

# INCOME TAX (DEDUCTION FOR EXPENSES IN RELATION TO INTEREST AND INCIDENTAL COST IN ACQUIRING LOAN FOR ABANDONED PROJECTS) RULES 2013

PU (A) 89  
12 March 2013

IN exercise of the powers conferred by paragraphs 154(1)(b) and 33(1)(d) 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 Expenses in relation to Interest and Incidental Cost in Acquiring Loan for Abandoned Projects) Rules 2013**.

**1(2)** These Rules have effect from the year of assessment 2013 and subsequent years of assessment.

## INTERPRETATION

**2** In these Rules—

**"bank or financial institution"** means—

- (a) a bank or finance company licensed or deemed to be licensed under the Banking and Financial Institutions Act 1989 [Act 372];
- (b) a bank licensed under the Islamic Banking Act 1983 [Act 276];
- (c) a development financial institution prescribed under the Development Financial Institutions Act 2002 [Act 618];
- (d) an insurance business licensed under Insurance Act 1996 [Act 553]; or
- (e) a takaful operator licensed under the Takaful Act 1984 [Act 312];

**"qualifying person"** means a rescuing contractor or developer who is appointed or approved by the Minister of Housing and Local Government or liquidator to carry on rehabilitation works for an abandoned project;

**"liquidator"** means any liquidator appointed by a court for the purpose of an abandoned project;

**"loan"** means a loan granted by a bank or a financial institution to finance an abandoned project;

**"abandoned project"** means a project which is certified by the Minister of Housing and Local Government as an abandoned project pursuant to paragraph 11(1)(ca) of the Housing Development (Control and Licensing) Act 1966 [Act 118].

## **APPLICATION**

- 3(1)** These Rules shall apply to a loan approved on or after 1 January 2013 but not later than 31 December 2015.
- 3(2)** These Rules shall apply to interest expenses incurred by a qualifying person for a period of three consecutive years of assessment from the year of assessment in which the loan is approved.

## **DEDUCTION**

- 4(1)** Subject to these Rules, for the purpose of ascertaining an adjusted income of a qualifying person resident in Malaysia from its business for a basis period for a year of assessment, a deduction shall be allowed for any outgoings and expenses as described in subrule (2) which are—
- (a) incurred by that qualifying person during that basis period in respect of his business;
  - (b) incurred primarily or principally for the purpose of the abandoned project.
- 4(2)** The outgoings and expenses referred to in subrule (1) are—
- (a) expenses incurred in the course of acquiring loan for the purposed of the abandoned project.
  - (b) expenses in respect of interest incurred on the loan.
- 4(3)** The amount of deduction allowed under paragraph (2)(a) shall be equivalent to twice the amount of expenses allowed under that paragraph.
- 4(4)** The amount of deduction allowed under paragraph (2)(b) shall be in addition to any deduction under section 33 of the Act.
- 4(5)** Any deduction referred to in subrules (3) and (4) shall only be claimed in the basis period for a year of assessment in which the abandoned project is completed.
- 4(6)** The development expenditure for the abandoned project shall be capitalized and claimed in the year of assessment the project is completed.
- 4(7)** The portion of general and administrative expenses attributable to the abandoned project shall be accumulated and claimed in the basis period for a year of assessment the project is completed.
- 4(8)** Schedule 3 to the Act shall apply to all assets used for the purpose of the abandoned project.
- 4(9)** The capital allowance referred to in subrule (8) shall be accumulated and claimed in the basis period for a year of assessment the abandoned project is completed.
- 4(10)** When the abandoned project is completed, the qualifying person shall ascertain the actual profit or loss derived from the abandoned project by preparing the final account.
- 4(11)** Subsections 43(2) and 44(2) of the Act shall apply in determining the total income of the qualifying person.
- 4(12)** Where the abandoned project is completed, any unabsorbed capital allowance of the qualifying person under subrule (9) shall be disregarded.

## **DETERMINATION OF GROSS INCOME**

- 5(1)** In ascertaining the gross income of qualifying person from the business of his in relation to the abandoned project, each of the abandoned project and any other project carried on by the qualifying person shall be treated as a separate and distinct source of income of the qualifying person from his construction or property development business.
- 5(2)** The qualifying person shall maintain a separate account for the income derived from the abandoned project.
- 5(3)** For the purpose of this rule, the gross income of a qualifying person from the abandoned project referred to in subrule (1) shall be the total amount accrued to the qualifying person by the Ministry of Housing and Local Government upon completion of the abandoned project.

## **DATE OF COMMENCEMENT OF ABANDONED PROJECT**

- 6** The date of commencement of an abandoned project shall be from the date of award of the abandoned project by the Ministry of Housing and Local Government or a liquidator.

## **DATE OF COMPLETION OF ABANDONED PROJECT**

- 7** An abandoned project shall be deemed to have been completed on a date on which the certificate of practical completion or Certificate of Completion and Compliance, or any other certification which has a similar effect, is issued to the qualifying person by an authorised person or body, and surrendered by the qualifying person to the Ministry of Housing and Local Government or a liquidator.

## **NON-APPLICATION**

- 8** The Income Tax (Construction Contracts) Regulations 2007 [*P.U. (A) 276/2007*] and the Income Tax (Property Development) Regulations 2007 [*P.U. (A) 277/2007*] shall not apply to these Rules.