

e-CTIM TECH 19/2013  
TO ALL MEMBERS

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## TECHNICAL

### Direct Taxation

#### **INCENTIVES FOR TUN RAZAK EXCHANGE MARQUEE STATUS COMPANIES (TRXM) AND APPROVED DEVELOPERS**

The following legislation granting incentives to a Tun Razak Exchange Marquee status company (TRXM) and an approved developer were gazetted on 31 January 2013.

Gazette Ref.	Citation	Effective date
P.U.(A) 27/ 2013	<a href="#">Income Tax (Industrial Building Allowance) (Tun Razak Exchange Marquee Status Company) Rules 2013</a>	For the year of assessment (YA) 2014
P.U.(A) 28/ 2013	<a href="#">Income Tax (Exemption) (No. 4) Order 2013</a>	From YA 2013
P.U.(A) 29/ 2013	<a href="#">Income Tax (Accelerated Capital Allowance) (Tun Razak Exchange Marquee Status Company) Rules 2013</a>	From 1 January 2014 till 31 December 2020
P.U.(A) 30/ 2013	<a href="#">Income Tax (Deduction for Relocation Costs For Tun Razak Exchange Marquee Status Company) Rules 2013</a>	From YA 2014
P.U.(A) 31/ 2013	<a href="#">Income Tax (Deduction for Rental Payments) (Tun Razak Exchange Marquee Status Company) Rules 2013</a>	From YA 2014
P.U.(A) 32/ 2013	<a href="#">Stamp Duty (Exemption) Order 2013</a>	From 1 January 2014
P.U.(A) 33/ 2013	<a href="#">Stamp Duty (Exemption) (No. 2) Order 2013</a>	From 31 January 2013

### Tun Razak Exchange (TRX)

“Tun Razak Exchange” is defined in each of the legislation in terms of its location in Wilayah Persekutuan, Kuala Lumpur.

### TRXM

A “Tun Razak Exchange Marquee status company” (TRXM) is defined in the legislation as follows:

- a licensed institution under the Banking and Financial Institutions Act 1989 [Act 372] carrying on a banking business or a merchant banking business or a related company within the same group;
- a company licensed under the Insurance Act 1996 [Act 553] carrying on insurance business or a related company within the same group;
- a company licensed under the Islamic Banking Act 1983 [Act 276] carrying on an Islamic banking business or a related company within the same group;
- a company registered under the Takaful Act 1984 [Act 312] carrying on takaful business or a related company within the same group;
- a company which is a holder of a Capital Markets Service Licence licensed under the Capital Markets and Services Act 2007 [Act 671];
- a person, other than an individual, who is a registered person under section 76 or 76A

of the Capital Markets and Services Act 2007; and  
approved by the Minister.

*A related company within the same group means –*

- (i) a person who has control over the licensed institution or company referred to in (a), (b), (c) and (d) above;
- (ii) a person over whom the licensed institution or company referred to in (a), (b), (c) and (d) above has control; or
- (iii) a person and the licensed institution or company referred to in (a), (b), (c) and (d) above both of whom are controlled by some other person.

### **Incentives for a TRXM**

<b>Gazette Ref.</b>	<b>Incentive</b>
P.U.(A) 27/ 2013	<ul style="list-style-type: none"> <li>Capital expenditure incurred by a TRXM on the construction or purchase of a commercial building located in the TRX shall be treated as qualifying building expenditure (QBE) for the purposes of Schedule 3 of Income Tax Act 1967 (ITA), provided that the commercial building is owned by the TRXM and used by the TRXM for the purpose of a business as specified in the Schedule to these Rules.</li> <li>Industrial building allowance under paragraph 80 of Schedule 3 of ITA is granted at the rate of one-tenth (10%) of the QBE for a period of 10 years. The Rules also provide for treatment for an industrial building partly in use or where an industrial building is also used for non-specified activity/business.</li> <li>Leasing of an industrial building specified in the Schedule to these Rules shall be regarded as carrying on a leasing activity and income from that leasing activity shall be treated as a separate and distinct source of business under Section 4(a) of ITA.</li> <li>These Rules shall not apply to QBE incurred by the TRXM after 31 December 2020, or a company exempted under Income Tax (Exemption)(No.4) Order 2013 [P.U.(A) 28/2013]</li> </ul>
P.U.(A) 29/ 2013	<ul style="list-style-type: none"> <li>Prescribed renovation costs, as set out in the Schedule to these Rules, incurred by a TRXM on a building or part of a building located in TRX used for the purpose of the company's business, qualify for an initial allowance of 20% and annual allowance of 40%, provided that the costs are certified by an external auditor.</li> <li>The renovation costs shall be deemed to be incurred on the day on which the TRXM commences to undertake the whole or part of its business in the TRX.</li> </ul>
P.U.(A) 30/ 2013	<ul style="list-style-type: none"> <li>In ascertaining the adjusted income of a TRXM, a deduction is allowed for relocation costs, as set out in the Schedule to these Rules, incurred by the TRXM to relocate the whole or part of its business to the TRX, provided that such relocation takes place not later than 31 December 2020 and the costs are certified by an external auditor. The deduction is only in respect of costs not allowed under section 33(1) ITA.</li> <li>The relocation costs will be deemed to be incurred in the YA in which the TRXM commences to undertake the whole or part of its business in the TRX.</li> </ul>
P.U.(A) 31/ 2013	<ul style="list-style-type: none"> <li>In ascertaining the adjusted income of a TRXM, a deduction of an amount equal to one-half of the rental payments incurred in respect of a rented commercial building used for the purposes of its business in the TRX, is allowed. This deduction is in</li> </ul>

	<p>addition to any deduction allowed under section 33(1) of the ITA and is given for a period of 10 years from the date the TRXM commences to undertake its business in the TRX.</p> <ul style="list-style-type: none"> <li>The commercial building does not include a building or part of a building used for the purpose of living accommodation.</li> <li>These Rules shall not apply to a TRXM commencing to undertake its business in the TRX after 31 December 2020.</li> </ul>
P.U.(A) 32/ 2013	<ul style="list-style-type: none"> <li>Stamp duty chargeable under Item 22(1)(b) of the First Schedule to the Stamp Act 1949 relating to any instrument of service agreement chargeable to duty executed on or after 1 January 2014 but not later than 31 December 2022 between a service provider and a TRXM, is exempted.</li> </ul>
P.U.(A) 33/ 2013	<p>Stamp duty chargeable on the following is exempted:</p> <ol style="list-style-type: none"> <li>any instrument of transfer for the purchase of commercial property by a TRXM status company; and</li> <li>any loan agreement executed between a TRXM named in the Sale and Purchase Agreement and a bank or financial institution to finance the purchase of a commercial property;</li> </ol> <p>Provided that the sale and purchase agreement for the purchase of the commercial property and the loan agreement are executed on or after 31 January 2013 and not later than 31 December 2020</p> <p>The exemption of stamp duty shall be given to the first owner of that commercial property.</p> <ol style="list-style-type: none"> <li>any lease or agreement for lease of any commercial property entered into by a TRXM,</li> </ol> <p>Provided that the lease agreement for the commercial property is executed on or after 31 January 2013 and not later than 31 December 2020</p> <p>The exemption of stamp duty shall be given to the first lessee of that commercial property.</p>

### **Incentive for an “Approved Developer”**

Income Tax (Exemption)(No.4) Order 2013 [P.U.(A) 28/2013] provides that the Minister exempts an approved developer from the payment of income tax in respect of 70% of its statutory income derived from –

- the disposal of any building or rights over any building or part of it, up to the YA 2022, and subject to a maximum of 5 consecutive YA commencing from the YA in which the developer first derives statutory income from such a disposal; and
- the rental of a building or part of it, up to the YA 2027, and subject to a maximum of 5 consecutive YA commencing from the YA in which the developer first derives statutory income from the rental activity.

The Minister shall withdraw the tax exemption if the approved developer fails to undertake the development activity in accordance with the TRX master plan or fails to comply with any approval conditions as determined by the Minister.

An “*Approved Developer*” is defined as a company, incorporated under the Companies Act, 1965 and resident in Malaysia, which undertakes development within the TRX in accordance with the TRX approved master plan; and the company is approved by the Minister.

“*Statutory income*” shall be determined after deducting allowances which fall to be made under Schedule 3 of the ITA, notwithstanding that no claim for such allowances has been made. Any amount of statutory income from the same business source which is not exempt shall be deemed to be the total income of that approved developer.

The income from the approved developer for the activity in (a) above shall apply to –

- (i) the Income Tax (Property Development) Regulations 2007 [P.U.(A) 277/2007] in relation to the sell-then-build method; or
- (ii) the Income Tax (Property Development) Regulations 2007 [P.U.(A) 277/2007] except for regulation 6, in relation to the build-then-sell method

The Order is not applicable to an approved developer which has claimed for a deduction in the basis period for a YA under the Income Tax (Industrial Building Allowance) (Tun Razak Exchange Marquee Status Company) Rules 2013 [P.U.(A) 27/2013].

Members may refer to the full text of the above Orders at the official website of the [Attorney General's Chamber](#).

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