

PROMOTION OF INVESTMENTS (PROMOTED ACTIVITIES AND PROMOTED PRODUCTS FOR HIGH TECHNOLOGY COMPANIES) (AMENDMENT) ORDER 2018

PU (A) 336

20 December 2018

REGULATION 1 CITATION AND COMMENCEMENT

1(1) This order may be cited as the **Promotion of Investments (Promoted Activities and Promoted Products for High Technology Companies) (Amendment) Order 2018**.

1(2) This Order is deemed to have come into operation on 1 July 2018.

REGULATION 2 NEW PARAGRAPH 2A

2(1) The Promotion of Investments (Promoted Activities and Promoted Products for High Technology Companies) Order 2012 [P.U. (A) 59/2012] is amended by inserting after paragraph 2 the following paragraph:

“Exclusion of intellectual property income

2A(1) In ascertaining the income of a high technology company arising from promoted activities and promoted products of the high technology company—

- (a) for the period on or after 1 July 2018 but before 1 July 2021, royalty and other income derived from a new intellectual property right, but not from an existing intellectual property right, of which the high technology company is the owner or licensee, shall be disregarded; and
- (b) for the period on or after 1 July 2021, royalty and other income derived from all intellectual property rights of which the high technology company is the owner or licensee, shall be disregarded.

2A(2) For the purpose of paragraph 2A—

- (a) royalty or other income is derived from an intellectual property right if royalty or other income is receivable as consideration for the commercial exploitation of that right;
- (b) “intellectual property right” means a right arising from any patent, utility innovation and discovery, copyright, trademark 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, or other like rights, whether or not registered or registrable;
- (c) “existing intellectual property right” means an intellectual property right in relation to the promoted activities and promoted products listed in the First Schedule of which a high technology company became the owner or licensee before 1 July 2018, and is not a new intellectual property right; and
- (d) “new intellectual property right” means an intellectual property right in relation to the promoted activities and promoted products for a high technology company—
 - (i) of which the high technology company became the owner or licensee on or after 1 July 2018; or

- (ii) of which the high technology company became the owner or licensee after 16 October 2017 but before 1 July 2018 as a result of an acquisition by that high technology company, directly or indirectly, from a related company, where the main purpose or one of the main purposes of acquisition is to avoid income tax in Malaysia or elsewhere.”.