

INCOME TAX ACT 1967

INCOME TAX (DEDUCTION FOR EXPENDITURE ON REGISTRATION OF PATENT AND TRADE MARK) RULES 2009

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 (Deduction for Expenditure on Registration of Patent and Trade Mark) Rules 2009**.

(2) These Rules shall have effect from the year of assessment 2010 until the year of assessment 2014.

Interpretation

2. In these Rules—

“trade mark” has the same meaning assigned to it under the Trade Marks Act 1976 [Act 175];

“patent” means an exclusive right granted for an invention under the Patents Act 1983 [Act 291];

“company” has the same meaning assigned to it under the Companies Act 1965 [Act 125];

“related company”, in relation to a company, means a company—

- (a) the operations of which are or can be controlled, either directly or indirectly, by the first-mentioned company;
- (b) which controls or can control, either directly or indirectly, the operations of the first-mentioned company; or
- (c) the operations of which are or can be controlled, either directly or indirectly, by a person who control or can control, either directly or indirectly, the operations of the first-mentioned company.

Deduction

3. (1) For the purpose of ascertaining the adjusted income of a qualifying person as specified in subrule (4) from his business for the basis period for a year of assessment, there shall be allowed a deduction of an amount equal to the qualifying expenditure incurred by the qualifying person on the registration of trade mark or patent in Malaysia, as the case may be.

(2) The qualifying expenditure incurred by a qualifying person referred to in subrule (1) shall be deemed to have been incurred in the basis period for a year of assessment in which the qualifying person obtained the certificate of registration of a trade mark or the certificate of grant of a patent, as the case may be.

(3) The qualifying expenditure referred to in these Rules shall be the following:

(a) in respect of a trade mark under the Trade Mark Act 1976—

- (i) an application for registration of a mark;
- (ii) a certificate of registration of a trade mark; and
- (iii) fee for service of an agent registered and authorized to undertake trade mark registration; and

(b) in respect of a patent under the Patents Act 1983—

- (i) an application for grant of a patent;
- (ii) a request for substantive examination or modified substantive examination;
- (iii) a certificate of grant of a patent; and
- (iv) fee for service of an agent registered and authorized to undertake patent registration.

(4) A qualifying person under these Rules shall be as follows:

(a) a company which has a paid-up capital in respect of ordinary share of two million and five hundred thousand ringgit and less at the beginning of the basic period for a year of assessment but shall not include—

- (i) a company where fifty per cent of its paid up capital in respect of ordinary share of the company is directly or indirectly owned by a related company;
- (ii) a company where fifty per cent of the paid-up capital in respect of ordinary shares of a related company is directly or indirectly owned by the first mentioned company; and
- (iii) a company where fifty per cent of the paid-up capital in respect of ordinary shares of the company and a related company is directly or indirectly owned by another company;

(b) an enterprise in the manufacturing industry, manufacturing related services industry and agro-based industry, resident in Malaysia, which at the end of the basis period for a year of assessment—

- (i) has not more than one hundred and fifty full-time employees; or
- (ii) has achieved annual sales of not more than twenty-five million ringgit; and

- (c) an enterprise in the services industries, primary agriculture, information and communication technology industry, resident in Malaysia, which at the end of the basis period for a year of assessment—
- (i) has not more than fifty full-time employees; or
 - (ii) has achieved annual sales of not more than five million ringgit.

Made 23 November 2009

[Perb. CR(8.09) 294/6/4-9(SJ.9)(2010); LHDN.01/35/(S)/42/51/231-17.11; PN(PU²)80/LVIII]

DATO' SERI HAJI AHMAD HUSNI BIN MOHAMAD HANADZLAH
Second Minister of Finance

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

P.U. (A) 419.

AKTA CUKAI PENDAPATAN 1967

KAEDAH-KAEDAH CUKAI PENDAPATAN (POTONGAN BAGI KOS PENYEDIAAN
PELAN INDUK KORPORAT BERASASKAN PENGETAHUAN) 2009

PADA menjalankan kuasa yang diberikan oleh perenggan 154(1)(b) Akta Cukai Pendapatan 1967 [Akta 53], Menteri membuat kaedah-kaedah yang berikut:

Nama dan permulaan kuat kuasa

1. (1) Kaedah-Kaedah ini bolehlah dinamakan **Kaedah-Kaedah Cukai Pendapatan (Potongan bagi Kos Penyediaan Pelan Induk Korporat Berasaskan Pengetahuan) 2009**.

(2) Kaedah-Kaedah ini disifatkan telah mula berkuat kuasa mulai tahun taksiran 2003 dan tahun-tahun taksiran yang berikutnya tertakluk kepada kaedah 3.

Pemakaian

2. (1) Kaedah-Kaedah ini terpakai bagi syarikat—

(a) yang diperbadankan di bawah Akta Syarikat 1965 [Akta 125] dan bermastautin di Malaysia; dan

(b) yang diluluskan oleh Menteri untuk menyertai aktiviti pengetahuan intensif strategik—

(i) berdasarkan kepada pelan induk korporat berasaskan pengetahuan yang disebut dalam subkaedah 3(1); dan