

TECHNICAL

Direct Taxation

**EXEMPTION ORDER FOR COMPANIES CARRYING ON A COMMERCIALISATION PROJECT**

**1. Background**

The Order, gazetted on 24 September 2013, gives effect to the 2013 Budget proposal for tax incentives for companies undertaking commercialization of Research and Development (R & D) findings for non-resource based activities or products.

P.U.(A)	Citation	Effective from
294	Income Tax (Exemption) (No. 13) Order 2013	Year of assessment (YA) 2013

**2. Income Tax (Exemption) (No. 13) Order 2013 [P.U.(A) 294/2013]**

Main Provisions of P.U.(A) 294/2013]	Para (No.)
<b>Exemption</b> <p>The Minister of Finance exempts a qualifying company (QC) resident in Malaysia from payment of income tax in respect of statutory income (SI) from a business relating to the carrying on of a commercialization project for a period of 10 consecutive years of assessment (exempt YA), subject to such conditions as stated by the Minister in the approval letter for the commercialisation project.</p> <p>The Minister or the Minister of International Trade and Industry, as the case may be, shall determine the commencement of the exempt YA and may withdraw the exemption if the QC fails to comply with such conditions.</p>	3(1) and 3(2)  3(3) and 8
<b>Statutory Income (SI)</b> <p>SI is determined after deducting allowances under Schedule 3 of the Income Tax Act 1967 (ITA), notwithstanding that no claim for such allowances has been made</p>	3(5)
<b>Qualifying company (QC)</b> <p>A QC is a company incorporated under the Companies Act 1965 -</p> <p>(a) where at least 70 % of its paid-up capital in respect of ordinary shares are directly owned by an <i>investor company</i>* that has made an <i>investment</i>* in the QC for the purpose of a <i>commercialisation</i> project; and</p> <p>(b) which carries on a <i>commercialisation</i> project.</p> <p>“Commercialisation” means a process of transforming <i>R &amp; D findings</i>* into a product or process that has an industrial application or that is marketable.</p> <p>* These terms are defined in paragraph 2 of the Order.</p>	2
<b>Non-resource based activity</b> <p>The commercialisation of R &amp; D findings must relate to specified non-resource based activity or product listed in the Schedule of this Order, as follows:</p> <p>1. Electrical and electronics</p>	Schedule

2. Medical devices 3. Technical or functional textiles 4. Machinery and equipment 5. Metals 6. Transport equipment	
<b>Company having losses</b> Where a QC is ascertained to have an adjusted loss for a basis period for a YA during any exempt YA in respect of a business related to carrying on the commercialization project under the following subsections of the ITA – <ul style="list-style-type: none"> <li>• S44(2) – the loss is disregarded from the source consisting of the business/es other than the business relating to carrying on the commercialization project.</li> <li>• S43(2) – the loss is disregarded from the source consisting of the business/es other than the business relating to carrying on the commercialization project.</li> </ul>	4(1)  4(2)
<b>Special treatment for deductions for promotion of exports and research</b> An expenditure which would be allowed as a deduction during the exempt YA, either under Section 41 of the Promotion of Investments Act 1986 or under Section 34A of the Income Tax Act 1967, shall be accumulated and allowed as a deduction in the first basis period for a year of assessment after the exempt YA.	5 and 6
<b>Paragraphs 5 &amp; 6 of Schedule 7A of ITA</b> The above paragraphs of the Schedule 7A of the ITA shall apply, <i>mutatis mutandis</i> , to income exempted under paragraph 3(1) of this Order.	10
<b>Non-application</b> This Order does not apply to a QC which has been granted reinvestment allowance or any incentive granted under specified statutory Orders and Rules which are listed in paragraph 11 of this Order.	11(a) to 11(m)

Members may refer the [Exemption Order](#) at the [Federal Government Gazette](#) website.

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 Order.

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