

**TECHNICAL**

**Direct Taxation**

**2013 BUDGET PROPOSALS FOR TAX INCENTIVES TO REVIVE ABANDONED HOUSING PROJECTS – PUBLICATION OF STATUTORY ORDERS**

**Background**

The following statutory orders have been issued to give effect to the 2013 Budget proposal: to provide tax incentives in support of efforts to revive abandoned housing projects.

<b>Date Gazetted</b>	<b>Citation</b>	<b>Effective date/Application</b>
12 March 2013	<a href="#">Income Tax (Exemption)(No. 9) Order 2013 [P.U.(A) 88/2013]</a>	From Year of assessment (YA) 2013
12 March 2013	<a href="#">Income tax (Deduction for Expense in relation to Interest and Incidental Cost In Acquiring Loan for Abandoned Projects) Rules 2013 [P.U.(A) 89/2013]</a>	From YA 2013 Applies to a loan approved on or after 1 January 2013 but not later than 31 December 2015. Applies to interest expense incurred for a period of 3 consecutive years from the YA in which the loan is approved.
14 March 2013	<a href="#">Stamp Duty (Exemption) (No. 5) Order 2013 [P.U.(A) 91/2013]</a>	Apply to instruments executed by an original purchaser/rescuing contractor or developer on or after 1 January 2013 but not later than 31 December 2015.
14 March 2013	<a href="#">Stamp Duty (Exemption) (No. 6) Order 2013 [P.U.(A) 92/2013]</a>	

**Term commonly defined**

The term “bank or/and financial institution” under P.U.(A) 89, 91 and 92 is defined to mean:

- a bank or finance company licensed or deemed to be licensed under the Banking and Financial Institutions Act 1989;
- a bank licensed under the Islamic Banking Act 1983;
- a development financial institution prescribed under the Development Financial Institutions Act 2002;
- an insurance business licensed under the Insurance Act 1996;
- a takaful operator licensed under the Takaful Act 1984;

**Income Tax (Exemption) (No.9) Order 2013**

- In this order, “qualifying person” (QP) means a person resident in Malaysia who is also one of the institutions listed under (a) to (e) in the paragraph above.
- The Minister exempts a QP from payment of income tax on statutory income (SI) derived from interest which is related to the business of giving loan to the rescuing contractor or developer for a period of three consecutive YA, commencing from the first YA in which the interest income is accrued to that QP.
- “Rescuing contractor or developer” means a contractor or developer who is appointed or approved by the Minister of Housing and Local Government (MHLG) to carry on rehabilitation works for the abandoned project.

- “Abandoned project” means a project which is certified by the MHLG as abandoned project pursuant to paragraph 11(1)(ca) of the Housing Development (Control and Licensing) Act 1966.
- The SI is determined after deducting allowances under Schedule 3 of the Income Tax Act 1967 (ITA) notwithstanding that no claim was made for such allowances. The amount exempted is SI further reduced by first the current year losses from other businesses and next any unabsorbed adjusted loss and the current year adjusted loss from the business of giving loan to the rescuing contractor or developer.

*For full details please refer to the Order by clicking [here](#).*

**[Income tax \(Deduction for Expense in relation to Interest and Incidental Cost In Acquiring Loan for Abandoned Projects\) Rules 2013](#)**

- In this Order, QP means a rescuing contractor or developer who is appointed or approved by the Minister of Housing and Local Government or liquidator to carry on rehabilitation works for an abandoned project. “Liquidator” and “abandoned project” are defined in the Order.
- Under this Order, a deduction is allowed in ascertaining adjusted income from a business of a QP for the basis period for a YA in respect of expenses specified under Rule 4(2)(a) and (b), which are incurred by the QP during that basis period, primarily or principally for the purpose of the abandoned project. The specified expenses are:
  - (a) expenses incurred in the course of acquiring loan for the purpose of the abandoned project;
  - (b) expenses in respect of interest incurred on the loan.

“Loan” means a loan granted by a bank or a financial institution to finance an abandoned project. The definition of “bank or financial institution” is given above in the paragraph headed “Term commonly defined”.

- The amount of deduction allowed is twice the amount of expenses allowed under Rule 4(2)(a) while interest allowed under Rule 4(2)(b) is in addition to deduction allowed under section 33 of the ITA. Such deductions are to be claimed in the basis period for a YA in which the abandoned project is completed.
- The Rules also provide that the following are to be claimed in the basis period for the YA in which the abandoned project is completed:
  - Development expenditure for the abandoned project (Rule 4(6));
  - The portion of general and administrative expenses attributable to the abandoned project (Rule 4(7));
  - Capital allowance under schedule 3 of the ITA on assets used for the purpose of the abandoned project (Rule 4(9));

*For full details please refer to the Order by clicking [here](#).*

**[Stamp Duty \(Exemption\) \(No. 5\) Order 2013](#)**

**[Stamp Duty \(Exemption\) \(No. 6\) Order 2013](#)**

Stamp duty exemptions granted under the above Orders are summarized in the following table:

	(No. 5) Order	(No. 6) Order
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Exemption	Instruments executed by an original purchaser, that is a purchaser whose name is stated in the Sale and Purchase Agreement in relation to an abandoned project, or his beneficiary are granted exemption from stamp duty.	Instruments executed by a rescuing contractor or a developer, that is a contractor or a developer who is appointed or approved by the Minister of Housing and Local Government to carry on rehabilitation works for an abandoned project are exempted from stamp duty.
Instruments	<p>(a) any loan instrument or loan agreement approved by the bank and financial institution for the purpose of financing the revived residential property in relation to the abandoned project; and</p> <p>(b) any instrument of transfer for the purpose of transferring the revived residential property in relation to the abandoned project</p>	<p>(a) any loan instrument or loan agreement approved by the bank and financial institution to finance the abandoned project; and</p> <p>(b) any instrument of transfer for the purpose of transferring the revived residential property in relation to the abandoned project</p>
Common definitions	<p>“bank and financial institution” – see paragraph headed “Term commonly defined” (above).</p> <p>“abandoned project” – means any project certified by the Minister of Housing and Local Government as an abandoned project pursuant to paragraph 11(ca) of the Housing Development (Control and Licensing) Act 1966</p>	

The meaning of “revived residential property” is also specified in each Order.

You may write to the Institute at [technical@ctim.org.my](mailto:technical@ctim.org.my) or [secretariat@ctim.org.my](mailto:secretariat@ctim.org.my) in respect of any concern or comments you may have on the Guidelines.

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