

INCOME TAX (DEDUCTION FOR INVESTMENT IN A PROJECT OF COMMERCIALISATION OF RESEARCH AND DEVELOPMENT FINDINGS) RULES 2022

PU (A) 3

6 January 2022

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 a Project of Commercialisation of Research and Development Findings) Rules 2022**
- 1(2)** These Rules are deemed to have come into operation on 7 November 2020.

INTERPRETATION

2 In these Rules—

“research and development findings” mean research and development findings in the non-resource based activity or product listed in the Schedule and wholly owned by public research institute or public or private institute of higher learning in Malaysia;

“investment” means an investment in the form of cash in a related company for which the related company has no obligation to repay, or the holding of paid-up share capital in cash in respect of ordinary shares in a related company;

“commercialisation” means a process of transforming research and development findings into a product or process that has an industrial application or that is marketable;

“related company” means a company incorporated under the Companies Act 2016 [Act 777] where at least seventy (70) per centum of its paid-up share capital in respect of ordinary shares are directly owned by a company that made an investment in a commercialisation project.

DEDUCTION

- 3(1)** Subject to these Rules, for the purpose of ascertaining the adjusted income of a company incorporated under the Companies Act 2016 and resident in Malaysia from its business, a deduction shall be allowed in the basis period for a year of assessment of an amount equivalent to the value of investment made for the sole purpose of financing a project on commercialisation of research and development findings in the basis period for that year of assessment in a related company.
- 3(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 for the operation of its commercialisation activity and asset used for that activity; and
- (b)** 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 the ordinary shares.

- 3(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 a consideration for the disposal of the shares, the amount received by that company shall be added in ascertaining its adjusted income for the year of assessment in a basis period in which that amount is received.
- 3(4)** The amount referred to in subrule (3) shall not exceed the total deductions allowed in relation to that investment.
- 3(5)** Subrule (3) shall not apply where 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.

CONDITION FOR DEDUCTION

- 4** To qualify for a deduction under rule 3, the company claiming that deduction shall satisfy the following conditions:
- (a)** the application for approval for the project of commercialisation shall be received by the Malaysian Investment Development Authority on or after 7 November 2020 but not later than 31 December 2025;
- (b)** the company is a company incorporated in Malaysia under the Companies Act 2016; and
- (c)** the project of commercialization shall commence within one year from the date of approval issued by the Malaysian Investment Development Authority.

CESSATION OF DEDUCTION

- 5** Where an investment is made by a company for the purpose of the commercialisation of research and development findings is given a deduction under these Rules, that deduction shall cease in the basis period for a year of assessment in which the tax exemption period of the related company commences as determined by the Minister or the Minister of International Trade and Industry, as the case may be.

**SCHEDULE
[RULE 2]**

1. Electrical and electronics;
2. Medical devices;
3. Technical or functional textiles;
4. Machinery and equipment;
5. Metals; and
6. Transport equipmentComputers and components