

INCOME TAX (EXEMPTION) (NO. 6) 2016 (AMENDMENT) ORDER 2018

P.U. (A) 393
31 December 2018

IN exercise of the powers conferred by paragraph 127(3)(b) 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 (Exemption) (No. 6) 2016 (Amendment) Order 2018**.

1(2) This Order is deemed to have effect from 16 October 2017.

AMENDMENT OF PARAGRAPH 3

2 The Income Tax (Exemption) (No. 6) Order 2016 [*P.U. (A) 159/2016*], which is referred to as “principal Order” in this Order, is amended in paragraph 3 by inserting after subparagraph 3(1) the following subparagraph:

“(1A) The qualifying person referred to in this Order shall fulfill the following requirements:

- (a) has an approved adequate number of full time employees in East Coast Economic Region to carry on the qualifying activity; and
- (b) incurs an approved adequate amount of annual operating expenditure to carry on the qualifying activity or an approved adequate investment in fixed asset in East Coast Economic Region to carry on the qualifying activity.”.

AMENDMENT OF PARAGRAPH 5

3 Paragraph 5 of the principal Order is amended—

(a) in subparagraph (1) by substituting for the words “The Minister” the words “Subject to this paragraph and paragraphs 5A and 6, the Minister”; and

(b) by inserting after subparagraph (4) the following subparagraphs:

“(4A) Subject to subparagraph (4B), where a qualifying person has been granted an exemption under subparagraph (1) on or before 16 October 2017, the requirements referred to in subparagraph 3(1A) shall not apply to that qualifying person until 30 June 2021.

(4B) Where a qualifying person carries on a new qualifying activity after 16 October 2017, subparagraph (4A) shall not apply and the qualifying person shall be granted an exemption under subparagraph (1) in relation to that new qualifying activity until 31 December 2018.

(4C) Where a qualifying person has been granted an exemption under subparagraph (1) after 16 October 2017, the requirements referred to in subparagraph 3(1A) shall not apply to that qualifying person until 31 December 2018.”.

NEW PARAGRAPH 5A

4 The principal Order is amended by inserting after paragraph 5 the following paragraph:

“Exclusion of intellectual property income

5A. (1) In ascertaining the statutory income of a qualifying person referred to in subparagraph 3(1), the following intellectual property income derived from a qualifying activity of the qualifying person shall be excluded:

- (a) royalties and other income derived on or after 1 July 2018 but before 1 July 2021, from new intellectual property rights that the qualifying person owns; and
- (b) royalties and other income derived on or after 1 July 2021 from all intellectual property rights that the qualifying person owns.

(2) For the purposes of subparagraph (1)—

- (a) a qualifying person owns an intellectual property right if the qualifying person is the owner or the licensee of the right;
- (b) royalties or other income is derived from an intellectual property right if it is receivable as consideration for the commercial exploitation of that right;
- (c) “intellectual property right” means a right arising from any patent, utility innovation and discovery, copyright, trade mark and service mark, industrial design, layout-design of integrated circuit, secret processes or formulae and know-how, geographical indication and the grant of protection of a plant variety, and other like rights, whether or not registered or registrable;
- (d) “new intellectual property right” means an intellectual property right in relation to the qualifying activity of the qualifying person that—
 - (i) comes into the ownership of the qualifying person on or after 1 July 2018; or
 - (ii) comes into the ownership of the qualifying person after 16 October 2017 but before 1 July 2018 as a result of an acquisition by the qualifying person, directly or indirectly, from a related company; and
- (e) “related company” has the same meaning assigned to it in section 2 of the Promotion of Investments Act 1986 [Act 327].

(3) Any intellectual property income excluded in subparagraph (1) is subject to tax under the Act.”.

AMENDMENT OF SCHEDULE

5 The Schedule to the principal Order is amended, in relation to item 3, in column (2), by substituting for the words “Information, communication and technology” the words “Information, communication and technology related services”.