

e-CTIM No.5/2010

29 January 2010

TO ALL MEMBERS

TECHNICAL

**1. Exemption of statutory income from forest plantation project.
Income Tax (Exemption) (No. 10) Order 2009. [P.U. (A) 473/2009]**

With effect from 21 May 2003, the statutory income from an approved forest plantation project of a resident Malaysian company is exempted from income tax for a period of 10 consecutive years. In the case of an expansion of the approved project, the exempt period is 5 years.

Prior year adjusted losses, and adjusted losses incurred during the exempt years of assessment shall be carried forward and deducted against the statutory income of the project in its post-exempt years of assessment until the whole amount of the adjusted loss to which it is so entitled, has been utilised.

Applications for the approved project or the expansion project is to be made to the Minister, through the Minister charged with the responsibility for that project, on or after 21 May 2003 but not later than 31 December 2011.

2. Exemption of statutory income from forest plantation project for a company that has surrendered its adjusted loss to a related company. Income Tax (Exemption) (No. 11) Order 2009 [P.U.(A) 474/2009]

With effect from 21 May 2003, where a resident Malaysian company has surrendered (in full or in part) its adjusted loss in respect of its forest plantation project to one or more of its (Malaysian resident) related companies (referred to as claimant companies), it shall qualify for an exemption under this order. The first mentioned company is eligible for exemption from payment of income tax in relation to the statutory income of the forest plantation project for a period of 10 consecutive years of assessment, commencing from the first year of assessment in which the said company derived statutory income from that project.

The adjusted losses surrendered shall be allowed as a deduction against the aggregate income of the claimant company pursuant to Section 44(1) of the Act. The relevant provisions include the following:

- (i) any adjusted loss not surrendered in any year of assessment shall not be available to any claimant company for any subsequent year of assessment; and
- (ii) any adjusted loss that is not surrendered prior to and during the exempt years of assessment shall be carried forward and deducted against the statutory income of the project in its post-exempt years of assessment until the whole amount of the adjusted loss is utilised.

The application to undertake the forest plantation project is to be made to the Minister, through the Minister charged with the responsibility for that project, on or after 21 May 2003 but not later than 31 December 2011

3. Income Tax (Deduction for Investment in an Approved Forest Plantation Project) Rules 2009 [P.U.(A) 475/2009]

Under these Rules, a related company means a resident company incorporated under the Companies Act 1965 which expended the investment in undertaking a forest plantation project, and is exempted under the Income Tax (Exemption) (No.11) Order 2009; and a qualifying company means a resident company incorporated under the Companies Act 1965 which directly owns 100% of the ordinary paid-up share capital of the related company prior to 11 September 2004, or 70% or more of the ordinary paid-up share capital of the related company on or after 11 September 2004

These rules apply to the first forest plantation project (undertaken by a related company), the application for which has been made to the Minister, through the Minister charged with the responsibility for the project on or after 21 May 2003 but not later than 31 December 2011.

In ascertaining the adjusted income of a qualifying company, a deduction is allowed for the value of investment in a forest plantation project (solely for financing purposes, and in the form of cash or paid-up ordinary shares of the related company) on the date the investment is made. Any investment made prior to the commencement of the project shall be deemed to have been incurred on the date the project commenced. Some conditions have been included with regard to disposal of the investment.

The deduction shall cease to apply to the qualifying company in the basis period for a year of assessment in which the related company has its first statutory income.

4. Second addendum to Public Ruling on withholding tax on special classes of income

The Institute would like to inform that the *Second Addendum to Public Ruling No. 4/2005 on withholding tax on special classes of income* has been issued on 4 January 2010. The addendum gives clarification on the change in the tax treatment of specific matters, including derivation of special classes of income; reimbursements or disbursements on hotel accommodation; and income or fees received by providing technical advice or training in specific fields.

Members may view the addendum on the IRB's website at <http://www.hasil.gov.my/lhdnv3e/documents/KetetapanUmum/2005/Second%20Addendum%20PR4-2005%204.1.2010.pdf> or at the website of the Institute at http://www.ctim.org.my/technical_techdev_direct.asp

5. Real Property Gains Tax Act (Exemption) (No. 2) Order 2009. [P.U. (A) 486/2009]

This order exempts any person from the payment of Real Property Gains Tax on the chargeable gains in respect of any disposal of a chargeable asset on or after 1 January 2010 where the disposal is made after five years from the date of acquisition of such chargeable asset.

Where the disposal of a chargeable asset is made within five years from the date of acquisition of such chargeable asset, the exemption is the same as that provided in the formula found in the Real Property Gains Tax Act (Exemption) Order 2009. [P.U. (A) 376/2009] dated 27 October 2009. Please refer to e-CTIM No.52 of 2009 dated 29 October 2009.

With this exemption order, which became operational on 1 January 2010, the Real Property Gains Tax Act (Exemption) (No. 2) Order 2007. [P.U. (A) 146/2007] and the Real Property Gains Tax Act (Exemption) (No. 2) Order 2009. [P.U. (A) 376/2009] are revoked.

Clarification provided in the Finance Act 2010 (Act 702)

6. Clarification on scope of chargeability, and the rebate in respect of the chargeable income, of a knowledge worker in Iskandar Malaysia

Part XIV (1) and 2(b) of Schedule 1 has been amended to clarify the scope / source pertaining to the chargeable income, while section 6A(2)(c) has been amended to state that the *thirty five thousand ringgit* shall consist of chargeable income from all sources.

7. Amendment of section 60I

- a) The definition of "Islamic securities" has been extended to include securities approved by LOFSA. Previously, it applied only to securities approved by the SC.

The definition of "special purpose vehicle" has been extended to a company incorporated under the Labuan Offshore Companies Act, 1990 which has made an election under section 3A of the Labuan Offshore Business Activity Act 1990; and the exclusion also takes into account asset-backed securities approved by LOFSA.

CONTINUING PROFESSIONAL DEVELOPMENT

1. Workshop: Investment Incentives

8 CPD Points

Date/Venue : 9 February 2010, Mutiara Hotel, Johor Bahru
Time : 9.00 am – 5.00 pm
Speaker : Mr Sivaram Nagappan

Course Contents

- Pioneer Status and Investment Allowances
- Infrastructure Allowance
- Reinvestment Allowances
- Incentives for Approved Services Projects
- Double Deductions
- Promotion of Exports
- Pre-package Incentive on Approved Business
- Group Relief for Losses
- Accelerated Capital Allowances
- Research and Development
- Venture Capital Companies (VCC)
- Operational Headquarters (OHQ)
- International Procurement Centre (IPC)
- Regional Distribution Centre (RDC)
- Latest Updates

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EVENT SUPPORTED BY CTIM

National Conference on GST: Roadmap to Malaysia New Taxation organized by Institute Sultan Iskandar , Universiti Teknologi Malaysia.

Objective: Understanding the Compliance Requirement and Implementation of Goods and Services Tax (GST) in Malaysia.

Date : 22 February 2010

Venue : Best Western Premier Seri Pacific Hotel, Kuala Lumpur

Time : 8.00 am – 4.45 pm

CTIM members who register for the Conference will enjoy a preferential rate of registration fee of RM550 for the conference. For further information on the conference programme and registration details, please click <http://www.ctim.org.my/pdf/PPTVIEW.pdf>

For queries or feedback on the CTIM e-circular, please email secretariat@ctim.org.my.

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