

INCOME TAX (EXEMPTION)(NO.3) ORDER 2022

PU (A) 116
13 April 2022

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967, the Minister makes the following order:

CITATION AND COMMENCEMENT

1(1) This order may be cited as the **Income Tax (Exemption) (No.) Order 2022**.

1(2) This Order is deemed to have effect from the year of assessment 2018.

EXEMPTION

2(1) The Minister exempts a venture capital management company from the payment of income tax in respect of the statutory income derived from the management of venture capital company fund received by the venture capital management company from a venture capital company as stipulated in the agreement on the management of the investment of the venture capital company entered into between the said company in relation to -

- (a) share of profits;
- (b) management fee; and
- (c) performance fee including performance bonus and carried interest.

2(2) The exemption referred to in subparagraph (1) shall be for a period from the year of assessment 2018 until the year of assessment 2026 (hereinafter referred to as “the exemption period”).

2(3) In this paragraph –

(a) “Securities Commission Malaysia” means the Securities Commission Malaysia established under section 3 of the Securities Commission Malaysia Act 1993;

(b) “venture capital company” means a company which –

- i. is incorporated under the Companies Act 2016 and registered with the Securities Commission Malaysia;
- ii. invests in one or more than one venture company in the form of seed capital financing, start-up financing or early stage financing; and
- iii. has obtained certification from the Securities Commission Malaysia that the company has complied with the conditions to qualify for the exemption under the Income Tax (Exemption) (No. 2) Order 2022;

(c) “venture capital management company” means a company which –

- i. is registered with the Securities Commission Malaysia; and
- ii. has been verified by the Securities Commission Malaysia that, for each year of assessment in which the venture capital management company is exempted from payment of income tax under this paragraph, the company –

- A. has an adequate number of full-time employees in Malaysia; and
- B. has incurred an adequate amount of annual operating expenditure in Malaysia.

LOSSES

- 3** Where a venture capital management company incurs a loss from the management of venture capital company fund in the basis period for any year of assessment in the exemption period, such loss shall be –
- (a) carried forward to the year of assessment following the post-exemption period; and
 - (b) deducted from the statutory income derived from the management of venture capital company fund as specified in subparagraph 2(1).

SEPARATE ACCOUNT

- 4(1)** The venture capital management company shall maintain a separate account for the income derived from the management of the venture capital company fund referred to in paragraph 2 in the basis period for each year of assessment.
- 4(2)** For the purpose of this Order, the income referred to in subparagraph (1) shall be treated as a separate and distinct source of business for the venture capital management company.

REVOCATION, SAVINGS AND TRANSITIONAL

- 5(1)** The Income Tax (Exemption) (No. 12) Order 2005 [P.U. (A) 77/2005], which is referred to as the “repealed Order” in this paragraph, is revoked with effect from the year of assessment 2018.
- 5(2)** Where a venture capital management company has been granted an exemption under the repealed Order, such exemption shall continue to remain in effect for the remainder year of assessment in the exemption period of that venture capital management company as if the repealed Order was not revoked by this Order.
- 5(3)** Any application for an exemption under the repealed Order which is pending on the date of the coming into operation of this Order shall, on that date, cease to be dealt with under the repealed Order and shall be dealt with under this Order.