

# INCOME TAX (EXEMPTION) (NO. 6) ORDER 2020

PU (A) 373

22 December 2020

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) Order 2020**.

**1(2)** This Order is deemed to have come into operation on 1 January 2016.

## INTERPRETATION

**2** In this Order, "**qualified person**" means a company incorporated under the Companies Act 2016 [Act 777], an-agro based co-operative society, an Area Farmers' Association, a Federal Farmers' Association, a State Farmers' Association, an Area Fishermen's Association, a Federal Fishermen's Association, a State Fishermen's Association and sole proprietorship, or partnership or association solely engaged in agriculture or fishery.

## APPLICATION

**3** This Order shall apply—

(a) to a new food production project—

(i) which an application in relation to exemption from the payment of income tax under paragraph 4 is made between 1 January 2016 until 31 December 2020 to the Minister through the Minister charged with the responsibility for that project;

(ii) which has not commenced on the date the application is made to the Minister; and

(iii) which commences within one year from the date of approval given by the Minister to the application under subparagraph (i); and

(b) for an expansion project that is approved by the Minister for the purpose of expanding the new food production project in subparagraph (a).

## EXEMPTION

**4(1)** The Minister exempts a qualified person resident in Malaysia from the payment of income tax in relation to—

(a) a new food production project for a period of ten consecutive years of assessment (referred to in this Order as the "exempt years of assessment") in respect of its statutory income, commencing from the first year of assessment in which the qualified person derived statutory income in relation to that project; or

(b) an expansion project for a period of five consecutive years of assessment (referred to in this Order as the "exempt years of assessment") in respect of the statutory income from expansion projects, commencing from the first year of assessment in which the qualified person derived statutory income in relation to the expansion projects, and the first year of assessment shall not be earlier than the year of assessment in the basis period in which the date of approval from the Minister falls.

- 4(2)** Subject to the subparagraph (3), the statutory income of the project referred to in subparagraph (1) in the basis period for each of the exempt years of assessment, as the case may be, shall be determined after deducting allowances which fall to be made under Schedule 3 of the Act notwithstanding that no claim for such allowances has been made.
- 4(3)** If an asset is used for the purposes of the project referred to in subparagraph (1) is also used for the purposes of a project other than that project, as the case may be, the allowances which fall to be made under Schedule 3 of the Act shall be deducted as is reasonable having regard to the extent to which the asset is used for the purposes of the first-mentioned project, as the case may be.

## **DUTY TO COMPLY THE REQUIREMENT TO FURNISH RETURN AND INFORMATION UNDER THE ACT**

- 5** Nothing in subparagraph 4(1) shall absolve or is deemed to absolve the qualified person from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the Act.

## **NEW FOOD PRODUCTION PROJECT**

- 6(1)** The exemption from the payment of income tax which is given under subparagraph 4(1)(a) in relation to a new food production project which involved the following:
- (a) planting of industrial crop, vegetables, fruits, herbs, spices and cash crop;
  - (b) aquaculture;
  - (c) rearing of honey and urena lobata bees;
  - (d) rearing of cows, buffaloes, goats, sheep and deer;
  - (e) deep sea fishing; and
  - (f) planting of feed mill, subject to subparagraph (2).
- 6(2)** The planting of feed mill which is referred in subparagraph (1)(f) shall be cultivated in a project which has been identified by the Minister in charged with the responsibility of that project and approved by the Minister.
- 6(3)** A new food production project in this paragraph shall be regarded as a separate and distinct business in determining the statutory income of qualified person for the purpose of exemption under this Regulations.

## **EXPANSION PROJECT**

- 7** An expansion project which is exempted under subparagraph 4(1)(b)—
- (a) shall for the purpose of expanding the new food production project in subparagraph 6(1);
  - (b) shall involve a new area of land; and
  - (c) shall approved by the Minister.

## **LOSSES**

**8(1)** Any amount of adjusted loss incurred—

- (a) from the year of assessment in the basis period respectively for the project referred to in subparagraph 4(1) commenced to the year of assessment immediately prior to the exempt years of assessment, as the case may be; and
- (b) during the exempt years of assessment, as the case may be,

shall be carried forward and deducted from the statutory income respectively of the project in its post-exempt year or years of assessment, as the case may be, until the project respectively utilized the whole amount of the adjusted loss to which it is so entitled.

**8(2)** So much of the adjusted loss that was utilized to reduce the statutory income of the project respectively referred to in subparagraph 4(1) in its post-exempt year or years of assessment, as the case may be, shall be disregarded for the purposes of the subsections 43(2) and 44(2) of the Act.

## **WITHDRAWAL OF TAX EXEMPTION**

**9** The Minister may withdraw the exemption on the statutory income of the project referred to in subparagraph 4(1) if the qualified person fails to comply with the conditions imposed by the Minister.

## **APPLICATION OF PARAGRAPHS 5 AND 6 OF SCHEDULE 7A OF THE ACT**

**10** Paragraphs 5 and 6 of Schedule 7A of the Act shall only apply, mutatis mutandis, to the amount of income exempted from the projects referred to in subparagraphs 4(1) for a company incorporated under the Companies Act 2016.

## **MAINTANING OF SEPARATE ACCOUNTS**

**11** The qualified person which is exempted under subparagraph 4(1)(a) shall maintain a separate account for the income derived from the projects respectively referred to in that subparagraph.

## **NON-APPLICATION**

**12** This Order shall not apply to a qualified person for a year of assessment in the basis period if the qualified person—

- (a) has been granted any incentive under the Promotion of Investments Act 1986 [Act 327];
- (b) has made a claim for allowance under Schedule 7A or Schedule 7B of the Act;
- (c) has been granted an exemption under exemption under paragraph 127(3)(b) or subsection 127(3A) of the Act; or

- (d) has made a claim for deduction under any rules made under section 154 of the Act except—
  - (i) the rules in relation to the allowance in 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*].