

INCOME TAX (EXEMPTION) (NO. 7) ORDER 2013

PU (A) 41

29 January 2013

IN exercise of the powers conferred by subsection 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 (Exemption) (No. 7) Order 2013**.

1(2) This Order shall have effect from the year of assessment 2011.

INTERPRETATION

2(1) In this Order:

“qualifying activity” means any of the following activity carried out by a qualifying person in RAPID Complex:

- (a) blending, processing or cracking of crude, condensates, feedstock or intermediate feedstock;
- (b) production, manufacturing or product development of petroleum, petrochemical, chemicals, intermediate, final products or its related by-products;
- (c) storing, formulating, blending, distributing or marketing of petroleum, petrochemical, chemicals, intermediate, final products or its related by-products;
- (d) re-gasification of LNG to gas and relevant distribution; or
- (e) generation, distribution or sales of all forms of utilities including but not limited to electricity, water, steam, gases, hydrogen, air or waste treatment;

“RAPID Complex” means a complex which consists of liquid cracker plants, refinery plants, petrochemical or chemical production plants and all support and auxiliary facilities including but not limited to liquid natural gas (LNG), Receiving and Re-gasification Terminal (RGT), COGEN power plant, storage facilities or waste disposal facilities, and located in Pengerang, Johor;

“qualifying person” means:

- (a) Petroliam Nasional Berhad;
- (b) any other company incorporated under the Companies Act 1965 [Act 125] where Petroliam Nasional Berhad holds at least 51 per cent paid up capital in respect of ordinary shares; or
- (c) any other company incorporated under the Companies Act 1965 which carries out qualifying activity within the RAPID Complex where Petroliam Nasional Berhad holds, either directly or indirectly, ordinary shares in that company.

2(2) For the purpose of this Order, “RAPID” is an abbreviation for Refinery and Petrochemical Integrated Development.

APPLICATION

- 3** This Order shall apply to a qualifying person who has made an application to the Malaysian Investment Development Authority Minister on or after 10 October 2011.

EXEMPTION

- 4(1)** Subject to subparagraph (2), the Minister exempts a qualifying person resident in Malaysia from the payment of income tax in respect of its statutory income derived from a qualifying activity in RAPID Complex for a period of fifteen consecutive years of assessment commencing from the first year of assessment in the basis period which the qualifying person derives statutory income from the qualifying activity (hereinafter referred to as the “exempt years of assessment”).
- 4(2)** The statutory income referred to in subparagraph (1) in the basis period for each year of assessment shall be determined after deducting allowances which fall to be made under Schedule 3 of the Act notwithstanding that no claim of such allowances have been made.
- 4(3)** Provided that where an asset used for the purpose of qualifying activity referred to in the subparagraph (1) is also used for the purpose of an activity other than that qualifying activity, then the allowances which fall to be made under Schedule 3 to the Act shall be deducted as is reasonable having regard to the extent to which the asset is used for the purpose of the first-mentioned activity.
- 4(4)** Nothing in subparagraph (1) shall absolve or is deemed to have absolved the qualifying person from complying with any requirement to submit any return or statement of account or to furnish any other information under the provision of the Act.

LOSSES

- 5(1)** Any amount of adjusted loss incurred prior or during the exempt years of assessment shall be carried forward and deducted against the statutory income of the qualifying activity referred to in subparagraph 4(1) in its post-exempt years of assessment until that activity has utilized the whole amount of the adjusted loss to which it is so entitled.
- 5(2)** So much of the adjusted loss that was utilized to reduce the statutory income of that activity referred to in subparagraph 4(1), in its post-exempt years shall be disregarded for the purposes of the subsections 43(2) and 44(2) of the Act.

APPLICATION OF DEDUCTIONS FOR PROMOTION OF EXPORTS UNDER THE PROMOTION OF INVESTMENT ACT 1986

- 6** For the purpose of computing the adjusted income from the qualifying activity referred to in subparagraph 4(1), an expenditure which would be allowed as a deduction during the exempt years of assessment under the section 41 Promotion of Investment Act 1986 [Act 327], shall be accumulated and the aggregate amount of the expenditure shall be allowed as a deduction in the first basis period for a year of assessment after the exempt years of assessment.

APPLICATION OF DEDUCTION FOR RESEARCH UNDER SECTION 34B OF THE ACT

- 7 For the purpose of computing the adjusted income from the qualifying activity referred to in subparagraph 4(1), an expenditure which would be allowed as a deduction during the exempt years of assessment under section 34B of the Act shall be accumulated and the aggregate amount of the expenditure shall be allowed as a deduction in the first basis period for a year of assessment after the exempt years of assessment.

APPLICATION OF DEDUCTIONS FOR APPROVED TRAINING

- 8 For the purpose of computing the adjusted income from the qualifying activity referred to in subparagraph 4(1), an expenditure which would be allowed as a deduction during the exempt years of assessment under the Income Tax (Deduction of Approved Training) Rules 1992 [P.U. (A) 61/1992] and Income Tax (Deductions for Approved Training) (Amendment) Rules 1995 [P.U. (A) 111/1995], shall be accumulated and the aggregate amount of the expenditure shall be allowed as a deduction in the first basis period for a year of assessment after the exempt years of assessment.

SEPARATE SOURCE AND ACCOUNT

- 9(1) Where a qualifying person carries on a qualifying activity referred to in subparagraph 4(1) and other activity or business within or outside RAPID Complex, each of such activity or business shall be treated as a separate and distinct source of activity or business.
- 9(2) The qualifying person who is exempted under subparagraph 4(1) shall maintain a separate account for the income derived from the qualifying activity referred to in that paragraph.

NON-APPLICATION

- 10 This Order shall not apply to a qualifying person who in the basis period for each exempt year of assessment:
- (a) has made a claim for reinvestment allowance under Schedule 7A or investment allowance under Schedule 7B of the Act;
 - (b) has been granted any incentive under the Promotion of Investment Act 1986 [Act 327] except for the Income Tax (Promotion of Exports) Rules 1986;
 - (c) has been granted any other exemption under section 127 of the Act except for Income Tax (Exemption) (No. 5) Order 2013 [P.U. (A) 39/2013].