

INCOME TAX (EXEMPTION) (NO. 7) 2016 (AMENDMENT) ORDER 2018

P.U. (A) 394
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. 7) 2016 (Amendment) Order 2018**.
- 1(2) This Order is deemed to have come into operation on 16 October 2017.

AMENDMENT OF PARAGRAPH 3

- 2 The Income Tax (Exemption) (No. 7) Order 2016 [*P.U. (A) 160/2016*], which is referred to as the “principal Order” in this Order, is amended in paragraph 3 by inserting after subparagraph 3(1) the following paragraph:

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

- (a) has a number of full time employees in East Coast Economic Region to carry on the special qualifying activity as specified in Schedule 2; and
- (b) incurs an annual operating expenditure to carry on the special qualifying activity or an investment in fixed asset in East Coast Economic Region to carry on the special qualifying activity as specified in Schedule 2”.

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 special 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 special 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 special 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** Schedule to the principal Order is amended—
- (a) by renumbering the existing Schedule as Schedule 1;
 - (b) in the renumbered Schedule 1—
 - (i) 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”; and
 - (ii) by deleting item 11 and the particulars relating to it; and
 - (c) by inserting after the renumbered Schedule 1 the following Schedule:

“Schedule 2

(1)	(2)	(3)	(4)	(5)	(6)
No.	Exempt years of assessment	Exemption rate (%)	Types of product or special qualifying activity	Minimum amount of annual operating expenditure (RM)	Minimum number of full time employees
1.	10	70	New product or special qualifying activity in East Coast Economic Region which is promoted for the benefit of East Coast Economic Region	1,000,000.00	4
2.	10	100	<p>1. New product or special qualifying activity in East Coast Economic Region which is promoted for the benefit of East Coast Economic Region; or</p> <p>2. High technology product without research and development activity</p>	2,000,000.00	10
3.	15	100	Project located in Malaysia-China Kuantan Industrial Park	200,000,000.00	100
			Project located in industrial park within the East Coast Economic Region	1,000,000.00	10”.