e-CIRCULAR TO MEMBERS

CHARTERED TAX INSTITUTE OF MALAYSIA (225750-T)

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TO ALL MEMBERS

TECHNICAL

Direct Taxation

Reduction of Income Tax Rate Based on Increase in Chargeable Income

Income Tax (Exemption) (No.2) Order 2017 [P.U. (A) 117/2017]

1. **Background**

Budget 2017 included a proposal for the income tax rate for specified entities (refer to para. 3 below) to be reduced based on the percentage of increase in chargeable income as compared to the immediately preceding year of assessment (YA). The reduced rates are as follows:

% of Increase in Chargeable Income as Compared to the Immediately Preceding YA	% Point of Reduction on Income Tax Rate	Reduced Income Tax Rate on Increase in Chargeable Income (%)
Less than 5%	Nil	24
5% - 9.99%	1	23
10% - 14.99%	2	22
15% - 19.99%	3	21
20% and above	4	20

(The above Table is reproduced from the 2017 Budget Commentary & Tax Information published by CTIM, MIA and MICPA and is based on the table set-out in Appendix 2 of the 2017 Budget Speech.)

2. **Exemption Order**

To give effect to the proposal, the *Income Tax (Exemption) (No.2) Order* ("this Order") was gazetted on 10 April 2017. It is effective for YA 2017 and YA 2018. Members were informed of the Order via our e-CTIM TECH-DT 32/2017 dated 18 April 2017.

3. **Qualifying Persons**

In this Order "qualifying person" (QP) means –
(a) a company incorporated under the Companies Act 2016;
(b) a limited liability partnership (LLP) registered under the LLP Act 2012;
(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 ITA applies,

resident in Malaysia.

This Order applies to a QP whose business has been in operation for at least 24 months, who has chargeable income from a business source in the basis period for a YA and the immediately preceding YA, and has made up its accounts for a period of 12 months ending on the same date for each of those YAs. (Paragraph 2)

4. **Exemption (Paragraph 4)**

Subparagraph 4(1) of this Order provides for the exemption of a QP from payment of income tax in respect of the amount of chargeable income ascertained as in subparagraphs 4(2) and 4(3) derived from carrying on a business in the basis period (BP) for a YA.

The steps in ascertaining the amount of chargeable income (CI) that is exempted are set out in subparagraph 4(2). They are summarized below:

Para. 4	Steps	Method / Meaning	Notes
(2)(a)	1. Compute "**incremental amount of chargeable income**" (IACI).	Difference between the CI in the BP for a YA and the CI for the immediately preceding YA.	This amount is denoted by E in the formulas found in subparagraph 4(2)(c). This amount is ascertained without regard to any unabsorbed loss or unabsorbed allowances in the YA and the YA immediately preceding that YA. [subparagraph 4(4)]
(2)(b)	2. Compute the "**percentage of the incremental value**" (PIV)	Percentage of the incremental amount of CI, determined by the formula: $\frac{A - B}{B} \times 100$	A = amount of CI from a business source of the QP in the BP for a YA. B = the amount of CI from a business source of the QP in the immediately preceding YA.
(2)(c)	3. Compute the amount of **CI that is exempted** under subpara. 4(1)	Determined by the formula: $\frac{C}{D} \times E$ Where: C = amount of tax charged on the IACI at the prevailing tax rate provided in paragraph 2 of Part 1 of Schedule 1 of the ITA, reduced by the amount of tax charged on the IACI at the rate specified below: **Where PIV is** — **Rate** 20% or more — 20% 15 to 19.99% — 21% 10 to 14.99% — 22% 5 to 9.99% — 23% D = the amount of tax charged on the IACI at the prevailing rate found in paragraph 2 of Part 1 of Schedule 1 of the ITA. E = the IACI	
(3)	Where a QP is a company with a paid-up capital in respect of its ordinary shares of RM2.5 million and less or a LLP which has a total contribution of capital (in cash or kind) of RM2.5 million and less, at the beginning of the BP for a YA, the amount of CI that is exempted is computed as follows:		
	Step	**Method**	
(3)(a)	1. Compute IACI and the PIV	Determined in the manner specified under subparagraphs 4(2)(a) and 4(2)(b) respectively.	
(3)(b)	2. where the IACI is – • part of the amount of the first RM500,000 of the CI in the BP for a YA	- the exemption under subparagraph 4(1) is not applicable to that incremental amount.	
(3)(c)	• part of the amount which exceeds the amount of the first RM500,000 of the CI in the BP for a YA,	- the amount of exempt income is ascertained by applying the formula under subparagraph 4(2)(c) according to the PIV determined under subparagraph 4(3)(a) to any IACI which is not part of the amount of the first RM500,000 of the CI for the YA.	

5. **Non-application**

This Order does not apply to a QP who (in the BP for a YA) has been granted Reinvestment Allowance or Investment Allowance under Schedules 7A and 7B respectively of the ITA, or any incentive under the Promotion of Investments Act 1986, or comes within the application of specified provisions of the ITA which are listed under paragraph 5(c) to (g) of this Order.

Members may read the Order in full at the official website of the Attorney-General's Chambers.

Members may also refer to pages 12-13 of the LHDNM's Guidebook 2017 (BM version only) in relation to the computations set-out in paragraph 4 of the Order.

You may write to the Institute at technical@ctim.org.my or secretariat@ctim.org.my in respect of any suggestions, concern or comments you may have on the above Order.