

INCOME TAX (EXEMPTION) (NO. 6) ORDER 2017

PU (A) 237
23 May 2017

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. 6) Order 2017**.
- 1(2) This Order shall be deemed to have effect from the year of assessment 2016 until the year of assessment 2025.

INTERPRETATION

2 In this Order—

"qualifying activity" means the activity carried out to ensure effective and efficient coordination, implementation and operation of the Waste Eco Park, including—

- a. promoting and advertising the Waste Eco Park;
- b. managing facilities and infrastructures in the Waste Eco Park;
- c. ensuring the supply of types and amount of the waste received in the Waste Eco Park is according to the capacity of the facility and infrastructure in the Waste Eco Park; and
- d. managing segregation and separation of the waste for the feedstock of the operator referred to in the Income Tax (Exemption) (No. 4) Order 2017 [P.U. (A) 235/2017] and the Income Tax (Exemption) (No. 5) Order 2017 [P.U. (A) 236/2017];

"manager" means a company incorporated under the Companies Act 2016 [Act 777] and resident in Malaysia who carries on a qualifying activity;

"Waste Eco Park" means a place for waste recycling, recovery and treatment activities to be carried out which incorporates the following minimum elements:

- a. basic infrastructure such as roads, drainage system, utilities and sewerage;
- b. building and facility for waste receipt and separation;
- c. waste water treatment facility;
- d. building for waste recycling, recovery or treatment facility; and
- e. building for education and awareness centre.

EXEMPTION

- 3(1)** Subject to subparagraph (3), the Minister exempts a manager in the basis period for a year of assessment from the payment of income tax in respect of seventy percent of the statutory income derived from a qualifying activity.
- 3(2)** An application for an exemption under subparagraph (1) shall be made to the Minister through the Malaysian Investment Development Authority on or after 1 January 2016 but not later than 31 December 2020.
- 3(3)** An exemption granted under subparagraph (1) shall be subject to the following conditions:
- a. the Waste Eco Park has been approved by the relevant authorities specified in the Schedule, State Governments and local authorities before the qualifying activity is executed;
 - b. the manager shall maintain records of all wastes and products flowing in and out of the Waste Eco Park and submit periodic reports of the records to the developer;
 - c. the total waste tonnage received monthly needs to be processed and a maximum of thirty percent from the total processed waste is allowed to be disposed to the landfill;
 - d. only waste obtained within Malaysia, including free zones or licensed manufacturing warehouse, are being recycled, recovered or treated in the Waste Eco Park and the manager is not allowed to import waste into Malaysia; and
 - e. the manager complies with all the written laws, guidelines, conditions and directions in relation to the exemption granted under this Order and in relation to waste management.
- 3(4)** Nothing in subparagraph (1) shall absolve or be deemed to have absolved the manager from complying with any requirement to submit any return or statement of accounts, or to furnish any other information, under the Act.
- 3(5)** In this paragraph—
- "Malaysian Investment Development Authority"** means the Malaysian Investment Development Authority established under the Malaysian Investment Development Authority (Incorporation) Act 1965 [Act 397];
- "developer"** means the developer referred to in the Income Tax (Exemption) (No. 7) Order 2017 [P.U. (A) 238/2017].

STATUTORY INCOME

- 4(1)** Subject to subparagraph (2), the statutory income referred to in subparagraph 3(1) in the basis period for each exempt year of assessment shall be determined after deducting the allowances which fall to be made under Schedule 3 to the Act notwithstanding that no claim for such allowances has been made.
- 4(2)** Where an asset used for the purposes of a qualifying activity is also used for the purposes of an activity other than a qualifying activity, then the amount of allowances which fall to be made under Schedule 3 to the Act shall be deducted as is reasonable having regard to the extent to which the asset is used for the purposes of a qualifying activity.

4(3) Where, by reason of the absence or insufficiency of the statutory income, exemption cannot be granted or cannot be granted in full as the manager is entitled under subparagraph 3(1) for that year of assessment, then so much of the statutory income in respect of which exemption cannot be granted for that year of assessment, shall be granted exemption for the first subsequent year of assessment for the basis period for which the manager has statutory income from a qualifying activity, and for subsequent year or years of assessment until the exemption is granted in respect of the whole statutory income as the manager is entitled under subparagraph 3(1).

WITHDRAWAL OF EXEMPTION

5(1) The Minister may withdraw the exemption granted under subparagraph 3(1) if the manager fails to comply with any condition imposed in relation to the exemption.

5(2) Where the exemption is withdrawn in accordance with subparagraph (1), the exemption granted under subparagraph 3(1) in respect of any amount of the statutory income shall be deemed to have not been granted to the manager.

SEPARATE SOURCE AND SEPARATE ACCOUNT

6(1) Where the manager carries on a qualifying activity and an activity other than a qualifying activity, each activity shall be treated as a separate and distinct source of the activity.

6(2) The manager who is granted an exemption under subparagraph 3(1) shall maintain a separate account for the income derived from qualifying activity.

NON-APPLICATION

7 This Order shall not apply to a manager who in the basis period for a year of assessment has been granted an exemption under section 127 of the Act in respect of the same qualifying activity.

SCHEDULE

| (1) No. | (2) Authority | (3) Type of Waste |
|------------|--|----------------------|
| 1. | Suruhanjaya Perkhidmatan Air Negara | Sewage |
| 2. | Department of Agriculture | Agricultural waste |
| 3. | National Solid Waste Management Department | Solid waste |
| 4. | Department of Environment | Scheduled wastes |
| 5. | Atomic Energy Licensing Board | Radioactive waste |
| 6. | Department of Minerals and Geosciences | Mining |