

# INCOME TAX (EXEMPTION) (NO. 2) ORDER 2017

PU (A) 117  
10 April 2017

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) Order 2017**.

1(2) This Order has effect for the year of assessment 2017 and year of assessment 2018.

## APPLICATION

2 This Order applies to a qualifying person—

- (a) whose business has been in operation for not less than twenty four months; and
- (b) who has chargeable income from a source consisting of a business in the basis period for a year of assessment and the year of assessment immediately preceding that year of assessment and has made up its account for a period of twelve months ending on the same date for each of those years of assessment.

## INTERPRETATION

3 In this Order, "**qualifying person**" means—

- (a) a company incorporated under the Companies Act 2016 [Act 777];
- (b) a limited liability partnership registered under the Limited Liability Partnership Act 2012 [Act 743];
- (c) a trust body;
- (d) an executor of an estate of a deceased individual who was domiciled outside Malaysia at the time of his death; and
- (e) a receiver with respect to whom subsection 68(4) of the Act applies,

resident in Malaysia.

## EXEMPTION

- 4(1)** The Minister exempts a qualifying person from the payment of income tax in respect of the amount of chargeable income as ascertained in subparagraphs (2) and (3) derived from the carrying on of a business in the basis period for a year of assessment.
- 4(2)** Subject to subparagraph (3), the amount of chargeable income exempted under subparagraph (1) shall be ascertained in the following manner:
- (a) first, the amount of the difference between the chargeable income in the basis period for a year of assessment and the chargeable income for the year of assessment immediately preceding that year of assessment (hereinafter referred to as the “incremental amount of chargeable income”) shall be determined;
  - (b) next, the percentage of the incremental amount of chargeable income (hereinafter referred to as the “percentage of the incremental value”) shall be determined in accordance with the following formula:

$$\frac{A - B}{B} \times 100$$

where A is the amount of chargeable income from a source consisting of a business of the qualifying person in the basis period for a year of assessment; and

B is the amount of chargeable income from a source consisting of a business of the qualifying person in the year of assessment immediately preceding that year of assessment;

- (c) next, the amount of chargeable income exempted under subparagraph (1) shall be ascertained by applying the following formula:
  - (i) where the percentage of the incremental value is 20 per cent or more:

$$\frac{C}{D} \times E$$

where C is the amount of tax charged on the incremental amount of chargeable income at the prevailing tax rate as provided for in paragraph 2 of Part I of Schedule 1 to the Act reduced by the amount of tax charged on the incremental amount of chargeable income at the rate of 20 per cent;

D is the amount of tax charged on the incremental amount of chargeable income at the prevailing tax rate as provided for in paragraph 2 of Part I of Schedule 1 to the Act; and

E is the incremental amount of chargeable income;

(ii) where the percentage of the incremental value is 15 to 19.99 per cent:

$$\frac{C}{D} \times E$$

where C is the amount of tax charged on the incremental amount of chargeable income at the prevailing tax rate as provided for in paragraph 2 of Part I of Schedule 1 to the Act reduced by the amount of tax charged on the incremental amount of chargeable income at the rate of 21 per cent;

D is the amount of tax charged on the incremental amount of chargeable income at the prevailing tax rate as provided for in paragraph 2 of Part I of Schedule 1 to the Act; and

E is the incremental amount of chargeable income;

(iii) where the percentage of the incremental value is 10 to 14.99 per cent:

$$\frac{C}{D} \times E$$

where C is the amount of tax charged on the incremental amount of chargeable income at the prevailing tax rate as provided for in paragraph 2 of Part I of Schedule 1 to the Act reduced by the amount of tax charged on the incremental amount of chargeable income at the rate of 22 per cent;

D is the amount of tax charged on the incremental amount of chargeable income at the prevailing tax rate as provided for in paragraph 2 of Part I of Schedule 1 to the Act; and

E is the incremental amount of chargeable income; or

(iv) where the percentage of the incremental value is 5 to 9.99 per cent:

$$\frac{C}{D} \times E$$

where C is the amount of tax charged on the incremental amount of chargeable income at the prevailing tax rate as provided for in paragraph 2 of Part I of Schedule 1 to the Act reduced by the amount of tax charged on the incremental amount of chargeable income at the rate of 23 per cent;

D is the amount of tax charged on the incremental amount of chargeable income at the prevailing tax rate as provided for in paragraph 2 of Part I of Schedule 1 to the Act; and

E is the incremental amount of chargeable income.

- 4(3)** Where a qualifying person is a company which has a paid-up capital in respect of its ordinary shares of two million five hundred thousand ringgit and less or a limited liability partnership which has a total contribution of capital (whether in cash or in kind) of two million five hundred thousand ringgit and less, at the beginning of the basis period for a year of assessment, the amount of chargeable income exempted under subparagraph (1) shall be ascertained in the following manner:
- (a) first, the incremental amount of chargeable income and the percentage of the incremental value shall be determined in the manner specified under subsubparagraphs (2)(a) and (b) respectively;
  - (b) next, where the incremental amount of chargeable income is part of the amount of the first five hundred thousand ringgit of the chargeable income in the basis period for a year of assessment, the exemption under subparagraph (1) shall not apply to that incremental amount; and
  - (c) next, where the incremental amount of chargeable income is part of the amount which exceeds the amount of the first five hundred thousand ringgit of the chargeable income in the basis period for a year of assessment, the amount of chargeable income exempted under subparagraph (1) shall be ascertained by applying the formula under subsubparagraph (2)(c) according to the percentage of the incremental value determined under subsubparagraph (a) to any incremental amount of chargeable income which is not part of the amount of the first five hundred thousand ringgit of the chargeable income in the basis period for a year of assessment.
- 4(4)** For the purpose of subsubparagraph (2)(a), the incremental amount of chargeable income shall be ascertained without regard to any unabsorbed loss or unabsorbed allowance in the year of assessment and the year of assessment immediately preceding that year of assessment pursuant to—
- (a) subsection 43(2) of the Act;
  - (b) paragraph 4 of Schedule 7A to the Act;
  - (c) subsections 25(3), 25(4), 29(5), 29A(5), 29B(4), 29D(4), 29E(4), 29F(4), 29G(4), 29H(4), 29J(4), 29K(4) and 29O(6) and paragraphs 29L(3)(c), (4)(c), (5)(c) and (6)(c) of the Promotion of Investments Act 1986 [Act 327]; and
  - (d) any order made under section 127 of the Act or rules made under section 154 of the Act except in respect of the allowances under Schedule 3 to the Act.

## **NON-APPLICATION**

- 5** This Order shall not apply to a qualifying person who in the basis period for a year of assessment—
- (a) 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;
  - (b) has been granted any incentive under the Promotion of Investments Act 1986;
  - (c) has been granted an exemption under section 127 of the Act;
  - (d) has made a claim for group relief under section 44A of the Act;
  - (e) is an investment holding company under section 60F or 60FA of the Act;
  - (f) is a unit trust which is defined under subsection 63C(5) of the Act; or
  - (g) has a debt that has been released under subsection 30(4) of the Act.