

# INCOME TAX (EXEMPTION) (NO. 9) ORDER 2013

PU (A) 88

12 March 2013

IN exercise of the powers conferred by paragraph 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. 9) Order 2013**.

**1(2)** This Order has effect from the year of assessment 2013 and subsequent years of assessment.

## INTERPRETATION

**2** In this Order—

**"qualifying person"** means a person resident in Malaysia who is—

- (a) a bank or finance company licensed or deemed to be licensed under the Banking and Financial Institutions Act 1989 [*Act 372*];
- (b) a bank licensed under the Islamic Banking Act 1983 [*Act 276*];
- (c) a development financial institution prescribed under the Development Financial Institutions Act 2002 [*Act 618*];
- (d) an insurance business licensed under Insurance Act 1996 [*Act 553*]; or
- (e) a takaful operator licensed under the Takaful Act 1984 [*Act 312*];

**"rescuing contractor or developer"** means a contractor or developer who is appointed or approved by the Minister of Housing and Local Government to carry on rehabilitation works for the abandoned project;

**"loan"** means a loan granted by a bank or a financial institution to finance the abandoned project;

**"abandoned project"** means a project which is certified by the Minister of Housing and Local Government as abandoned project pursuant to paragraph 11(1)(ca) of the Housing Development (Control and Licensing) Act 1966 [*Act 118*].

## EXEMPTION

- 3(1)** The Minister exempts a qualifying person from the payment of income tax in respect of a statutory income derived from interest which is related to the business of giving loan to the rescuing contractor or developer for a period of three consecutive years of assessment (the exempt years of assessment) commencing from the first year of assessment in which the interest income is accrued to that qualifying person.
- 3(2)** The statutory income referred to in subparagraph (1) in the basis period for each of the exempt years of assessment shall be determined after deducting allowances which fall to be made under Schedule 3 to the Act notwithstanding that no claim for such allowances has been made.
- 3(3)** Where an asset used for the purpose of the business referred to in subparagraph (1) is also used for the purpose of a business other than that business, then the allowances which fall to be made under Schedule 3 of the Act shall be deducted as is reasonable having regard to the extent to which the asset is used for the purpose of the business of giving loan to the rescuing contractor or developer.
- 3(4)** The amount of the statutory income derived from interest which is related to the business of giving loan to the rescuing contractor or developer to be exempt in the basis period for a year of assessment during the exempt period shall be determined in the following manner:
- (a) one hundred percent of the statutory income;
  - (b) the amount of statutory income referred to in subparagraph (a) shall be reduced by—
    - (i) first, current year adjusted loss from a business or businesses other than the business of giving loan to the rescuing contractor or developer exempted under this Order; and
    - (ii) next, any unabsorbed adjusted loss or current year adjusted loss from the business of giving loan to the rescuing contractor or developer exempted under this Order;
  - (c) so much of the adjusted loss referred to in subparagraphs (b)(i) and (ii) which was utilised to reduce the statutory income of the business of giving loan to the rescuing contractor or developer for a year of assessment shall not be taken into account for the purposes of subsections 43(2) and 44(2) of the Act in determining the income of a business other than the business of giving loan to the rescuing contractor or developer under this Order; and
  - (d) any amount of unabsorbed adjusted loss and current year adjusted loss from the business of giving loan to the rescuing contractor or developer that are not utilised to reduce the statutory income during the exempt period referred to in subparagraph (b)(ii) shall not be available to reduce the total income of the qualifying person.
- 3(5)** Notwithstanding subparagraph (4), where the exempt period of the business of giving loan to the rescuing contractor or developer ceases, any amount of unabsorbed adjusted loss and current year adjusted loss from the business of giving loan to the rescuing contractor or developer that are not utilised to reduce the statutory income during the exempt period referred to in subparagraph (b)(ii) shall be available to reduce the total income of the qualifying person in accordance with subsections 43(2) and 44(2) of the Act in the basis period following the cessation of that exempt period for the year of assessment and subsequent years of assessment.
- 3(6)** Subject to subparagraph (1), the application for the loan shall be made by the rescuing contractor or developer on or after 1 January 2013 but not later than 31 December 2015.

- 3(7)** 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 accounts or to furnish any other information under the provisions of the Act.

### **SEPARATE ACCOUNT**

- 4** The qualifying person which is exempted under paragraph 3 shall maintain a separate account for the income derived from the business of giving loan to the rescuing contractor or developer for each year of assessment of the exempt period.