

TECHNICAL

Direct Taxation

PIONEER STATUS FOR SMALL COMPANIES -- MITI's CLARIFICATION ON LAW

Background

The [Investments \(Criteria For The Grant Of Pioneer Status To A Small Company\) Order 2013 \[P.U.\(A\) 139\]](#) (the Order) had been gazetted on 15 April 2013. The salient points of the Order are summarised as follows:

Criteria /conditions for grant of pioneer status to small companies

The criteria in terms of quantum of shareholders' funds and equity ownership are set out in paragraphs 2(1)(a)(i) and (ii) of the above Order. Other conditions are set out in paragraphs 2(1)(b), 2(1)(c) and 2(1)(d). They are briefly summarized in the table below:

Paragraph 2(1)		
2(1) (a) (i)	2(1)(a)(ii)	
Small companies with shareholders' funds of up to RM500,000 with at least 60% Malaysian equity ownership;	Small companies with shareholders' funds of above RM500,000 and not exceeding RM2.5 million with 100% Malaysian equity ownership.	
Paragraph 2(1)(b) : For small companies engaged in promoted products mentioned in the Promotion of Investments (Promoted Activities and Promoted Products for Small Scale Companies) Order 2012 [P.U.(A)63/2012] and the Promotion of Investments (Promoted Activities and Promoted Products) Order 2012 [P.U.(A)62/2012],	Paragraph 2(1)(c) For small companies engaged in promoted products mentioned in the Promotion of Investments (Promoted Activities and Promoted Products for Small Scale Companies) Order 2012 [P.U.(A)63/2012],	Paragraph 2(1)(d) For small companies engaged in promoted products mentioned in the Promotion of Investments (Promoted Activities and Promoted Products) Order 2012 [P.U.(A)62/2012] (i) The prevailing rates on the value added index and on the managerial, technical and supervisory staff index as determined by the Minister with concurrence in writing of the Minister of Finance shall be applicable, and (ii) Restriction of 20% of paid-up ordinary share capital. (Please refer to the Order for details.)
(i) The company shall achieve at least 25% value added in its activity or product; (ii) The company shall employ at least 20% of their workers at the managerial, technical and supervisory staff level; and (iii) Restriction of 20% of paid-up ordinary share capital. (Please refer to the Order for details.)		

Effective dates

The dates on which the respective paragraphs are deemed to have come into operation are shown in the table below:

Paragraph	Deemed to have come into operation on:
2(1)(a)(i) and 2(1)(b)	2 March 2012
2(1)(a)(ii), 2(1)(c) and 2(1)(d)	3 July 2012

Subsequent to our [e-CTIM TECH 53/2013](#), CTIM had sought clarification from the Ministry of International Trade and Industry (MITI) with regard to the wording/ meaning of Paragraphs 2(1)(b)(iii)(B), 2(1)(c)(iii)(B) and 2(1)(d)(iii)(B) of the Promotion of Investments (Criteria For The Grant Of Pioneer Status To A Small Company) Order 2013 [P.U.(A) 139]. The MITI has since replied to our enquiries in its response dated 23 July 2013.

MITI's clarification

Briefly, MITI confirms:-

1. that CTIM's comments relating to the above paragraphs are valid, and "necessary action" will be taken (which we assume to be the issue of an Amendment to the above Order at a later date.)
2. CTIM's view that the intended effect of Paragraph 2(1)(b)(iii), [subparagraphs (A) and (B)] is that small companies (falling under paragraph 2(1)(a)(i)) which are granted pioneer status cannot own or be owned by a related company having shareholders' funds of more than RM500,000.
3. that the same effect is intended to be achieved by paragraphs 2(1)(c)(iii) and 2(1)(d)(iii), [subparagraphs (A) and (B) of the respective paragraphs], i.e. small companies (falling under paragraph 2(1)(a)(ii)) which are granted pioneer status cannot own or be owned by a related company having shareholders' funds of more than RM2.5 million.

The above Order can be viewed at the [e-Federal Gazette](#) website. The issues raised and [MITI's clarification](#) is available at our website.

You may write to the Institute at technical@ctim.org.my or secretariat@ctim.org.my in respect of any concern or comments you may have.

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