

INCOME TAX (EXEMPTION) ORDER 2024

PU (A) 37

2 February 2024

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) Order 2024**.
- 1(2)** Except for subitem 3(e) and items 6 and 7 of the Schedule, this Order is deemed to have come into operation on 24 October 2013.
- 1(3)** Subitem 3(e) and item 7 of the Schedule are deemed to have come into operation on 1 January 2021.
- 1(4)** Item 6 of the Schedule is deemed to have come into operation on 1 November 2016.

INTERPRETATION

2 In this Order—

“Iskandar Regional Development Authority” means the Authority established under the Iskandar Regional Development Authority Act 2007 [Act 664];

“IDR status company” means a company as provided under paragraph 3;

“Iskandar Development Region” has the same meaning assigned to it in the Iskandar Regional Development Authority Act 2007.

IDR STATUS COMPANY

- 3(1)** The IDR status company referred to in this Order is a company which—
- (a) is incorporated under the Companies Act 2016 [Act 777];
 - (b) is resident in Malaysia;
 - (c) undertakes a qualifying activity in an approved node; and
 - (d) approved by the Minister.
- 3(2)** For the purpose of this Order, “approved node” means an area within the Iskandar Development Region as approved by the Iskandar Regional Development Authority.

QUALIFYING COMPANY

- 4** A qualifying activity referred to in this Order is an activity as specified in column (3) of the Schedule in relation to the sector as specified in column (2) of the Schedule which is—
- (a) approved by the Minister; or
 - (b) carried on in an approved node on or after 24 October 2013 but not later than 31 December 2014.

QUALIFYING CAPITAL EXPENDITURE

- 5(1)** Subject to subparagraph (2), a qualifying capital expenditure referred to in this Order is a capital expenditure as specified in column (4) of the Schedule incurred by an IDR status company in relation to a building, machinery or plant used in an approved node solely for the purpose of carrying on a qualifying activity.
- 5(2)** Unless otherwise stated in the Schedule, the qualifying capital expenditure referred to in subparagraph (1) shall not include capital expenditure incurred on—
- (a) any building which is used as living accommodation; and
 - (b) any machinery or plant which is provided wholly or partly for the use of a director or an individual who is a member of the management or administration, or clerical staff, of that IDR status company.

EXEMPTION

- 6(1)** The Minister exempts an IDR status company in the basis period for a year of assessment from the payment of income tax in respect of statutory income derived from the qualifying activity which is equivalent to the amount of allowance of one hundred per cent of the qualifying capital expenditure incurred by the IDR status company in the basis period for that year of assessment.
- 6(2)** An IDR status company may apply for an exemption under subparagraph (1) if—
- (a) an application in writing is made by the IDR status company and the application is received by the Minister through the Iskandar Regional Development Authority on or after 24 October 2013 but not later than 31 December 2024; and
 - (b) the IDR status company complies with all the conditions in relation to the application imposed by the Minister.
- 6(3)** An exemption granted under subparagraph (1) pursuant to the application under subparagraph (2) is subject to the IDR status company complying with all the conditions imposed by the Minister in relation to the exemption as specified in the approval letter.
- 6(4)** The exemption granted under subparagraph (1) shall be for a period of five consecutive years commencing from the date of the first qualifying capital expenditure incurred by the IDR status company as determined by the Iskandar Regional Development Authority.
- 6(5)** The date of the first qualifying capital expenditure incurred by the IDR status company shall not be earlier than three years before the date of the application for exemption is received by the Minister and shall not be earlier than 24 October 2013.
- 6(6)** Nothing in subparagraph (1) shall absolve or be deemed to have absolved the IDR status company from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the Act.

STATUTORY INCOME

- 7(1)** Subject to subparagraph (2), the statutory income referred to in subparagraph 6(1) in the basis period for each year of assessment shall be determined after deducting the allowance which fall to be made under Schedule 3 to the Act notwithstanding that no claim for such allowance has been made.
- 7(2)** Where a building, machinery or plant is used for the purposes of a qualifying activity is also used for the purposes of an activity other than the qualifying activity, then the amount of the allowance which fall to be made under Schedule 3 to the Act shall be deducted as is reasonable having regard to the extent to which the building, machinery or plant is used for the purposes of the qualifying activity.
- 7(3)** Where an exemption is given to an IDR status company under subparagraph 6(1) for a year of assessment, an amount equal to the amount of allowance referred to in subparagraph 6(1) shall be exempted from tax for that year of assessment.
- 7(4)** Where, by reason of the absence or insufficiency of the statutory income, exemption cannot be granted or cannot be granted in full as the IDR status company is entitled under subparagraph 6(1) for that year of assessment, then so much of the amount as cannot be exempt for that year of assessment shall be deemed to be a qualifying capital expenditure incurred for the purposes of subparagraph 6(1) for the first subsequent year of assessment for the basis period for which the IDR status company has statutory income from the qualifying activity, and so on for subsequent years of assessment until such amount to which it is so entitled is exempted.

DISPOSAL OF BUILDING, MACHINERY OR PLANT WITHIN TWO YEARS

- 8** Where a qualifying capital expenditure is incurred by an IDR status company on a building, machinery or plant used for the purposes of a qualifying activity and such building, machinery or plant is disposed of at any time within the period of two years from the date of acquisition of the building, machinery or plant, the exemption granted in respect of the amount of statutory income which is equal to the amount of allowance for such qualifying capital expenditure shall be withdrawn in the basis period for the year of assessment in which the building, machinery or plant is disposed of.

DETERMINATION OF QUALIFYING CAPITAL EXPENDITURE FOR BUILDING, MACHINERY OR PLANT DISPOSED TO RELATED COMPANY

- 9(1)** Where the IDR status company disposes to its related company any building, machinery or plant in respect of which an exemption is applied by the IDR status company under this Order, the amount of the qualifying capital expenditure incurred by the related company shall be deemed to be a sum equal to zero.
- 9(2)** For the purposes of this paragraph, “related company” has the same meaning assigned to it in subsection 2(1) of the Promotion of Investments Act 1986 [Act 327].

WITHDRAWAL OF EXEMPTION

- 10(1)** The Minister may withdraw the exemption granted under subparagraph 6(1) if the IDR status company fails to comply with any condition imposed in relation to the exemption referred to in subparagraph 6(3).
- 10(2)** Where the exemption is withdrawn in accordance with subparagraph (1), the exemption granted in respect of any amount of statutory income under subparagraph 6(1) shall be deemed to have not been granted to the IDR status company—
- (a) from the date the exemption comes into effect; or
 - (b) from a date after the date the exemption comes into effect as determined by the Minister.

SEPARATE SOURCE AND SEPARATE ACCOUNT

- 11(1)** Where an IDR status company carries on a qualifying activity and activity other than the qualifying activity, each activity shall be treated as a separate and distinct source of activity for the IDR status company.
- 11(2)** The IDR status company which is granted an exemption under subparagraph 6(1) shall maintain a separate account for the income derived from each activity referred to in subparagraph (1).

NON-APPLICATION

- 12** This Order shall not apply to an IDR status company which in the basis period for a year of assessment—
- (a) has engaged in a qualifying activity prior to the date the application is received by the Minister under subparagraph 6(2);
 - (b) has made a claim for reinvestment allowance under Schedule 7A to the Act or investment allowance for service sector under Schedule 7B to the Act;
 - (c) has been granted any incentive under the Promotion of Investments Act 1986 in respect of the same qualifying activity;
 - (d) has been granted an exemption under paragraph 127(3)(b) or subsection 127(3A) of the Act in respect of the same qualifying activity; or
 - (e) has made a claim for a deduction under any rules made under section 154 of the Act except—
 - (i) the rules in relation to allowance under Schedule 3 to the Act;
 - (ii) the Income Tax (Deduction for Audit Expenditure) Rules 2006 [P.U. (A) 129/2006];
 - (iii) the Income Tax (Deduction for Expenses in relation to Secretarial Fee and Tax Filing Fee) Rules 2014 [P.U. (A) 336/2014]; or
 - (iv) the Income Tax (Deduction for Expenses in relation to Secretarial Fee and Tax Filing Fee) Rules 2020 [P.U. (A) 162/2020].

NON-APPLICATION

[Paragraphs 4 and 5]

(1) No.	(2) Sector	(3) Qualifying activity	(4) Qualifying capital expenditure
1.	Creative industries and related services	<ul style="list-style-type: none"> (a) creative and design services; (b) creative talent management services; (c) film and television— <ul style="list-style-type: none"> (i) pre-production; (ii) production; (iii) post-production; and (iv) distribution; (d) games and animation— <ul style="list-style-type: none"> (i) content creation; (ii) production; (iii) post-production; and (iv) distribution; (e) online and mobile content generation and advertising; (f) online and mobile content aggregation and enablers; (g) creative research and development; (h) distribution and marketing of creative content; (i) integrated media and content services; and (j) visual and performing arts 	Construction or purchase of building, machinery or plant
2.	Educational services	<ul style="list-style-type: none"> (a) universities; (b) colleges; (c) skills training institutions; (d) research and development institutions; and (e) regional training centres 	Construction or purchase of building, machinery or plant
3.	Healthcare and related services	<ul style="list-style-type: none"> (a) hospitals and alternative medicine (traditional and complementary medicine) centres; (b) integrated dental and orthodontic services; (c) healthcare research and development; (d) integrated laboratory services; and (e) wellness and assisted living 	Construction or purchase of building, machinery or plant
4.	Logistics services	<ul style="list-style-type: none"> (a) integrated supply chain services; and (b) high value supply chain services and solutions 	Construction or purchase of building, machinery or plant

5.	Tourism	<ul style="list-style-type: none"> (a) hotels; (b) theme parks, amusement and family entertainment centres and cultural centres; (c) conference centres and exhibition centres; and (d) regional operation of hotel and leisure services 	<ul style="list-style-type: none"> (a) clearing and preparation of land; (b) planting of trees and plants; (c) construction of roads and other infrastructure facilities within the area of tourism project; (d) provision of birds, animals and other exhibits; (e) provision of machinery or plant; (f) construction or purchase of buildings (including those provided for the purposes of welfare of employees or as living accommodation for employees); and (g) structural improvements on land and other structures on land, forming part of the land within the area of tourism project
6.	Global business services	<ul style="list-style-type: none"> (a) information technology outsourcing; (b) business process outsourcing; and (c) knowledge process outsourcing 	Construction or purchase of building, machinery or plant
7.	Digital business and services	Emerging digital technologies	Construction or purchase of building, machinery or plant