INCOME TAX ACT 1967
INCOME TAX (DEDUCTION FOR INVESTMENT IN APPROVED NEW FOOD PRODUCTION PROJECT) RULES 2022

PU (A) 351
21 October 2022

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 Approved New Food Production Project) Rules 2022**.

1(2) These Rules are deemed to have come into operation on 1 January 2021.

INTERPRETATION

2 For the purposes of these Rules, unless the context otherwise requires—

"investment" means an investment in the form of cash or holding of paid-up share capital in respect of ordinary shares in a related company;

"approved new food production project" means a project which is deemed to be as a separate and distinct business in relation to—

(a) planting of industrial crop, vegetables, fruits, herbs, spices or cash crop;

(b) aquaculture;

(c) rearing of honey or urena lobata bees;

(d) rearing of cows, buffaloes, goats, sheep or deer;

(e) deep sea fishing or high seas fishing;

(f) planting of seeds for agro food; or

(g) planting of feed mill cultivated in a project which has been identified by the Minister charged with the responsibility of that project and approved by the Minister;

"related company" means a company incorporated under the Companies Act 2016 [*Act 777*] where at least seventy per cent of its paid-up share capital in respect of ordinary shares are directly owned by a company that makes an investment for the purpose of an approved new food production project.

APPLICATION

3 These Rules shall apply to a company incorporated under the Companies Act 2016 and resident in Malaysia—

(a) which has made an investment in its related company undertaking an approved new food production project under the Income Tax (Exemption) (No. 6) Order 2020 [*P.U. (A) 373/2020*]; and

(b) which has made an application to the Minister through the Minister charged with the responsibility of an approved new food production project and such application is received on or after 1 January 2021 but not later than 31 December 2022.

DEDUCTION

4(1) For the purpose of ascertaining the adjusted income of a company from its business, there shall be allowed as a deduction in the basis period for a year of assessment an amount equivalent to the value of investment for the sole purpose of financing the project referred to in paragraph 3(a) undertaken by the related company.

4(2) The value of investment referred to in subrule (1) which is claimed as a deduction—

(a) shall be equivalent to the expenditure incurred by the related company in the basis period for the same year of assessment;

(b) shall be made for a period and up to an amount as approved by the Minister through the Minister charged with the responsibility for the approved new food production project; and

(c) shall not be disposed of within five years from the date of the last investment made if such investment is in the form of holding of paid-up share capital in respect of ordinary shares.

4(3) The deduction under subrule (1) can only be claimed by a company for a period of three consecutive years of assessment commencing from the year of assessment the application under paragraph 3(b) is approved by the Minister.

4(4) Subject to subrules (5) and (6), where a company which has made an investment in the form of holding of paid-up share capital in respect of ordinary shares and claimed a deduction in respect of that investment under subrule (1) receives an amount as consideration for the disposal of such shares, the amount so received by that company shall be added in ascertaining its adjusted income in the basis period for the year of assessment in which that amount was received.

4(5) The amount referred to in subrule (4) shall not exceed the total deductions allowed in relation to that investment.

4(6) Subrule (4) shall not apply where the disposal of the shares referred to in subrule (4) takes place after five years from the date of the last investment in the form of paid-up share capital in respect of ordinary shares is made in the related company.

CESSATION OF DEDUCTION

5 Where an investment is made by a company for the purposes of the project referred to in paragraph 3(a), that deduction to the company shall be ceased in the basis period for a year of assessment in which the period of exemption of the related company commences upon the related company deriving its first statutory income from that project.

NON-APPLICATION

6 These Rules shall not apply to a company which—

(a) has been granted an exemption under paragraph 127(3)(b) or subsection 127(3A) of the Act; or

(b) has made a claim for deduction under any rules made under section 154 of the Act except——

(i) the rules in relation to allowance under Schedule 3 to the Act;

(ii) the Income Tax (Deduction for Audit Expenditure) Rules 2006 [*P.U. (A) 129/2006*]; or

(iii) the Income Tax (Deduction for Expenses in relation to Secretarial Fee and Tax Filing Fee) Rules 2020 [*P.U. (A) 162/2020*].