INCOME TAX (INDUSTRIAL BUILDING ALLOWANCE) (TUN RAZAK EXCHANGE MARQUEE STATUS COMPANY) RULES 2013

PU (A) 27
30 January 2013

IN exercise of the powers conferred by paragraph 154(1)(b) and paragraph 80 of Schedule 3 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 (Industrial Building Allowance) (Tun Razak Exchange Marquee Status Company) Rules 2013**.

1(2) These Rules shall have effect for the year of assessment 2014.

APPLICATION

2 These Rules shall apply in respect of qualifying building expenditure incurred by a Tun Razak Exchange Marquee status company for the purpose of its business as specified in the Schedule for the industrial building referred to in rule 3.

INTERPRETATION

3(1) In these Rules—

"commercial building" means a commercial building or part of a commercial building located in the Tun Razak Exchange used for the purpose of business as specified in the Schedule;

"incurred" has the same meaning assigned under paragraph 55 of Schedule 3 of the Act;

"disposed of" means the disposal of the building or the occurrence of any of the following events:

(a) the sale, transfer or assignment of the commercial building;

(b) the demolition or destruction of the commercial building; or

(c) when the commercial building ceases to be used for the purposes prescribed in rule 3 of these Rules;

"control" has the same meaning assigned to it under section 139 of the Act;

"qualifying building expenditure" means capital expenditure incurred by a Tun Razak Exchange Marquee Status company on the construction or purchase of a commercial building;

"Tun Razak Exchange Marquee status company" means—

(a) a licensed institution under the Banking and Financial Institutions Act 1989 [*Act 372*] carrying on a banking business or a merchant banking business or a related company within the same group;

(b) a company licensed under the Insurance Act 1996 [*Act 553*] carrying on insurance business or a related company within the same group

(c) a company licensed under the Islamic Banking Act 1983 [*Act 276*] carrying on an Islamic banking business or a related company within the same group;

(d) a company registered under the Takaful Act 1984 [*Act 312*] carrying on takaful business or a related company within the same group;

(e) a company which is a holder of a Capital Markets Service Licence licensed under the Capital Markets and Services Act 2007 [*Act 671*];

(f) a person, other than an individual, who is a registered person under section 76 or 76A of the Capital Markets and Services Act 2007; and

approved by the Minister.

3(2) For the purposes of these Rules, a related company within the same group means—

(a) a person who has control over the licensed institution or company referred to in subparagraph (1)(a), (b), (c) and (d);

(b) a person over whom the licensed institution or company referred to in subparagraph (1)(a), (b), (c) and (d) has control; or

(c) a person and the licensed institution or company referred to in subparagraph (1)(a), (b), (c) and (d) both of whom are controlled by some other person.

TUN RAZAK EXCHANGE

4 Tun Razak Exchange means the area referred to in the approved development plan for the Tun Razak Exchange on part of Lot 1164, Lot 1207, Lot 1209, Lot 1210, Lot 1217, PT 122 Section 62, Lot 205 – lot 208, part of Lot 209, Lot 733, Lot 956, Lot 1309 – Lot 1311, Lot 1313, Lot 1314, Lot 1393, Lot 1364, PT 86, PT 109 – PT 121, PT 123 Section 67 at Jalan Tun Razak/Jalan Davis, Wilayah Persekutuan, Kuala Lumpur including any subsequent changes thereto as approved by Dewan Bandaraya Kuala Lumpur.

INDUSTRIAL BUILDING FOR THE PURPOSES OF SCHEDULE 3 OF THE ACT

5 In these Rules, a commercial building which is constructed or purchased by a Tun Razak Exchange Marquee status company in the Tun Razak Exchange—

(a) where that company is the owner of that commercial building; and

(b) that commercial building is used by that company for the purpose of a business as specified in the Schedule,

shall be treated as an industrial building for the purposes of Schedule 3 of the Act.

INDUSTRIAL BUILDING ALLOWANCE

6(1) An amount of allowance under paragraph 80 of Schedule 3 of the Act shall be allowed to the Tun Razak Exchange Marquee status company equal to one-tenth of the qualifying building expenditure for that year of assessment and for each of the nine following years of assessment.

6(2) Where part of the building is used as an industrial building, and the other part of the building is not so used, then, if the capital expenditure incurred on the construction of the part which is not so used is not more than one-tenth of the capital expenditure incurred on the construction of the whole building, the building shall be treated as an industrial building for the purpose of Schedule 3 of the Act, and where the whole or some of the capital expenditure incurred on the construction of the part not so used is not identifiable as the capital expenditure incurred on the whole building, the last mentioned expenditure or the part thereof not identifiable as incurred on the respective part of the building, shall be apportioned by reference to the respective floor areas of those respective parts or in such other manner as the Director General may direct.

6(3) Where the industrial building is used for the purpose of a business or an activity referred to in the Schedule is also used for the purpose of a business or an activity other than that business or 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 commercial building is used for the purpose of the first-mentioned business or activity.

6(4) For the purposes of these Rules, the leasing of an industrial building specified in the Schedule shall be regarded as carrying on a leasing activity and income from that leasing activity shall be treated as a separate and distinct source of business under Paragraph 4(a) of the Act.

6(5) Where a Tun Razak Exchange Marquee status company has incurred qualifying building expenditure in relation to an industrial building and the building is disposed of within two years from the date the qualifying building expenditure was incurred, any allowance which but for this paragraph would fall to be made shall not be made; and, where any such allowance has been made, a balancing charge in an amount equal to such allowances shall be made on the company for the year of assessment in the basis period for which the building was disposed of.

NON-APPLICATION

7 These Rules shall not apply in respect of—

(a) qualifying building expenditure incurred by the Tun Razak Exchange Marquee status company after 31 December 2020; and

(b) a company which has been granted exemption under the Income Tax (Exemption) (No. 4) Order 2013 [P.U. (A) 28/2013].

SCHEDULE

1. Banking business or merchant banking business carried out by a licensed institution under the Banking and Financial Institutions Act 1989;

2. Insurance business carried out by a company licensed under the Insurance Act 1996;

3. Islamic banking business carried out by a company licensed under the Islamic Banking Act 1983;

4. Takaful business carried out by a company registered under the Takaful Act 1984;

5. Regulated activities as defined in Schedule 2 of the Capital Markets and Services Act 2007 carried out by the holder of a Capital Markets and Service License under the said Act;

6. Regulated activities as specified in the second column of Schedule 4 of the Capital Markets and Services Act 2007 or as may be specified by the Securities Commission, carried out by the registered person under the said Act;

7. Leasing of the commercial building to the following persons, other than individuals, undertaking the following activities:

   (a) banking business or merchant banking business carried out by a licensed institution under the Banking and Financial Institutions Act 1989;

   (b) insurance business carried out by an company licensed under the Insurance Act 1996;

   (c) Islamic banking business carried out by a company licensed under the Islamic Banking Act 1983;

   (d) takaful business carried out by a company registered under the Takaful Act 1984;

   (e) regulated activities as defined in Schedule 2 of the Capital Markets and Services Act 2007 carried out by the holder of a Capital Markets Service Licence under the said Act; or

   (f) regulated activities as specified in the second column of Schedule 4 of the Capital Markets and Services Act 2007 or as may be specified by the Securities Commission carried out by the registered person under the said Act.