

INCOME TAX (DETERMINATION OF APPROVED INDIVIDUAL AND SPECIFIED YEAR OF ASSESSMENT UNDER THE RETURNING EXPERT PROGRAMME) RULES 2012

PU (A) 151

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IN exercise of the powers conferred by paragraph 154(1)(b) 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 (Determination of Approved Individual and Specified Year of Assessment under the Returning Expert Programme) Rules 2012**.
- 1(2) These Rules shall have effect from the year of assessment of 2012 and subsequent years of assessment.

APPLICATION

- 2 These Rules shall apply to an individual—
 - (a) whose application under paragraph 4(b) has been approved by the Minister;
 - (b) whose income is received from an employment with any person resident in Malaysia; and
 - (c) whose employment commences on or after 1 May 2011.

INTERPRETATION

- 3 In these Rules—
 - "**approved individual**" means an individual as provided under rule 4;
 - "**Returning Expert Programme**" means a programme managed by the Talent Corporation Malaysia Berhad and approved by the Government;
 - "**specified years of assessment**" means—
 - (a) five consecutive years of assessment commencing from the basis period of a year of assessment an option is made by an approved individual to be subject to tax under Part XV of Schedule 1 of the Act; and
 - (b) the option shall be made in the year of assessment or the following year of assessment of the approved individual's return to Malaysia;

"Talent Corporation Malaysia Berhad" means a company limited by guarantee —

- (a) incorporated under the Companies Act 1965 [Act 125] with its registration number of 919577-H and is resident in Malaysia; and
- (b) which promotes and facilitates the return of any Malaysian citizen who works as a professional overseas and to establish a sustainable expert workforce in Malaysia under the Returning Expert Programme.

APPROVED INDIVIDUAL

4 In these Rules, an approved individual is an individual who—

- (a) is a Malaysian citizen and resident in Malaysia;
- (b) has made an application under the Returning Expert Programme and that application is approved by the Minister, to be subject to tax under Part XV of Schedule 1 of the Act and such application is made on or after 12 April 2011 but not later than 31 December 2020;
- (c) is an expert in a field specified by the Minister;
- (d) has not derived any employment income in Malaysia for at least a continuous period of thirty six months prior to the date of application made under paragraph (b); and
- (e) has never been approved under these Rules.

CHARGEABLE INCOME

5(1) Where an approved individual has income in respect of employment with any person resident in Malaysia in the basis period for a year of assessment during the specified years of assessment, the chargeable income of that approved individual which is subject to tax under Part XV of Schedule 1 of the Act shall be ascertained in accordance with the following formula:

$$\frac{A}{B} \times C$$

Where

- A is the statutory income from employment with the person resident in Malaysia in a basis period for a year of assessment during the specified years of assessment;
- B is the aggregate income in a basis period for a year of assessment during the specified years of assessment; and
- C is the chargeable income in a basis period for a year of assessment during the specified years of assessment:

Provided in the case of a combined assessment under subsection 45(2) of the Act, the aggregate income from all sources shall include income from the wife or husband, as the case may be.

- 5(2)** Where chargeable income from employment of an approved individual has been determined under subrule (1), any excess of chargeable income of that approved individual which is subject to tax shall be charged to income tax for that year of assessment under Part I of Schedule 1 of the Act at the rate that would have been applicable for his chargeable income if he had not been approved as an approved individual under these Rules.

NON-APPLICATION

- 6** These Rules shall cease to apply to an approved individual in the basis period for a year of assessment during the specified years of assessment if the approved individual ceases to be employed by any person resident in Malaysia.