



# TaXavvy

30 November 2023 | Issue 26-2023

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## New Public Rulings

The following public rulings have been issued by the Inland Revenue Board (IRB):

- Public Ruling 3/2023 - Taxation of Resident Individual Part III - Computation of Income Tax and Tax Payable
- Public Ruling 4/2023 - Investment Tax Allowance - Overview
- Public Ruling 5/2023 - Tax Incentive for Approved Food Production Project
- Public Ruling 6/2023 - Taxation of a Resident Individual Part I - Gifts or Contributions and Allowable Deductions
- Public Ruling 7/2023 - Taxation of Upstream Petroleum Part I

### Public Ruling 3/2023 - Taxation of Resident Individual Part III - Computation of Income Tax and Tax Payable (“PR 3/2023”)

PR 3/2023 replaces Public Ruling 6/2018 of the same title. The following are the key updates in PR 3/2023:

- New paragraphs have been inserted to explain that a tax rebate is to be given before any tax credit set-off (e.g. section 110 credit and foreign tax credit) is allowed. The bilateral or unilateral credit is to be computed based on the tax payable after tax rebate is deducted. [Paragraphs 4.2 and 6.3]
- A new section has been inserted to explain the treatment of tax rebate for departure levy incurred for purposes of performing umrah or other religious pilgrimage. The rebate is effective from YA 2019 and is given for the amount of levy paid by the individual for himself. The number of claims that can be made is limited to two journeys in a lifetime. This rebate shall not be granted in respect of the departure levy paid for the purpose of performing Hajj. [Paragraph 5.5 and example 5]

### Public Ruling 4/2023 - Investment Tax Allowance - Overview (“PR 4/2023”)

PR 4/2023 explains the tax incentive in the form of an investment tax allowance (ITA) that is available to companies participating or intending to participate in a promoted activity or in the production of a promoted product in Malaysia under the Promotion of Investment Act 1986.

The salient points to note from PR 4/2023 are:

#### 1. Qualifying expenditure (QE) in relation to manufacturing related services

QE means capital expenditure incurred on any asset used in Malaysia in connection with and for the purpose of such promoted services, and any asset used in Malaysia refers to plant, machinery or buildings.



The salient points to note from PR 4/2023 are (cont'd):

## 2. Tax incentive period

ITA is allowed in respect of QE incurred within the tax incentive period of 5 years from the approval date. Integrated agricultural activity is eligible for an extension of tax incentive for another 5 years.

## 3. Surrender of ITA

Subject to approval, a company may surrender its ITA. The approval for the surrender may be given retrospectively and take effect -

- (a) from the date of grant of approval of ITA, or
- (b) on the first day in the basis period for the year of assessment (YA) the application is received by the Minister of International Trade and Industry if a company has incurred QE.

## Public Ruling 5/2023 - Tax Incentive for Approved Food Production Project (“PR 5/2023”)

PR 5/2023 explains the tax incentives for :

1. Persons undertaking an approved food production project
2. Investor companies

Salient points are as follows:

### Persons undertaking an approved food production project

Income tax exemption for a new or expansion project for a qualified person participating or intending to participate in an approved food production project.

- *New project* - 100% tax exemption for 10 consecutive YAs on statutory income, commencing from the first YA of deriving statutory income from the approved project.
- *Expansion of existing project* - 100% tax exemption for 5 consecutive YAs on statutory income commencing from the first YA of deriving statutory income from the existing projects and the expansion projects but not earlier than the YA in which the approval from the Minister of Finance (MOF) is obtained.

Tax losses incurred prior to and during the exemption period may be carried forward and set-off against the statutory income of the project after the expiry of the exemption period, until it is fully absorbed. A separate account for the approved project has to be maintained from the income derived from other projects.

### Investor companies

Investor companies are eligible to claim a single tax deduction of actual investment made in its related company for the sole purpose of financing the approved new food production project undertaken by the related company. The claim can be made up to 3 consecutive YAs commencing from the YA the application is approved by MOF.

Key conditions - The single deduction is available for a resident company incorporated under the Companies Act 2016 with at least 60% of its paid-up ordinary share capital directly owned by Malaysian citizens. It must hold at least 70% of the paid-up ordinary share capital in a related company it is investing in. The investment in the related company is to be in the form of cash or holding of paid-up ordinary share capital, involves working capital and capital expenditure, and must be of reasonable amount compared to the size of the project.



### Public Ruling 6/2023 - Taxation of a Resident Individual Part I - Gifts or Contributions and Allowable Deductions ("PR 6/2023")

PR 6/2023 replaces PR 5/2021 of the same title. The updates are essentially to incorporate the changes in legislation and to bring the public ruling up to date. These include:

- Treatment expenses on early intervention program or rehabilitation for children with learning disabilities - Husbands and wives, who are under separate assessment and have incurred such expenses for the same child, may claim the relief individually provided separate receipts were issued for the respective amounts they incurred. (paragraph 6.8)
- Electric vehicle charging facility fees of up to RM2,500, effective from YA 2022 (paragraph 6.17)
- Appendix 3 has been inserted to provide a summary of medical treatment expenses which qualifies for tax deduction.

### Public Ruling 7/2023 - Taxation of Upstream Petroleum Part I ("PR 7/2023")

PR 7/2023 outlines the tax treatment for upstream petroleum operations under the Petroleum (Income Tax) Act 1967 which includes:

- Scope of taxation
- Petroleum operations
- Chargeable person
- Continuing partnership
- Partnership for contiguous areas

The public rulings are available on IRB's website [www.hasil.gov.my](http://www.hasil.gov.my) (Legislation > Public Ruling).



# Extension of East Coast Economic Region (ECER) Incentives

The following amendment orders in relation to ECER incentives have been gazetted:

- Income Tax (Exemption) (No. 4) 2016 (Amendment) Order 2023
- Income Tax (Exemption) (No. 5) 2016 (Amendment) Order 2023
- Income Tax (Exemption) (No. 6) 2016 (Amendment) Order 2023
- Income Tax (Exemption) (No. 7) 2016 (Amendment) Order 2023
- Income Tax (Exemption) (No. 8) 2016 (Amendment) Order 2023
- Income Tax (Exemption) (No. 9) 2016 (Amendment) Order 2023
- Income Tax (Deduction for the Sponsorship of Hallmark Event) (Amendment) Rules 2023
- Income Tax (Deduction for Investment in Qualifying Activity) (Amendment) Rules 2023
- Stamp Duty (Exemption) (No. 2) 2016 (Amendment) Order 2023

The amendment orders have been gazetted to extend the incentive eligibility period for ECER incentives until 31 December 2024

| ECER Incentives  | Gazette Order   |
|--|---|
| <b>Income tax incentive</b>  |   |
| Exemption of statutory income from a qualifying activity equivalent to 100% of qualifying capital expenditure (QCE)  | Income Tax (Exemption) (No. 4) 2016                                     |
| Exemption of statutory income from a special qualifying activity equivalent to 60% to 100% of QCE  | Income Tax (Exemption) (No. 5) 2016                                     |
| Exemption of statutory income from a qualifying activity   | Income Tax (Exemption) (No. 6) 2016                                     |
| Exemption of 70% to 100% of statutory income from a special qualifying activity  | Income Tax (Exemption) (No. 7) 2016                                     |
| Exemption of statutory income of an Approved Developer from disposal of land / building or rental of building located in an industrial park or a free zone within ECER   | Income Tax (Exemption) (No. 8) 2016                                     |
| Exemption of statutory income of a Development Manager / Park Manager on qualifying activities in ECER   | Income Tax (Exemption) (No. 9) 2016                                     |
| Tax deduction against business income for a company or individual who sponsors an approved hallmark event carried on in ECER   | Income Tax (Deduction for the Sponsorship of Hallmark Event) Rules 2016 |
| Tax deduction for a company investing in a related company which carries out a qualifying activity in ECER   | Income Tax (Deduction for Investment in Qualifying Activity) Rules 2016 |
| <b>Stamp duty exemption</b>  |   |
| Stamp duty exemption on transfer of the real property / lease of land or building used for the purposes of a qualifying activity in ECER. The instrument of transfer must be executed not later than 31 December 2024 (previously 31 December 2022). | Stamp Duty (Exemption) (No. 2) Order 2016                               |



Generally, the qualifying activities eligible for the income tax exemption under the income tax exemption orders number 4 to 7 are selected specified activities in the sectors of:

- Agriculture
- Agriculture related services
- Information, communications and technology
- Education and training
- Manufacturing
- Manufacturing related services
- Oil, gas and petrochemical
- Hotel
- Tourism
- Culture and heritage



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