

# **INCOME TAX (EXEMPTION) (NO. 2) 2009 (AMENDMENT) ORDER 2018**

PU (A) 381  
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. 2) 2009 (Amendment) Order 2018**.
- 1(2)** This Order is deemed to have come into operation on 16 October 2017 except for paragraphs 2 and 3.
- 1(3)** Paragraphs 2 and 3 are deemed to have come into operation on 2 September 2006.

## **GENERAL AMENDMENT**

- 2** The Income Tax (Exemption) (No. 2) Order 2009 [P.U. (A) 156/2009], which is referred to as the “principal Order” in this Order, is amended—
- (a) in the English language text, by substituting for the words “an approved business” wherever appearing the words “a qualifying activity”; and
  - (b) by substituting for the words “approved business” wherever appearing the words “qualifying activity”.

## **AMENDMENT PARAGRAPH 3**

- 3** Paragraph 3 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 3A and 4, the Minister”; and
  - (b) by inserting after subparagraph (2) the following subparagraphs:
    - “(2A) Subject to subparagraph (2B), where an approved company has been granted an exemption under subparagraph (1) on or before 16 October 2017, the requirements for the approved company referred to in subparagraph 3(1A) of the Income Tax (Exemption) (No. 17) Order 2007 shall not apply to that approved company until 30 June 2021.
    - (2B) Where an approved company carries on a new qualifying activity after 16 October 2017, subparagraph (2A) shall not apply and the approved company shall be granted an exemption under subparagraph (1) in relation to that new qualifying activity until 31 December 2018.

- (2C) Where an approved company has been granted an exemption under subparagraph (1) after 16 October 2017, the requirements for the approved company referred to in the definition of “BioNexus status company” in the Income Tax (Exemption) (No. 17) Order 2007 shall not apply to that approved company until 31 December 2018.”.

## **NEW PARAGRAPH 3A**

- 4 The principal Order is amended by inserting after paragraph 3 the following paragraph:

### **“Exclusion of intellectual property income**

3A(1) In ascertaining the statutory income of an approved company referred to in subparagraph 3(1), the following intellectual property income derived from a qualifying activity of the approved company 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 the approved company owns; and
- (b) royalties and other income derived on or after 1 July 2021 from all intellectual property rights that the approved company owns.

3A(2) For the purpose of subparagraph (1)—

- (a) an approved company owns an intellectual property right if the approved company 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 approved company that—
  - (i) comes into the ownership of the approved company on or after 1 July 2018; or
  - (ii) comes into the ownership of the approved company after 16 October 2017 but before 1 July 2018 as a result of an acquisition by the approved company, directly or indirectly, from a related company; and
- (e) “related company” has the same meaning assigned to it in subsection 2(1) of the Promotion of Investments Act 1986 [Act 327].”.

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