

INCOME TAX (DEDUCTION FOR INVESTMENT IN A BIONEXUS STATUS COMPANY) RULES 2016

PU (A) 306

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IN exercise of the powers conferred by paragraph 154(1)(b) 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 (Deduction for Investment in a BioNexus Status Company) Rules 2016**.
- 1(2) These Rules shall have effect from the year of assessment 2016.

INTERPRETATION

2 In these Rules—

"Malaysia Bioeconomy Development Corporation Sdn. Bhd." means a company incorporated under the Companies Act 1965 [Act 125] whose function is for the purpose of developing the biotechnology industry in Malaysia;

"qualifying person" means—

- (a) a company incorporated under the Companies Act 1965; or
(b) an individual who is a Malaysian citizen, resident and has business income source;

"investment" means—

- (a) investment in the form of cash for which there is no obligation for the investment to be repaid;
or
(b) investment in the form of holding of paid-up capital;

"investment in the form of holding of paid-up capital" means investment in the form of holding of paid-up capital which is paid in cash in respect of ordinary shares;

"new business" means the first biotechnology business undertaken by a BioNexus status company;

"BioNexus status company" means a company incorporated under the Companies Act 1965 which is engaged in a business of life sciences such as biology, medicine, anthropology, ecology or any other branches of science, which deal with living organisms and their organization, life processes and relationships to each other and their environment.

DEDUCTION

- 3(1) For the purpose of ascertaining the adjusted income of a qualifying person from its business, there shall be allowed a deduction in the basis period for a year of assessment of an amount equivalent to the actual value of investment made by the qualifying person in the basis period in a company which has been approved by the Minister as a BioNexus status company.

- 3(2)** The investment referred to in subrule (1) shall be made—
- (a) for a period not earlier than 1 January 2016 and not later than 31 December 2020;
 - (b) for the value as approved by the Minister; and
 - (c) for the sole purpose of financing activities at the initiation of commercialization stage of a new business approved by the Minister.
- 3(3)** The investment made by the qualifying person prior to the commencement of a new business shall be deemed to be made on the date the new business commences as determined by Malaysia Bioeconomy Development Corporation Sdn. Bhd.
- 3(4)** Where an investment is an investment in the form of holding of paid-up capital, the ordinary shares shall not be disposed of within five years from the date of last investment.
- 3(5)** Where the qualifying person who has made an investment in the form of holding of paid-up capital and claimed a deduction in respect of the investment under subrule (1) disposes the ordinary shares within five years from the date of the last investment and receives an amount as the consideration for the disposal of such shares, the amount received by the qualifying person shall be added in ascertaining his adjusted income for the year of assessment in the basis period in which the amount is received.
- 3(6)** The amount received which is being added in ascertaining the adjusted income of the qualifying person under subrule (5) shall not exceed the total deduction allowed in relation to the investment in the form of holding of paid-up capital.
- 3(7)** For the purpose of this rule, **"initiation of commercialization stage"** means the stage of research, assessment and development of an initial concept or prototype before the technology or product is commercialized, but excludes the increase of product capacity, product development or product marketing.

CONDITION FOR DEDUCTION

- 4(1)** The deduction allowed under these Rules is subject to the following conditions:
- (a) the qualifying person has submitted an application to the Minister through Malaysia Bioeconomy Development Corporation Sdn. Bhd. for an approval to make investment in a BioNexus status company on or after 1 January 2016 and such application has been approved by the Minister;
 - (b) where the qualifying person is a company, no other company which is a related company to the company has been allowed the deduction under these Rules or the Income Tax (Deduction for Investment in a BioNexus Status Company) Rules 2007 [*P.U. (A) 373/2007*];
 - (c) where the qualifying person is an individual—
 - (i) only three applications shall be allowed for the purpose of deduction under these Rules;
 - (ii) each approval shall be granted in respect of an investment made in three different activities of the new business which are agriculture, healthcare or industrial; and
 - (iii) the investment shall be made in a BioNexus status company which any of its paid-up capital is not owned by—
 - (A) the spouse of the individual;
 - (B) the brother or sister, of the individual or of the spouse of the individual;

- (C) the parent, of the individual or of the spouse of the individual
 - (D) the child, including a step child or child adopted in accordance with any law, of the individual;
 - (E) the grandparent or grandchild, of the individual or of the spouse of the individual;
 - (F) the spouse of any of the individual referred to in subparagraph (B); or
 - (G) the uncle, aunt or cousin, of the individual or of the spouse of the individual ; and
- (d) where an application to make an investment by an individual has been approved under the Income Tax (Deduction for Investment in a BioNexus Status Company) Rules 2007, the approval under these Rules shall only be given in respect of the activity other than the activity approved under that Rules subject to the conditions specified in this rule.

4(2) For the purpose of this rule, "**related company**" has the same meaning assigned to it in section 2 of the Promotion of Investment Act 1986 [*Act 327*].

CONDITION FOR DEDUCTION

5 The deduction allowed under these Rules to a qualifying person shall cease in the basis period for a year of assessment upon the BioNexus status company commences the commercialization of the activities in respect of which the investment is made which is based on the date of the first sales invoice.

NON-APPLICATION

- 6** These Rules shall not apply to a qualifying person in the basis period for a year of assessment if the qualifying person—
- (a) has made an investment in BioNexus status company which has been granted an exemption under the Income Tax (Exemption) (No. 18) Order 2007 [*P.U. (A) 372/2007*];
 - (b) has made a claim for allowance under Schedule 7A or Schedule 7B to the Act;
 - (c) has been granted any incentive under the Promotion of Investment Act 1986;
 - (d) has been granted an exemption under section 127 of the Act; or
 - (e) has made a claim for a deduction under any Rules made under section 154 of the Act except—
 - (i) allowance under Schedule 3 to the Act;
 - (ii) the Income Tax (Deduction for Audit Expenditure) Rules 2006 [*P.U. (A) 129/2006*];
 - (iii) the Income Tax (Deduction for Cost relating to Training for Employees for the Implementation of Goods and Services Tax) Rules 2014 [*P.U. (A) 334/2014*]; or
 - (iv) the Income Tax (Deduction for Expenses in relation to Secretarial Fee and Tax Filing Fee) Rules 2014 [*P.U. (A) 336/2014*].

REVOCACTION

- 7(1)** The Income Tax (Deduction for Investment in a BioNexus Status Company) Rules 2007 are revoked.
- 7(2)** Notwithstanding subrule (1), the Rules mentioned in subrule (1) shall continue to apply for any deduction for the investment which has been approved under the Rules as if the Rules have not been revoked.