

INCOME TAX (CONDITIONS FOR THE GRANT OF REBATE UNDER SUBSECTION 6D(4)) ORDER 2021

PU (A) 504
30 December 2021

IN exercise of the powers conferred by subsection 6D(4) 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 (Conditions for the Grant of Rebate under subsection 6D(4)) Order 2021.
- 1(2)** This Order has effect from the year of assessment 2021.

CONDITIONS FOR THE GRANT OF REBATE

- 2(1)** For the purposes of the grant of rebate under section 6D of the Act, a company or limited liability partnership (hereinafter referred to as “qualifying company” or “qualifying limited liability partnership” respectively) shall comply with the following conditions:
- (a) a qualifying company or a qualifying limited liability partnership shall not own or be owned directly or indirectly by a related company or related limited liability partnership which has a paid-up capital in respect of ordinary shares or contribution of capital (whether in cash or in kind) of more than two million and five hundred thousand ringgit at the beginning of the basis period for a year of assessment;
 - (b) the operations of the qualifying company or qualifying limited liability partnership shall be carried out in a different premises from its related company or its related limited liability partnership;
 - (c) the qualifying company or qualifying limited liability partnership shall not use the plant, equipment and facility owned by its related company or its related limited liability partnership or which has been disposed of to the qualifying company or qualifying limited liability partnership by its related company or its related limited liability partnership;
 - (d) the employee of the qualifying company or qualifying limited liability partnership, except for its Chief Executive Officer and director, shall be different from its related company or its related limited liability partnership;
 - (e) the business activity carried out by the qualifying company or qualifying limited liability partnership shall be—
 - (i) different from its related company or its related limited liability partnership; or
 - (ii) different from a sole proprietorship where the sole proprietorship is converted to a company or a limited liability partnership;
 - (f) the qualifying company or qualifying limited liability partnership shall not be a result of a merger or acquisition of two or more companies or limited liability partnerships which have a paid-up capital in respect of ordinary shares or contribution of capital (whether in cash or in kind) of two million and five hundred thousand ringgit and less at the beginning of the basis period for a year of assessment and gross income from a source or sources consisting of its business not exceeding fifty million ringgit in the basis period for that year of assessment; and

(g) the qualifying company or qualifying limited liability partnership is not a partnership or company which has been converted into a limited liability partnership in accordance with section 29 or 30 of the Limited Liability Partnerships Act 2012 [Act 743].

2(2) Where a qualifying company or qualifying limited liability partnership first commences operation on or after 1 July 2020 and its basis period ends on or before 31 December 2020, a rebate may be granted in accordance with this Order for the years of assessment 2021 and 2022 only.

RELATED COMPANY OR RELATED LIMITED LIABILITY PARTNERSHIP

3(3) A related company or related limited liability partnership referred to in this Order means in relation to a qualifying company or qualifying limited liability partnership—

- (a) a company or limited liability partnership which owns directly or indirectly fifty per cent of the paid-up capital in respect of ordinary shares or contribution of capital (whether in cash or in kind) of the qualifying company or qualifying limited liability partnership;
- (b) a company or limited liability partnership of which fifty per cent of its paid-up capital in respect of ordinary shares or contribution of its capital (whether in cash or in kind) is directly or indirectly owned by the qualifying company or qualifying limited liability partnership; or
- (c) a company or limited liability partnership and a qualifying company or qualifying limited liability partnership of which fifty per cent of its paid-up capital in respect of ordinary shares or contribution of its capital (whether in cash or in kind) is directly or indirectly owned by another company or another limited liability partnership.