

# INCOME TAX (EXEMPTION) (NO. 3) ORDER 2014

PU (A) 167  
20 June 2014

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. 3) Order 2014**.

1(2) This Order is deemed to have come into operation on 1 January 2013.

## INTERPRETATION

2(1) In this Order—

“**investment**” means a holding of shares, which is paid in cash, in respect of ordinary shares in an investee company;

“**angel investor**” means an individual referred to in subsubparagraph 5(a);

“**investee company**” means a company referred to in subsubparagraph 5(b).

## EXEMPTION

3(1) Subject to subparagraphs (2), (3) and (4), the Minister exempts an angel investor, in respect of his aggregate income for the basis period for a year of assessment, from the payment of income tax in the second year of assessment following the year of assessment in which an investment is made by the angel investor in an investee company.

3(2) The amount of income tax exempted under subparagraph (1) shall be an amount equal to the amount of investment made by the angel investor in that investee company.

3(3) Where the amount of investment referred to in subparagraph (2) exceeds the aggregate income of the angel investor for the basis period for the year of assessment referred to in that subparagraph, the excess amount shall not be refunded to that angel investor or be available as a credit to set off his tax liability for that year of assessment or any subsequent years of assessment.

3(4) The exemption under this paragraph is subject to—

(a) the investment is not disposed of, either in full or in part, within two years from the date the investment is made; and

(b) the conditions specified by the Minister in the approval letter for the investment have been complied with.

3(5) Nothing in subparagraph (1) shall absolve or be deemed to have absolved an angel investor from complying with an requirement to submit any return or statement of accounts or to furnish any other information under the provisions of the Act.

## WITHDRAWAL OF TAX EXEMPTION

- 4 The Minister may withdraw the tax exemption given under paragraph 3 if the angel investor fails to comply with the conditions specified by the Minister in the approval letter for the investment.

## APPLICATION

- 5 This Order applies to—

(a) an angel investor—

- (i) who is a resident Malaysia and whose sources of income is not derived solely from business;
- (ii) who has made an application to the Minister on or after 1 January 2013 but not later than 31 December 2017 to make an investment in an investee company;
- (iii) who does not have a parent, including a parent in law, a child, including a step child, or child adopted in accordance with any law, a brother or sister, or a grandparent or grandchild, or a spouse, who makes any investment in the investee company;
- (iv) whose investment is for the sole purpose of financing the activities of the investee company as approved by the Minister; and
- (v) whose investment shall not be more than thirty per cent of the total paid-up share capital of the investee company; and

(b) an investee company—

- (i) incorporated under the Companies Act 1965 [*Act 125*] and a resident in Malaysia;
- (ii) which at least fifty one per cent of its issued ordinary share capital is directly owned by a shareholder (other than an angel investor) who is a citizen; and
- (iii) which carries on activities as approved by the Minister.

## NON-APPLICATION

- 6 This Order shall not apply to an angel investor who has made a claim for a deduction under the Income Tax (Deduction for Investment In a Venture Company) Rules 2005 [*P.U. (A) 76/2005*].