

## e-CIRCULAR TO MEMBERS

CHARTERED TAX INSTITUTE OF MALAYSIA (225750-T)

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TO ALL MEMBERS

### TECHNICAL

#### Direct Taxation

#### **INCENTIVES FOR QUALIFYING PERSONS PARTICIPATING IN QUALIFYING ACTIVITIES IN THE RAPID COMPLEX**

In addition to the Customs Duties and Sales Tax Exemptions given in connection with the RAPID Complex (refer to [e-CTIM No. 179/2012](#) dated 14 December 2012), the following legislation granting incentives to qualifying persons engaged in qualifying activities in the RAPID Complex were recently gazetted. They are dated 29 January 2013.

Gazette	Citation	Effective date
P.U.(A) 39/2013	<a href="#">Income Tax (Exemption) (No. 5) Order 2013</a>	From 10 October 2011 till 31 December 2021
P.U.(A) 40/2013	<a href="#">Income Tax (Exemption) (No. 6) Order 2013</a>	From year of assessment (YA) 2011
P.U.(A) 41/2013	<a href="#">Income Tax (Exemption) (No. 7) Order 2013</a>	From YA 2011
P.U.(A) 42/2013	<a href="#">Stamp Duty (Exemption) (No. 3) Order 2013</a>	From 10 October 2011 till 31 December 2021
P.U.(A) 43/2013	<a href="#">Income Tax (Deduction For Pre Commencement Expenses In Relation To Refinery and Petrochemical Integrated Development) Rules 2013</a>	From YA 2010
P.U.(A) 44/2013	<a href="#">Income Tax (Exemption) (No. 8) Order 2013</a>	From YA 2011

#### Definitions

The following terms are similarly defined as quoted below in the above Orders /Rules:

Terms	Definition
Qualifying activity (QA)	Any of the following activity carried out by a qualifying person in RAPID complex: (a) blending, processing or cracking of crude, condensates, feedstock or intermediate feedstock; (b) production, manufacturing or product development of petroleum , petrochemical, chemicals, intermediate, final products or its related by-products; (c) storing, formulating, blending distributing or marketing of petroleum, petrochemical, chemicals, intermediate, final products or its related by-products; (d) re-gasification of LNG to gas and relevant distribution; or (e) generation, distribution or sales of all forms of utilities including but not limited to electricity, water, steam, gases, hydrogen, air or waste treatment;
RAPID complex	A complex which consists of liquid cracker plants, refinery plants, petrochemical or chemical production plants and all support and auxiliary facilities including but not limited to liquid natural gas (LNG), Receiving and Re-gasification Terminal (RGT), COGEN power plant, storage facilities or waste disposal

	facilities and located in Pengerang, Johor; "RAPID" is an abbreviation for Refinery and Petrochemical Integrated Development.
Qualifying person (QP)	Means – (a) Petroliaam Nasional Berhad (b) any other company incorporated under the Companies Act 1965 [Act 125] where Petroliaam Nasional Berhad holds at least 51 percent paid up capital in respect of ordinary shares; or (c) any other company incorporated under the Companies Act 1965 which carries out qualifying activity within the RAPID complex where Petroliaam Nasional Berhad holds, either directly or indirectly, ordinary shares in that company.

### Incentives

The following are the incentives granted under the respective Order /Rule:

Legislation	Incentives
P.U.(A) 39/2013	Income tax exemption for a non-resident person on payments received from a QP in relation to a QA in respect of:  (a) payments falling under section 4A of the Income Tax Act 1967 (ITA) (b) interest (c) royalty (d) contract payment under section 107A of the Act; and (e) other gains or profit falling under subsection 4(f) of the ITA.
P.U.(A) 40/2013	Income tax exemption for a QP who is resident in Malaysia, on statutory income from a QA in an amount equal to 100% of qualifying capital expenditure (QCE) incurred in the basis period for a YA, for 10 consecutive YA (subject to conditions– see Note 1).  Application must be submitted to the Malaysian Investment Development Authority (MIDA) on or after 10 October 2011.  "QCE" is defined as: (a) the provision of any plant and machinery (P&M) and construction of a factory used in Malaysia in connection with and for the purpose of the QA; or (b) the provision of any P&M and construction of a building used in Malaysia in connection with and for the purposes of the QA relating to in-house research; with specified exclusion (see Note 2).
P.U.(A) 41/2013	Income tax exemption for a QP who is resident in Malaysia on statutory income from a QA in RAPID Complex for a period of 15 consecutive YA, commencing from the first YA for which the QP derives statutory income from the QA.  Application must be made to MIDA on or after 10 October 2011.
P.U.(A) 42/2013	Stamp duty exemption on all instruments chargeable with <i>ad valorem</i> duty executed by a QP in relation to a QA carried on In RAPID Complex on or after 10 October 2011 but not later than 31 December 2021.  An (approval) letter giving approval for the QP to carry out QA in RAPID Complex must be obtained from the Minister of Finance.
P.U.(A) 43/2013	Deduction allowed in arriving at adjusted income of a QP from a QA for expenses incurred by that person prior to the commencement of that QA. The expenses must be

	<p>incurred within 4 years prior to the date of commencement of the QA, which must not be earlier than 1 October 2010.</p> <p>The types of expenses allowed to be deducted are listed in the Schedule to sub-rule 3(2).</p>
P.U.(A) 44/2013	<p>Income tax exemption for a QP who is resident in Malaysia, on statutory income from a qualifying project in an amount equal to 100% of QCE incurred in the basis period for a YA, for 5 consecutive YA (subject to conditions relating to commencement of the exempt years – see note 3).</p> <p>QCE is defined in the same way as in Income Tax (Exemption) (No. 6) Order 2013 [P.U. (A) 40/2013].</p> <p>“Qualifying project” is defined as “a project undertaken by a QP in expanding, modernizing, automating or in diversifying its existing QA which is exempted under the Income Tax (Exemption) (No. 6) Order 2013 [P.U.(A) 40/2013] within the same industry and carried out by the QP in RAPID Complex for RAPID.</p> <p>The QP must make an application in respect of the qualifying project to MIDA within 90 days before the expiry of the exemption period under Income Tax (Exemption) (No. 6) Order 2013 [P.U. (A) 40/2013].</p>
Notes:	<ol style="list-style-type: none"> <li>1. Refer to paragraph 4 (3) of Income Tax (Exemption) (No. 6) Order 2013 for conditions relating to commencement of the “exempt years of assessment”.</li> <li>2. Refer to definition of QCE in paragraph 2(1) of Income Tax (Exemption) (No. 6) Order 2013 for details.</li> <li>3. Refer to subparagraphs 4(3) and (4) of Income Tax (Exemption) (No. 8) Order 2013 for conditions relating to commencement of the exempt years.</li> </ol>

Please refer to the full text of the above Orders/ Rule at the official website of [Attorney-General's Chambers](#) for full details of the respective incentives.

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