

INCOME TAX (DEDUCTION FOR EXPENDITURE ON FRANCHISE FEE) RULES 2012

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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 Franchise Fees) Rules 2012**.
- 1(2) These Rules shall have effect from the year of assessment 2012.

INTERPRETATION

2 In these Rules—

"**mark**" has the same meaning assigned to it under section 4 of the Franchise Act 1998 [Act 590];

"**franchise fee**" means a fee paid by a qualified person to the franchisor for the right to use a mark, trade secret, confidential information, intellectual property or system of franchise owned by that franchisor in accordance with the terms of a franchise agreement but shall not include royalty payment or other periodical payments;

"**local franchise brand**" means a trade mark or service mark that is registered under the Trade Marks Act 1976 [Act 175] by a franchisor whose franchise business is registered under section 6 of the Franchise Act 1998;

"**qualified person**" means a person who is resident in Malaysia and is a franchisee within the meaning of section 4 of the Franchise Act 1998;

"**franchisor**" means a franchisor within the meaning of section 4 of the Franchise Act 1998 who wholly owns the local franchise brand and in relation to a company incorporated under the Companies Act 1965 [Act 125], at least seventy per centum of the issued share capital of the company is owned by Malaysian;

"**franchise business**" means a business carried out by a qualified person using a local franchise brand;

"**royalty**" has the same meaning assigned to it under section 2 of the Act.

DEDUCTION

- 3(1) For the purpose of ascertaining the adjusted income of a qualified person from his business for the basis period for a year of assessment, there shall be allowed as deduction the expenditure incurred on the franchise fee paid to the franchisor for his franchise business prior to the commencement of that business.
- 3(2) For the purpose of subrule (1), the franchise fee paid by the qualified person to the franchisor for his franchise business shall not be refundable.
- 3(3) The expenditure incurred under subrule (1) shall be deemed to be incurred in the basis period for a year of assessment in which the franchise business commences.