e-CIRCULAR TO MEMBERS

CHARTERED TAX INSTITUTE OF MALAYSIA (225750-T)

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TO ALL MEMBERS

TECHNICAL

Direct Taxation

GUIDELINES ON TAX EXEMPTION ON INCREASE IN CHARGEABLE INCOME FROM BUSINESS

The above Guidelines (in Bahasa Malaysia only) are dated 9 April 2019 (refer to our e-CTIM-TECH-DT 58/2019 dated 15 July 2019). The objective is to provide an explanation of the tax treatment and tax computation when making a claim for the incentive of a reduced tax rate that is based on the percentage of increase in chargeable income (CI) as compared with the previous year.

The incentive was proposed under the 2017 Budget and granted under the provisions of the **Income Tax (Exemption) (No. 2) Order 2017** [P.U.(A) 117/2017] (the Order) dated 10 April 2017 which has effect for the years of assessment 2017 and 2018.

The following is a brief outline of the contents of the Guidelines:

Para. #	Summary
1	**Objective** As stated in the introduction above.
2	**Conditions of Eligibility** • Taxpayers resident in Malaysia who qualify are: (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 S68(4) of the Income Tax Act 1967 (ITA) applies, • To qualify for a claim, the taxpayer: (a) must have been in operation for not less than 24 months before the particular YA for which the claim for the exemption under the Order is made; (b) has chargeable income from a business source for both years of assessment between which comparison is made; (c) has made up accounts for a period of 12 months ending on the same date for each of the years of assessment referred to in (b) above. (Examples 1 and 2) • The taxpayer is not eligible for a claim for the exemption if there is a change of accounting date which results in an accounting period of less than 12 months in one of the 2 YAs being compared.
3	**Computation of exempt income** The steps are as follows: 1. Compute the amount of increase in CI* from a business for either YA 2017 (compared to YA 2016) or YA 2018 (compared to YA 2017).

* CI is computed using the formula -

$$\frac{\text{Statutory income from business}}{\text{Aggregate income}} \times \text{Chargeable income}$$

2. Compute the percentage increase in CI using the formula –

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

Where A is the amount of CI from a business source of the taxpayer for the basis period for a YA; and

B is the amount of CI from a business source of the taxpayer for the basis period for the immediately preceding YA.

A table showing the percentage point reduction (from 1% to 4%) in income tax rate that applies in respect of each band of percentage increase in CI (ranging from <5% to >20%) over the CI of the preceding YA is provided under para. 3.1(b) of the Guidelines

3. Compute the amount of CI exempted using the formula –

$$\frac{(C \times 24\%) - (C \times D)}{C \times 24\%} \times C$$

Where C is equal to A – B in the previous formula; and

D is the reduced tax rate (reduced by the percentage point that applies as indicated in the table in para. 3.1(b)).

(Note that 24% is the current tax rate.)

The rest of para. 3 deals with the following:

Para. #	Subject matter
3.2	Computation of exempt income where the taxpayer has 2 or more business sources: Example 4 – where there are 2 business sources; Example 5 – where 1 of the 2 businesses incurs a loss.
3.3	CI of a business is ascertained after deducting donations but without taking into account losses or incentives that cannot be utilized in that YA or unutilized from previous years. These losses and incentives are specified under items (a) to (e).
3.4	Incentives that may still be claimed – deductions for reinvestment allowance and other allowances and exemptions that are unutilized in the current year or in previous years, subject to para. 3.3.
3.5	Claimants of this incentive may still claim deductions under any Income Tax Ruling made under S154 of the ITA.
3.6	For companies to which para. 2B and 2C of Schedule 1 of the ITA applies, the exemption in respect of increase of CI from a business only applies to CI that exceeds the first RM500,000 of CI.
3.7	For an LLP to which para. 2E and 2F of Schedule 1 of the ITA applies, the exemption in respect of increase of CI from a business only applies to CI that exceeds the first RM500,000 of CI.

4	**Examples of computation of exempt income** The following are the examples provided: **Example** / **Scenario** 6 Company with paid up capital of not more than RM 2.5 million 7 Company with paid up capital of more than RM 2.5 million 8 Company with paid up capital of more than RM 2.5 million claiming business loss from preceding year and donation. 9 Company with paid up capital of more than RM 2.5 million claiming reinvestment allowance
5	**Non-application** The Order does not apply to a taxpayer who qualifies but comes within any of the cases listed under items (a) to (g) of para. 5
6	**Penalty** For a taxpayer who has made a claim for this incentive and is subsequently audited by the IRBM, (a) if the audit is for YA 2016, and it results in a reduction of the increase of CI from business for YA 2017, no penalty will be imposed on the additional tax for YA 2017 (b) If the audit is for YA 2017 and it results in a reduction of the increase of CI from business for YA 2018, no penalty will be imposed on the additional tax for YA 2018.

Members may read the Guidelines in full on the websites of the Institute and the LHDNM.

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 Guidelines so that we may raise them to the LHDNM.