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PR No. 7/2018 – Accelerated Capital Allowance

The Inland Revenue Board ["IRB"] has recently issued the Public Ruling ["PR"] No. 7/2018 – Accelerated Capital Allowance ["ACA"] to explain the tax treatment on qualifying plant and machinery for the purpose of claiming ACA. This PR replaces the previous PR No. 4/2013 – ACA.

Salient points of the updates in the new PR include:-

- i. Automation Equipment [Paragraph 7.7 of the PR]
 - Income Tax (ACA) (Automation Equipment) Rules 2017 and Income Tax (Exemption) (No.8) Order 2017 provide tax incentives to the manufacturing sector on the purchase of automation equipment.
 - A qualifying company that incurs qualifying capital expenditure ["QCE"] on the purchase of automation equipment for the purpose of modernizing or automating its existing manufacturing activity of a product is eligible to claim ACA (i.e. initial allowance and annual allowance at the rates of 20% and 80% respectively) on the QCE.

Hyperlinks

- [Moore Stephens Malaysia](#)
 - [Moore Stephens International](#)
 - [Inland Revenue Board](#)
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- [PR No. 7/2018](#)

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- “Qualifying company” refers to:-
 - a manufacturing company which is incorporated under the Companies Act 2016 and resident in Malaysia;
 - engages in manufacturing activity in compliance with the Industrial Co-ordination Act 1975;
 - has a business licence issued by the relevant local authority;
 - has carried on a qualifying project for a period of at least thirty-six (36) months;
 - the automation equipment is certified by the Director General of the Standards and Industrial Research Institute of Malaysia as adopting a “technology that is more advanced” (i.e. advanced technology that able to increase production and reduce in labor) than the current technology.

Note: For further information on Income Tax (Accelerated Capital Allowance) (Automation Equipment) Rules 2017 and Income Tax (Exemption) (No.8) Order 2017, kindly refer to our Tax Flash – September 2017 issue.

ii. Steps to claim ACA [Paragraph 8 of the PR]

- The new PR provides steps to be followed to facilitate the understanding of claiming ACA.

Note: For further information on the claim for ACA under the previous PR No. 4/2013, kindly refer to our Tax Flash - May 2013 issue.

PR No. 8/2018 – Tax Incentives for BioNexus Status Companies

The IRB has recently issued the PR No. 8/2018 – Tax Incentives for BioNexus Status Companies to provide guidance on the tax treatment in respect of the tax incentives in relation to BioNexus Status Company [“BSC”] in Malaysia.

Salient points of the abovementioned PR include:-

i. BSC in Malaysia

- BioNexus status is a special status awarded to qualified international and domestic biotechnology companies undertaking value-added biotechnology or life science activities.
- All applications for the BioNexus Status and tax incentives must be submitted to Bioeconomy Corporation.
- There are three (3) categories of incentives for BSC:-
 - Tax Exemption on Statutory Income;
 - Further Exemption; and
 - Industrial Building Allowance.

Hyperlinks

➤ [Tax Flash – September 2017](#)

➤ [Tax Flash – May 2013](#)

➤ [PR No. 8/2018](#)

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- ii. Tax exemption is given to an approved BSC in respect of its:-
- Statutory income [Income Tax (Exemption)(No. 17) Order 2007]
 - A company resident in Malaysia which is engaged in the business of life sciences and approved as a BSC may enjoy a tax exemption in relation to:-
 - a new business, for a period of ten (10) consecutive years of assessment, in respect of the statutory income commencing from the first year of assessment in which the company derived statutory income from the new business; or
 - an expansion project, for a period of five (5) consecutive years of assessment, in respect of the statutory income from its existing approved business and expansion project, commencing from the first year of assessment in which the company derived the statutory income from the existing approved business and the expansion project, and that first year of assessment shall not be earlier than the year of assessment in respect of the basis period in which the date of approval from the Minister falls.
 - For the purpose of this PR, “new investment” means additional capital investment for existing biotechnology activities that will increase existing production capacity or produce related products in the same industry.
 - Statutory income equivalent to an allowance of 100% of the QCE [Income Tax (Exemption)(No. 18) Order 2007]
 - A company resident in Malaysia which is engaged in the business of biotechnology activities and approved as a BSC may enjoy a tax exemption in respect of its statutory income from a new business or an expansion project, which is equivalent to an allowance of 100% of QCE incurred in the basis period for a year of assessment within a period of five (5) years.
 - The date of commencement of the exemption period is determined by Bioeconomy Corporation and in relation to:-
 - a new business, the date the first QCE has been incurred and that date is:-
 - not earlier than 1st May 2005; or
 - 3 years from the date of approval as a BSC, whichever is later; or
 - an expansion project, on the date the first QCE has been incurred and that date is not earlier than the date of application received by Bioeconomy Corporation.

Hyperlinks

iii. Further Tax Exemption

- A BSC may be further exempted from the payment of income tax by being subject to tax at a rate equivalent to 20% in respect of statutory income derived from an approved business (new business or expansion project) for a period of ten (10) consecutive years of assessment after the end of the period of exemption.
- The exempted statutory income is determined in accordance with the following formula:-

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

where A is the amount of tax charged on the chargeable income of the approved company from qualifying activities at the prevailing tax rate reduced by the amount of tax charged on such chargeable income at the rate of 20%;

B is the amount of tax charged on such chargeable income from qualifying activities at the prevailing tax rate; and

C is the amount of such chargeable income from qualifying activities.

iv. Industrial Building Allowance [Income Tax (Industrial Building Allowance)(BSC) Rules 2007]

- A BSC may claim an industrial building allowance at a rate of 10% on the qualifying building expenditure incurred in the basis period for a year of assessment.
- The date of the first qualifying building expenditure incurred is determined by Bioeconomy Corporation and the date shall not be earlier than 2nd September 2006.
- In the event that the qualifying building expenditure incurred for the purpose of a new business or expansion project are disposed of at any time within 2 years from the date of acquisition of the industrial building, the amount of allowance allowed for such industrial building would be withdrawn in the year of disposal.

v. Treatment on Losses Incurred by a BSC

- Any loss incurred before and within the period of exemption (i.e. after the commencement of a new business or expansion project) may be carried forward to the subsequent years of assessment after the period of exemption ends and is to be deducted from the statutory income of the new business or expansion project until it is fully absorbed.

Hyperlinks

- vi. Deductions for Promotion of Export
 - Revenue expenditure under Section 33 of the Income Tax Act 1967 [“the Act”] in relation to the promotion of exports listed under Section 41 of the Promotion of Investments Act 1986 [“PIA”] incurred by a BSC is eligible for additional deduction and shall be accumulated to be absorbed in the year of assessment after the exempt period ends.
- vii. Deductions for Research and Development Expenditure
 - Research expenditure incurred in relation to research and development activities approved by the Minister of Finance under Section 34A of the Act by a BSC shall be accumulated and be eligible for deduction in the year of assessment after the period of exemption.
 - The amount of eligible expenditure deductible is equal to the amount of research expenditure incurred.
- viii. Non-Application
 - The tax incentives for BSC shall not apply to:-
 - a new business or an expansion project, as the case may be, that commences after one year from the date of approval or after such extended period approved; and
 - a company in the basis period for a year of assessment which has been granted reinvestment allowance under Schedule 7A of the Act, deductions, exemptions, any incentives under certain Orders and/or Rules.

Guidelines on Income Tax Exemption for Religious Institution or Organisation under the Income Tax (Exemption) Order 2017

The IRB has recently issued the Guidelines on Income Tax Exemption for Religious Institution or Organisation under the Income Tax (Exemption) Order 2017 to explain the meaning of a religious institution and the conditions that entitle the religious institution or organisation to obtain income tax exemption.

Salient points of the Guidelines include:-

- i. Any religious institution or organisation which fulfills the requirements stated under the Income Tax (Exemption) Order 2017 shall be entitled to enjoy the income tax exemption automatically without having to obtain the approval of the Director General of Inland Revenue.
- ii. A religious institution or organisation means a religious institution or organisation which is:-
 - a. established in Malaysia exclusively for the purpose of religious worship or the advancement of religion and is not operated or conducted primarily for profit; and
 - b. registered with the Registrar of Societies Malaysia or under any written law governing such institution or organisation as specified below:-

- [Guidelines on Income Tax Exemption for Religious Institution or Organisation under the Income Tax \(Exemption\) Order 2017](#)

Hyperlinks

No.	Religions	Head of Religious Organisation
1.	Islam (mosque/surau)	State Islamic Religious Council
2.	Buddha (temple)	a) Malaysian Buddhist Association b) Buddhist Missionary Society Malaysia
3.	Christian (church)	Christian Federation of Malaysia
4.	Hindu (temple)	Malaysia Hindu Sangam
5.	Sikh (gurdwara)	a) Malaysian Gurdwaras Council b) Khalsa Diwan Malaysia
6.	Tao (temple)	Federation of Taoist Associations Malaysia
7.	Others	Letter of confirmation by the:- a) Head of Religious Organisation; or b) Department of National Unity and Integration under the purview of the Prime Minister's Department

- iii. A religious institution or organisation which is eligible for the tax exemption is exempted from submitting the Income Tax Return Form under Section 77 of the Act. However, it is still subject to other provisions of the Act such as:-
- Submission of Form E (Employer) if the religious institution or organisation pay salaries to the workers; and
 - Keeping the institution registration documents, activities list and prepared audited accounts in the event of tax audit by the IRB.
- iv. The above exemption shall not apply to any religious institution or organisation registered under the Companies Act 2016.

Note: For further information relating to the exemption of income under the Income Tax (Exemption) Order 2017, please refer to our Tax Flash – March 2017 issue.

➤ [Tax Flash – March 2017](#)

Stamp Duty Exemption for Sale and Purchase of Shares of a Medium and Small Capital Company

The IRB has recently issued the Stamp Duty (Exemption) Order 2018 to provide stamp duty exemption on contract note executed for the sale and purchase transaction of shares of a medium and small capital company in Bursa Malaysia Securities Berhad ["BURSA"].

"Medium and small capital company" means a company listed on BURSA which:-

- a. has a market capitalisation between RM200 million to RM2 billion on 31st December of the calendar year immediately preceding the year where the transaction of shares is executed; and
- b. is specified in the list issued by BURSA in relation to medium and small capital companies eligible for stamp duty exemption

The above exemption applies to the contract note executed on or after 1st March 2018 but not later than 28th February 2021.

This publication is provided gratuitously and without liability. It is intended as a general guide only and the application of its contents to specific situations will depend on the particular circumstances involved. Readers should seek appropriate professional advice regarding any particular problems that they encounter, and this tax update should not be relied on as a substitute for advice. Accordingly, Advent MS Tax Consultants Sdn Bhd assumes no responsibility for any errors or omissions it may contain, whether caused by negligence or otherwise, or for any losses, however caused, sustained by any person that relies on it. Should further information, clarification or advice be required on any of the contents stated herein, please feel free to contact our tax team.

Hyperlinks

- [Stamp Duty \(Exemption\) Order 2018](#)