

INCOME TAX (DEDUCTION OF INVESTMENT IN NEW FOOD PRODUCTION PROJECT OR EXPANSION PROJECT) RULES 2020

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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 of Investment in New Food Production Project or Expansion Project) Rules 2020**.
- 1(2) These Rules are deemed to have come into operation on 1 January 2016.

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;

"**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 which made an investment for the purpose of a new food production project or an expansion project.

APPLICATION

- 3 These Rules shall apply to a company incorporated under the Companies Act 2016 and resident in Malaysia—
- (a) who has made an investment in its related company that undertakes a new food production project or an expansion project under the Income Tax (Exemption) (No. 6) Order 2020 [P.U. (A) 373/2020]; and
- (b) who has made an application, between 1 January 2016 until 31 December 2020, to the Minister through the Minister charged with the responsibility of a new food production project or an expansion project.

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 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)** Subject to subrule (4) and (5), 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 for the year of assessment in basis period in which that amount was received.
- 4(4)** The amount referred to in subrule (3) shall not exceed the total deductions allowed in relation to that investment.
- 4(5)** Subrule (3) shall not apply where the disposal of the shares referred to in subrule (3) take 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** If 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 having its first statutory income from that project.

NON-APPLICATION

- 6** These Rules shall not apply to a company—
- (a) which has been granted an exemption under paragraph 127(3)(b) or subsection 127(3A) of the Act; or
 - (b) which has made a claim for deduction under any of the rules made under section 154 of the Act except—
 - (i) the rules in relation to the allowance under Schedule 3 of 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 2014 [*P.U. (A) 336/2014*].