

P.U. (A) 344.

INCOME TAX ACT 1967

INCOME TAX (DETERMINATION OF KNOWLEDGE WORKER, QUALIFIED ACTIVITY AND SPECIFIED REGION) RULES 2010

IN exercise of the powers conferred by paragraph 154(1)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following rules:

Citation and commencement

1. (1) These rules may be cited as the **Income Tax (Determination of Knowledge Worker, Qualified Activity and Specified Region) Rules 2010**.

(2) These Rules shall have effect from the year of assessment 2010.

Application

2. These Rules shall apply to—

- (a) a qualified person who has made an application to the Minister, through the Iskandar Regional Development Authority, to be subject to tax under paragraph 1 of Part XIV of Schedule 1 of the Act and whose application has been approved by the Minister;
- (b) the application, referred to in paragraph (a), made on or after 24 October 2009 but not later than 31 December 2015; and
- (c) the income received by the qualified person from an employment with a designated company beginning from 1 January 2010.

Interpretation

3. In these Rules, unless the context otherwise requires—

“qualified person” means a qualified person as provided for under rule 4;

“Iskandar Regional Development Authority” means the Authority established under the Iskandar Regional Development Authority Act 2007 [Act 664];

“BioNexus status company” means a company incorporated under the Companies Act 1965 [Act 125] which is engaged in a business of life sciences and approved by the Minister;

“IDR status company” means a company—

- (a) incorporated under the companies Act 1965 and resident in Malaysia which undertakes qualified activity in specified region; and
- (b) approved by the Minister;

“MSC status company” means a company which has been awarded, subject to the conditions of the award, MSC status by the Government of Malaysia;

“designated company” means a designated company as provided under rule 5;

“Iskandar Development Region” has the same meaning assigned to it under the Iskandar Regional Development Authority Act 2007.

Qualified person

4. (1) A qualified person is an individual who—

- (a) is a Malaysian citizen or foreign citizen;
- (b) is a knowledge worker as provided in paragraph 6(a);
- (c) has not derived any employment income in Malaysia for at least three years prior to the date of application made under paragraph 2(a);
- (d) is employed in a qualified activity by a designated company and whose employment commences on or after 24 October 2009 but not later than 31 December 2015; and
- (e) is residing within the Iskandar Development Region.

(2) Notwithstanding subrule (1), the Minister may determine any other period for the purpose of paragraph (c).

Designated company

5. (1) “Designated company” means a company—

- (a) which is—
 - (i) granted the IDR status, BioNexus status or MSC status; or
 - (ii) incorporated under the Companies Act 1965 and resident in Malaysia; and
- (b) which undertakes a qualified activity in the specified region within Iskandar Development Region.

(2) Notwithstanding subrule (1), the Minister may determine any other condition that shall be fulfilled by the designated company.

Knowledge worker, qualified activity and specified region

6. For the purposes of these Rules—

- (a) a knowledge worker is a qualified person who—
 - (i) holds a degree or masters degree in any professional or technical field from a college, institution or university recognized by the Government of Malaysia and has at least ten years working experience in any of the qualified activity; or
 - (ii) holds a doctoral degree in any professional or technical field from a college, institution or university recognized by the Government of Malaysia and has at least five years working experience in any of the qualified activity,

and has fulfilled any other criteria as may be determined by the Minister:

Provided that the Minister may, at his discretion in exceptional cases, waive any of the criteria in paragraph (a) from being applicable to any qualified person;

- (b) a qualified activity is as specified in the Schedule; and
- (c) specified regions are Nusajaya, Western Gate Development, Johor Bahru Central Business District, Eastern Gate Development and Skudai-Senai within the Iskandar Development Region.

Chargeable income

7. Where a qualified person has income in respect of employment with a designated company in the basis period for a year of assessment, the chargeable income of that qualified person which is subject to tax under Part XIV Schedule 1 of the Act shall be ascertained in accordance with the following formula:

$$\frac{A}{B} \times C$$

- where
- A is the gross income from employment with the designated company;
 - B is the total of gross income from all sources;
 - C is the chargeable income from all sources:

Provided that in a case of a combined assessment under subsection 45(2) of the Act, the total gross income from all sources shall include income from the wife or husband, as the case may be.

SCHEDULE [Paragraph 6(b)]

Biotechnology

- (a) Agri biotechnology
 - crop biotechnology
 - natural product discovery and commercialisation
 - livestock biotechnology
 - aquaculture and marine biotechnology
 - contract research service (CRS) providers in agriculture
- (b) Industrial biotechnology
 - biofuel
 - bio remediation
 - biocatalyst and enzymes
 - fine and specialty chemicals
 - biomaterials
 - bioreactors

(c) Healthcare biotechnology

- contract manufacturing organization for healthcare biotechnology sector
- contract research organization (CRO)
- clinical research organizations
- contract research and manufacturing services (CRAMS)
- biopharmaceuticals and pharmaceuticals
- drug discovery and drug delivery systems
- medical devices and “in-vitro” molecular diagnostic kits
- stem cell, tissue engineering and genetic engineering
- vaccines
- bioinformatics

Green technology

(a) Energy sector

(i) Energy supply sector

- power generation
- renewable energy
- supply side management
- co-generation

(ii) Energy utilization sector

- energy efficiency
- demand side management

(b) Building sector

- design
- construction
- management and maintenance
- demolition of buildings

(c) Water and waste management sector

- management and utilization of water resources
- waste water treatment
- solid waste and sanitary landfill

(d) Transport sector

- transportation infrastructure
- vehicles
- biofuels
- public road transport

Educational services

- (a) universities
- (b) colleges
- (c) skills training institutions
- (d) R&D institutions
- (e) regional training centres

Healthcare services

- (a) hospitals and traditional complementary medicine centers
- (b) integrated dental and orthodontic services
- (c) healthcare research and development
- (d) integrated laboratory services

Creative industries and related services

- (a) creative and design services
- (b) creative management services
- (c) film and television
 - pre-production
 - production
 - post-production
 - distribution
- (d) games and animation
 - content creation
 - production
 - post-production
 - distribution
- (e) online and mobile content generation and advertising
- (f) online and mobile content aggregation and enablers
- (g) creative research and development
- (h) distribution and marketing of creative content
- (i) integrated media and content services
- (j) visual and performing arts

Financial advisory and consulting services

- (a) Islamic financial services
- (b) business process outsourcing/offshoring
- (c) corporate consultancy and advisory services

Logistic services

- (a) integrated supply chain services
- (b) high value supply chain services and solutions

Tourism

- (a) hotels
- (b) theme parks, amusement and family entertainment centres and cultural centres
- (c) conference centres and exhibition centres
- (d) regional operation of hotel and leisure services

Made 29 September 2010

[Perb.0.3865/73 (SJ. 74) Jld. 4; LHDN 01/35/(S)/42/51/231-17.11;
PN(PU²)80/LX]

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Second Finance Minister

[To be laid before the Dewan Rakyat pursuant to subsection 154(2) of the Income Tax Act 1967]