of the amount of statutory income which is equal to the amount of such qualifying capital expenditure shall be withdrawn in the basis period for the year of assessment in which the green technology asset is disposed of.

DETERMINATION OF QUALIFYING CAPITAL EXPENDITURE FOR GREEN TECHNOLOGY ASSET DISPOSED TO RELATED COMPANY

- 8(1) Where the qualifying company disposes to its related company any green technology asset in respect of which an exemption is applied by the qualifying company under this Order, the amount of the qualifying capital expenditure incurred by the related company shall be deemed to be a sum equal to zero.
- 8(1) For the purposes of subparagraph (1), “related company” has the meaning assigned to it in subsection 2(1) of the Promotion of Investments Act 1986 [Act 327].

MAINTAINING SEPARATE RECORDS

- 9 The qualifying company shall maintain a separate record for qualifying capital expenditure which the qualifying company incurred for the purposes of exemption under subparagraph 5(1).

NON-APPLICATION

- 10 This Order shall not apply to a qualifying company which in the basis period for a year of assessment—
- (a) has made a claim for reinvestment allowance under Schedule 7A to the Act or investment allowance for service sector under Schedule 7B to the Act in respect of the same green technology asset;
 - (b) has been granted any incentive under the Promotion of Investments Act 1986 except for—
 - i. pioneer status; or
 - ii. investment tax allowance in respect of an asset which has not been granted exemption under this Order;
 - (c) has been granted an exemption under paragraph 127(3)(b) or subsection 127(3A) of the Act except—
 - i. the Income Tax (Exemption) (No. 11) Order 2006 [P.U. (A) 112/2006];
 - ii. the Income Tax (Exemption) (No. 12) Order 2006 [P.U. (A) 113/2006] in respect of an asset which has not been granted exemption under this Order;

- iii. the Income Tax (Exemption) (No. 22) Order 2006 [*P.U. (A) 207/2006*] in respect of a grant other than the grant given for the purchase of a green technology asset under this Order; or
 - iv. the Income Tax (Green Technology Incentive) (Project) (Exemption) Order 2024 [*P.U. (A) 244/2024*] in respect of a green technology asset; or
- (d) has made a claim for a deduction under any rules made under section 154 of the Act except—
- i. the rules in relation to allowance under Schedule 3 to the Act;
 - ii. the Income Tax (Deduction for Audit Expenditure) Rules 2006 [*P.U. (A) 129/2006*];
 - iii. the Income Tax (Deduction for Expenses in relation to Secretarial Fee and Tax Filing Fee) Rules 2014 [*P.U. (A) 336/2014*]; or
 - iv. the Income Tax (Deduction for Expenses in relation to Secretarial Fee and Tax Filing Fee) Rules 2020 [*P.U. (A) 162/2020*].