

INCOME TAX (DETERMINATION OF KNOWLEDGE WORKER AND QUALIFYING ACTIVITY IN THE EAST COAST ECONOMIC REGION) RULES 2023

PU (A) 330

1 November 2023

IN exercise of the powers conferred by paragraph 154(1)(f) read together with paragraph 2 of Part XIV of Schedule 1 to 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 (Determination of Knowledge Worker and Qualifying Activity in the East Coast Economic Region) Rules 2023**.
- 1(2)** These Rules have effect from the year of assessment 2022.

INTERPRETATION

2 In these Rules—

“qualifying activity” means any business activity carried out within the Malaysia-China Kuantan Industrial Park;

“East Coast Economic Region Development Council” means the Council established under the East Coast Economic Region Development Council Act 2008 [Act 688];

“East Coast Economic Region” has the same meaning assigned to it in the East Coast Economic Region Development Council Act 2008.

APPLICATION FOR INCENTIVE

- 3** A qualifying person may apply for an incentive under these Rules provided that—
- (a) an application in writing is made to the Minister through the East Coast Economic Region Development Council for the approval of the Minister to be subject to tax rate as provided under paragraph 1 of Part XIV of Schedule 1 to the Act; and
- (b) the application is received by the East Coast Economic Region Development Council on or after 1 January 2022 but not later than 31 December 2024.

QUALIFYING PERSON

- 4** A qualifying person under these Rules is an individual—
- (a) who is a Malaysian citizen or foreign national;
- (b) who is a knowledge worker as provided under rule 6;
- (c) who has not derived any income in respect of employment with a designated company in the East Coast Economic Region for at least two years or other period as determined by the Minister prior to the date of application referred to in rule 3;

- (d) who is employed in a qualifying activity by a designated company;
- (e) whose employment commences on or after 1 January 2022 but not later than 31 December 2024; and
- (f) who is residing within the East Coast Economic Region.

DESIGNATED COMPANY

- 5(1)** The designated company referred to in these Rules is a company—
- (a) incorporated under the Companies Act 2016 [Act 777];
 - (b) resident in Malaysia;
 - (c) undertakes a qualifying activity in the Malaysia-China Kuantan Industrial Park; and
 - (d) fulfills any other conditions as determined by the Minister.
- 5(2)** For the purposes of these Rules, “Malaysia-China Kuantan Industrial Park” means a designated area within the East Coast Economic Region as determined by the East Coast Economic Region Development Council.

KNOWLEDGE WORKER

- 6(1)** For the purposes of these Rules, a knowledge worker is a person who has fulfilled any condition as determined by the Minister and—
- (a) holds a degree or master’s degree in any professional field from a university recognized by the Government of Malaysia and has at least ten years of working experience in the relevant professional field;
 - (b) holds a doctor of philosophy degree in any related field from a university recognized by the Government of Malaysia and has at least five years of working experience in the relevant field; or
 - (c) holds a professional certificate in any technical field from an institution or university recognized by the Government of Malaysia and has at least fifteen years working experience in the relevant technical field.
- 6(2)** Notwithstanding subrule (1), the Minister may, at his discretion, exempt any qualifying person from the condition referred to in subrule (1).

CHARGEABLE INCOME

- 7(1)** Where the qualifying person who is resident in Malaysia has income in respect of an employment with a designated company in a basis period for a year of assessment, the chargeable income of that qualifying person which is subject to tax under Part XIV of Schedule 1 to the Act shall be ascertained in accordance with the following formula:

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

where

- A is the statutory income from employment with the designated company in the basis period for that year of assessment;
- B is the aggregate income in the basis period for that year of assessment;
- C is the chargeable income in the basis period for that year of assessment which is subject to tax as specified in paragraph 1 of Part I and Part XIV of Schedule 1 to the Act.

7(2) Where a qualifying person who is not resident in Malaysia has income in respect of an employment with a designated company in a basis period for a year of assessment, the chargeable income of that qualifying person which is subject to tax under Part XIV of Schedule 1 to the Act shall be ascertained in accordance with the following formula:

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

where

- A is the statutory income from employment with the designated company in the basis period for that year of assessment;
- B is the aggregate income in the basis period for that year of assessment;
- C is the chargeable income in the basis period for that year of assessment which is subject to tax as specified in paragraph 1A of Part I and Part XIV of Schedule 1 to the Act.

7(3) In a case of a combined assessment under subsection 45(2) of the Act, the aggregate income referred to in subrule (1) or (2) shall include the income from the wife or husband, as the case may be.

7(4) Where chargeable income from employment of the qualifying person has been determined under subrule (1) or (2), any excess of the chargeable income of that qualifying person which is subject to tax shall be charged to income tax for a year of assessment at the rate that would have been applicable for his chargeable income if the person had not been approved as a qualifying person under these Rules pursuant to—

- (a) paragraph 1 of Part I of Schedule 1 to the Act in relation to a qualifying person who is a resident in Malaysia; or
- (b) paragraph 1A of Part I of Schedule 1 to the Act in relation to a qualifying person who is not resident in Malaysia.