

INCOME TAX (DEDUCTION FOR INVESTMENT IN QUALIFYING ACTIVITY) RULES 2016

PU (A) 166
8 June 2016

IN exercise of the powers conferred by paragraph 154(1)(b) read together with paragraph 33(1)(d) 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 Qualifying Activity) Rules 2016**.

1(2) These Rules are deemed to have come into operation on 13 June 2008.

QUALIFYING ACTIVITY

2 The qualifying activity referred to in these Rules is an activity as set out in column (2) of the Schedule—

- (a) which is carried on by a related company;
- (b) which is not of the same kind with the activity which has been carried on by the related company on the date of the application referred to in subrule 6(2); and
- (c) which has been granted exemption under—
 - (i) the Income Tax (Exemption) (No. 4) Order 2016 [*P.U. (A) 157/2016*];
 - (ii) the Income Tax (Exemption) (No. 5) Order 2016 [*P.U. (A) 158/2016*];
 - (iii) the Income Tax (Exemption) (No. 6) Order 2016 [*P.U. (A) 159/2016*]; or
 - (iv) the Income Tax (Exemption) (No. 7) Order 2016 [*P.U. (A) 160/2016*].

QUALIFYING PERSON

3 The qualifying person referred to in these Rules is a company—

- (a) incorporated under the Companies Act 1965 [Act 125] and resident in Malaysia; and
- (b) which makes investment in a related company.

INVESTMENT

4 The investment referred to in these Rules is an investment which is made—

- (a) in the form of—
 - (i) cash contribution where the related company has no obligation to repay; or
 - (ii) paid-up capital in respect of ordinary shares in a related company;

- (b) for the sole purposes of financing a qualifying activity;
- (c) for a period and up to an amount as approved by the Minister; and
- (d) in the basis period for the same year of assessment with the year of assessment where the related company has incurred expenditure in carrying on the qualifying activity.

RELATED COMPANY

- 5 The related company referred to in these Rules is a company—
- (a) incorporated under the Companies Act 1965 and resident in Malaysia; and
 - (b) which at least seventy per cent of its paid-up capital in respect of its ordinary shares are directly owned by a qualifying person.

DEDUCTION

- 6(1) Subject to rule 7, for the purposes of ascertaining the adjusted income of a qualifying person from its business in the basis period for a year of assessment, a deduction shall be allowed for the value of the investment made by the qualifying person in that basis period which is equivalent to an amount incurred by the related company in that basis period in relation to the qualifying activity in respect of which the investment is made.
- 6(2) The application for deduction under subrule (1) shall be made by the qualifying person to the Minister through the East Coast Economic Region Development Council on or after 13 June 2008 but not later than 31 December 2020 and shall be presented concurrently with the application by the related company for the qualifying activity to be granted exemption under the order referred to in paragraph 2(c).
- 6(3) For the purposes of subrule (2), the "**East Coast Economic Region Development Council**" means the council established under the East Coast Economic Region Development Council Act 2008 [Act 688].

WITHDRAWAL OF DEDUCTION

- 7(1) The deduction which is allowed under subrule 6(1) to a qualifying person which makes an investment in the form of paid-up capital in respect of ordinary shares in a related company shall be withdrawn if the qualifying person—
- (a) disposes the paid-up capital in respect of the ordinary shares within five years from the date of the last investment made; and
 - (b) receives any consideration for such disposal.
- 7(2) The withdrawal of the deduction under subrule (1) shall be made by adding the value of the consideration so received in ascertaining the adjusted income of the qualifying person for the year of assessment in the basis period in which the consideration is received.
- 7(3) The value of the consideration so added pursuant to subrule (2) shall not exceed the total deduction allowed in relation to the investment.

CESSATION OF DEDUCTION

- 8 The deduction allowed to the qualifying person under rule 6 shall cease in the basis period for a year of assessment upon the related company having its first statutory income from the qualifying activity in respect of which investment is made by the qualifying person.

NON-APPLICATION

- 9 These Rules shall not apply to a qualifying person if—
- (a) the qualifying activity, in respect of which investment is made by the qualifying person, is commenced by the related company after one year from the date of the approval by the Minister or after such extended period as may be approved by the Minister; or
 - (b) in the basis period for a year of assessment, the qualifying person—
 - (i) has made a claim for reinvestment allowance under Schedule 7A to the Act or investment allowance under Schedule 7B to the Act;
 - (ii) has been granted an exemption under section 127 of the Act in respect of the same qualifying activity; or
 - (iii) has been granted any incentive under the Promotion of Investments Act 1986 [Act 327] in respect of the same qualifying activity.

SCHEDULE

(1) No.	(2) Qualifying activity
1.	Cultivation of kenaf, vegetable, fruit, herbs, spice or cocoa
2.	Plantation of crops for energy generation
3.	Planting of <i>hevea brasiliensis</i>
4.	Floriculture including ornamental flowers
5.	Aquaculture
6.	Inland fishing or deep-sea fishing
7.	Rearing of cattle, buffalo, goat, sheep, turkey, ostrich or quail