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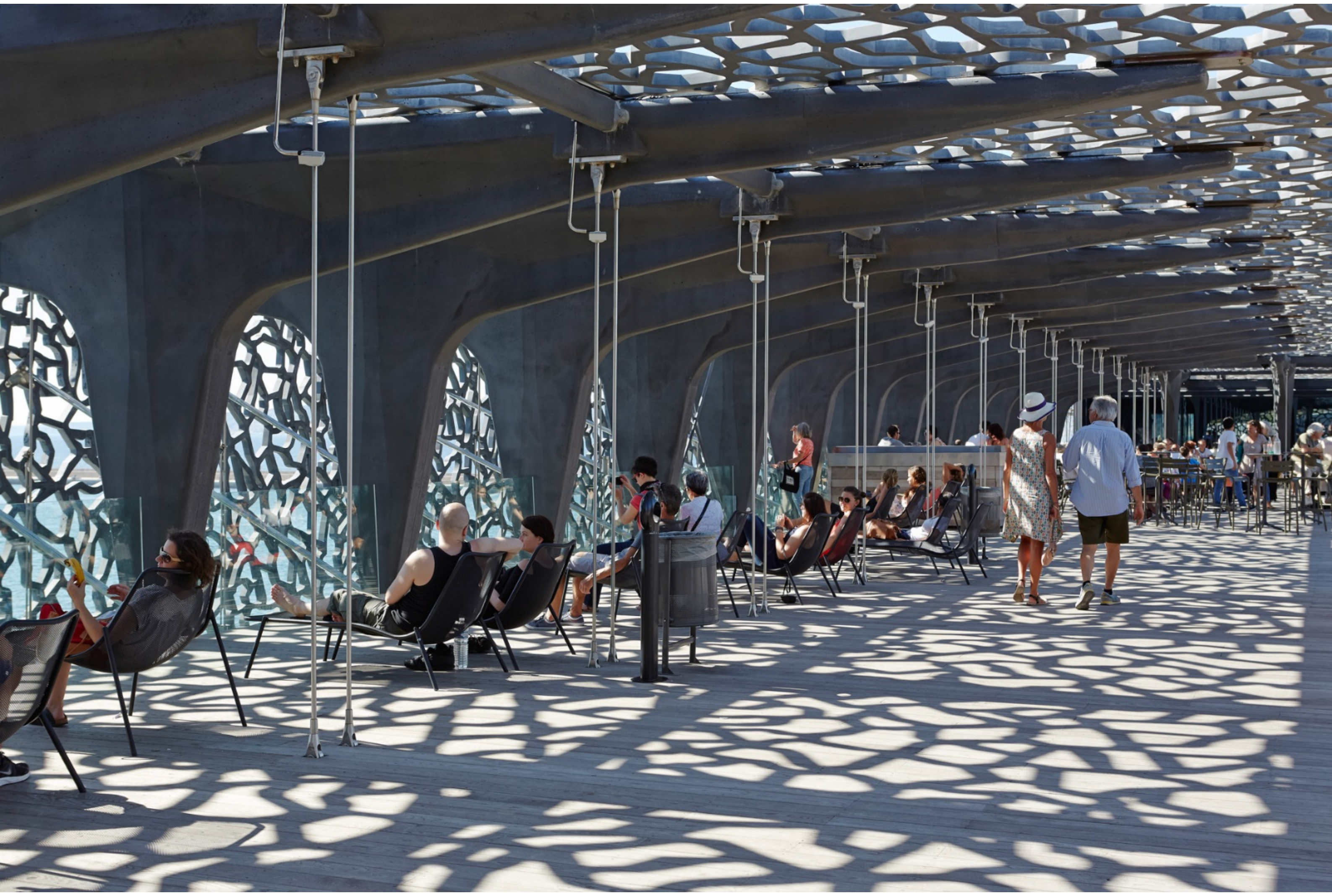

In this issue

- Incentives for automation equipment
- Public Ruling 5/2017 – Taxation of Real Estate Investment Trust or Property Trust Fund

Incentives for automation equipment

The following gazette orders in respect of automation capital allowance as proposed in Budget 2015 were gazetted on 30 August 2017. These orders grant incentives for aa project undertaken by a qualifying company for modernising or automating its existing manufacturing activity, and are effective from year of assessment (YA) 2015.

1. Income Tax (Accelerated Capital Allowance)(Automation Equipment) Rules 2017 ("the ACA Rules")
2. Income Tax (Exemption) (No.8) Order 2017

The incentives provided are as follows:

	Qualifying company which undertakes a qualifying project relating to rubber, plastics, wood, furniture and textiles in the basis period for the YA2015 to YA2017 ("A")	**Qualifying company which undertakes a qualifying project other than those specified under (A) as determined by the Minister, in the basis period for the YA2015 to YA2020**
Income Tax (Accelerated Capital Allowance) (Automation Equipment) Rules 2017	Initial allowance of 20% and annual allowance of 80% on the first RM4 million expenditure incurred	Initial allowance of 20% and annual allowance of 80% on the first RM2 million expenditure incurred
Income Tax (Exemption) (No.8) Order 2017	Income tax exemption equivalent to 100% of allowance for which the company is entitled to under the ACA Rules. The tax exemption is to be set-off against 70% of statutory income.	
Application to MIDA	Made on or after 1 January 2015 but not later than 31 December 2017	Made on or after 1 January 2015 but not later than 31 December 2020

A qualifying company means a company which meets the following conditions:

- incorporated under the Companies Act 2016 and resident in Malaysia,
- engages in a manufacturing activity,
- holds a business license issued by the relevant local authority,
- has carried on the qualifying project for a period of at least thirty-six months, and
- has incurred qualifying capital expenditure in respect of the qualifying project.

Public Ruling 5/2017 – Taxation of Real Estate Investment Trust or Property Trust Fund

A new *Public Ruling 5/2017 – Taxation of Real Estate Investment Trust or Property Trust Fund* dated 8 September 2017 has been issued. It replaces *Public Ruling 2/2015 – Taxation of Real Estate Investment Trust or Property Trust Fund*.

The public ruling has been updated to reflect the changes introduced via Budgets 2015 to 2017. The key changes are:

1) Changes to the meaning of unit trust

Following Budget 2017, the meaning of "unit trust" in section 61A(2) of the Income Tax Act 1967 was amended to include a requirement for the unit trust to be listed on Bursa Malaysia. The tax transparency treatment under section 61A(1) is accorded only to Real Estate Investment Trust (REIT) / Property Trust Fund (PTF) that are listed on Bursa Malaysia.

2) Withholding tax

Where a REIT / PTF listed on Bursa Malaysia and exempted from tax under section 61A distributes income to a unit holder (other than resident companies), the REIT is required to deduct tax under section 109D at the rate applicable to the unit holder. The withholding tax (WHT) deducted is a final tax. Where the REIT / PTF is not listed, the income distributed is not subject to WHT under section 109D.

The public ruling was updated to reflect the following:

- The period for which the 10% final WHT for resident & non-resident individuals, and foreign institutional investors applies is extended to 31 December 2019.
- The WHT rate for non-resident companies is 24% to be in line with the reduction in corporate tax rate.

3) Definition of residual profits and residual assets

Under paragraph 38A, Schedule 3 of the Income Tax Act, a company's entitlement to the residual profits and residual assets of a REIT / PTF are examined to determine if control transfer provisions apply to a disposal of an industrial building to a REIT / PTF. The definitions of "residual profits" and "residual assets" have been amended to be:

- Residual profits – net profits of a REIT / PTF.
- Residual assets – net assets of a REIT / PTF.

4) Special purpose vehicle established by a REIT / PTF

The public ruling was also updated to explain the tax treatment under section 60I in a situation where a REIT / PTF establishes a special purpose vehicle (SPV) solely for the issuance of sukuk. Under section 60I, any income and any source of the SPV shall be treated as income and source of the REIT / PTF.

The public ruling is available on the IRB's website www.hasil.gov.my (Internal Link > Public Rulings).

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