

INCOME TAX (THE INCENTIVE FOR MANUFACTURERS OF PHARMACEUTICAL PRODUCTS SCHEME) RULES 2022

P.U. (A) 34
16 February 2022

IN exercise of the powers conferred by paragraph 154(1)(b) of, and subsection 6(1A) and paragraph 2 of Part XVII of Schedule 1 to, 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 (The Incentive for Manufacturers of Pharmaceutical Products Scheme) Rules 2022**.
- 1(2) These Rules have effect from the year of assessment 2021.

APPLICATION

- 2(1) These rules shall apply to a manufacturer of pharmaceutical products whose application for the Manufacturers of Pharmaceutical Products Incentive Scheme under these Rules has been approved by the Minister under subrule (2) (hereinafter referred to as the “qualifying company”).
- 2(2) The application referred to in subrule (1) shall be received by the Minister through the Malaysian Investment Development Authority on or after 1 January 2021 but not later than 31 December 2022.
- 2(3) The qualifying company referred to in subrule (1) shall comply with all the conditions as specified in the Guidelines for Incentive for Manufacturers of Pharmaceutical Products including vaccines under the 2021 Budget issued or as revised by the Malaysian Investment Development Authority and approved by the Minister.

INTERPRETATION

3 In these Rules—

“fill and finish activity” means the process of filling vials with vaccine and finishing the process of packaging the medicine for distribution;

“The Incentive for Manufacturers of Pharmaceutical Products Scheme” means an incentive scheme for the qualifying company which carries on business in respect of a qualifying activity and approved by the Minister;

“Malaysian Investment Development Authority” means the Malaysian Investment Development Authority established under the Malaysian Investment Development Authority (Incorporation) Act 1965 [Act 397];

“manufacturer of pharmaceutical products” means a company—

- (a) incorporated under the Companies Act 2016 [Act 777] and resident in Malaysia;
- (b) possess a manufacturing license under the Industrial Co-ordination Act 1975 [Act 156] from Ministry of International Trade and Industry or a confirmation letter of exemption from manufacturing license from Malaysia Investment Development Authority;
- (c) undertakes manufacturing of pharmaceutical products including formulation in Malaysia but excluding fill and finish activity.

QUALIFYING ACTIVITY

4. For the purposes of subsection 6(1A) of the Act and these Rules, a qualifying activity referred to in these Rules is an activity prescribed by the Minister as specified in the Guidelines for Incentive for Manufacturers of Pharmaceutical Products including vaccines under the 2021 Budget issued or as revised by the Malaysian Investment Development Authority and approved by the Minister.

APPLICABLE RATE

5. For the purposes of paragraph 6(1)(m) of, and paragraph 2 of Part XVII of Schedule 1 to, the Act and these Rules, income tax shall be charged for the specified years of assessment on the chargeable income of a qualifying company which carries on business in respect of a qualifying activity under the Incentive for Manufacturers of Pharmaceutical Products Scheme at the rate of—
 - (a) for the first period of ten years of assessment, zero to ten percent; or
 - (b) for the next period of ten years of assessment, ten percent.

SPECIFIED YEARS OF ASSESSMENT

6. Specified years of assessment referred to in these Rules is a period up to ten consecutive years of assessment in respect of the rate referred to in paragraph 5(a) or the next ten consecutive years of assessment in respect of the rate referred to in paragraph 5(b) for the implementation of the Incentive for Manufacturers of Pharmaceutical Products Scheme commencing from the date as determined by the Minister.

CONDITIONS FOR INCENTIVE FOR MANUFACTURERS OF PHARMACEUTICAL PRODUCTS SCHEME

7. A qualifying company approved under the Incentive for Manufacturers of Pharmaceutical Products Scheme under these Rules shall comply with all the conditions specified as follows:
 - (a) the qualifying company shall incur the first qualifying capital expenditure excluding land within one year from the date the approval letter is issued;
 - (b) the qualifying company shall incur the full amount of the qualifying capital expenditure as specified in the approval letter within five years from the date the first qualifying expenditure is incurred; and
 - (c) any conditions in the Schedule and any other conditions imposed by the Minister as specified in the approval letter and Guidelines for Incentive for Manufacturers of Pharmaceutical Products including vaccines under the 2021 Budget issued or as revised by the Malaysian Investment Development Authority and approved by the Minister.

SURRENDER OF THE INCENTIVE FOR MANUFACTURERS OF PHARMACEUTICAL PRODUCTS SCHEME

- 8(1) The Minister may, at any time, except where the qualifying company fails to comply with any conditions imposed in relation to the Incentive for Manufacturers of Pharmaceutical Products Scheme, accept the surrender of the Incentive for Manufacturers of Pharmaceutical Products Scheme by the qualifying company granted under these Rules by a notice in writing from the qualifying company to the Minister through the Malaysian Investment Development Authority.
- 8(2) The surrender of the Incentive for Manufacturers of Pharmaceutical Products Scheme shall have effect on the first day in the basis period for the year of assessment in which the application for surrender of the Incentive for Manufacturers of Pharmaceutical Products Scheme is received by the Minister through the Malaysian Investment Development Authority.

SCHEDULE

Conditions for a qualifying company under the Incentive for Manufacturers of Pharmaceutical Products Scheme	
Minimum number of full time employees in Malaysia with a minimum basic salary of five thousand ringgit (RM5,000.00) per month	15% of total full time employees
Minimum number of employees having a diploma or degree in the field of science and technical	20% of total employees
Minimum number of Malaysian citizen full time employees	80% of total employees
Minimum amount of annual operating expenditure in Malaysia (in ringgit Malaysia) (to be complied with at the end of the last year of the specified years of assessment)	As specified in the approval letter
The number of trainee from local university, polytechnics or industrial training placement at Technical and Vocational Education and Training (TVET) institution	At least 6 Malaysian trainees each year with a minimum training period of 3 months
Value added for product	At least 40%
Corporate social responsibility (CSR) activity	Undertake CSR activity with at least 1 hospital or health institution in Malaysia recognized by Ministry of Health Malaysia each year within the specified years of assessment