L.N. 55 of 2008

INCOME TAX ACT
(CAP. 123)

Tax Credit (Electronic Business) (Amendment) Rules, 2008

IN exercise of the powers conferred upon him by articles 14(2) and 96 of the Income Tax Act hereinafter referred to as "the Act", the Prime Minister and Minister of Finance has made the following rules:–

Title and effective date.

1. (1) The title of these Rules is the Tax Credit (Electronic Business) (Amendment) Rules, 2008, and they shall be read and construed as one with the Tax Credit (Electronic Business) Rules, 2005, hereinafter referred to as "the principal rules". L.N.333 of 2005.

(2) These rules shall apply with effect from year of assessment 2009 in respect of qualifying expenditure incurred on or after the 1st January, 2008.

Amends title and rule 1 of the principal rules.

2. In the Title and in sub-rule (1) of rule 1of the principal rules for the word "business", there shall be substituted the word "commerce".

Amends rule 2 of the principal rules.

3. Rule 2 of the principal rules shall be amended as follows :

(a) the definition "company" shall be deleted;

(b) the definition "content" shall be deleted;

(c) the definition "eligible developer" shall be deleted;

(d) for the definition "eligible user" there shall be substituted the following:

""eligible user" means a small or medium-sized enterprise which carries on a trade, business, profession or vocation and which incurs or intends to incur a qualifying expenditure for or in connection with a qualifying project;";

(e) the definition "qualifying company" shall be deleted;

(f) for the definition "qualifying expenditure" there shall be substituted the following:

"qualifying expenditure" means expenditure incurred in the carrying out of an approved project for the acquisition of

tangible and intangible assets consisting of computer hardware or software or website development services for or in connection with the development of e-commerce systems that enable the sale of tangible goods or services through business transactions processed over a publicly accessible electronic networks;"; and

(g) the definition "qualifying project" there shall be substituted the following:

"qualifying project" means a project carried out or to be carried out by an eligible user for the creation, development or acquisition of an e-commerce system that enables the sale of tangible goods or services over publicly accessible electronic networks;".

Amends rule 3 of the principal rules.

4. Rule 3 of the principal rules shall be amended as follows :

(a) in sub-rule (1) thereof for the words "a qualifying company" there shall be substituted the words "an eligible user"; and

(b) in sub-rule (2) thereof for the word "company" there shall be substituted the words "eligible user".

Amends rule 4 of the principal rules.

5. Rule 4 of the principal rules shall be amended as follows:

(a) in sub-rule (1) thereof, for the words "a qualifying company" there shall be substituted the words "an eligible user";

(b) in paragraph (b) of sub-rule (2) thereof, for the words "the company" there shall be substituted the words "an eligible user"; and

(c) in paragraph (g) of sub-rule (2) thereof, for the word "company's" there shall be substituted the words "eligible user's", and for the word "company" there shall be substituted the words "eligible user".

Amends rule 7 of the principal rules.

6. Rule 7 of the principal rules shall be amended as follows:

(a) in paragraph (d) of sub-rule (1) thereof, for the words "aggregate State aid intensity" there shall be substituted the word "aid"; and

(b) in sub-rule (3) thereof for the words "company's" there shall be substituted the words "eligible user's".

7. Rule 8 of the principal rules shall be amended as follows: Amends rule 8 of the principal rules.

(a) in sub-rule (1) thereof, for the word "company" there shall be substituted the words "eligible user";

(b) sub-rule (2) thereof shall be deleted and sub-rules (3) and (4) thereof shall be renumbered as sub-rules (2) and (3) respectively; and

(c) in sub-rule (2) thereof as renumbered, for the word "company" there shall be substituted the words "eligible user".

8. Rule 9 of the principal rules shall be amended as follows: Amends rule 9 of the principal rules.

(a) in paragraph (a) of sub-rule (1) thereof, for the word "company" there shall be substituted the words "eligible user";

(b) in paragraph (d) of sub-rule (1) thereof, for the word "company" there shall be substituted the words "eligible user";

(c) in sub-rule (2) thereof, for the words "within the company" there shall be substituted the words "by the eligible user" and for the word "five" there shall be substituted the word "three"; and

(d) in sub-rule (3) thereof for the words "within the company" there shall be substituted the words "by the eligible user".

9. Rule 10 of the principal rules shall be amended as follows: Amends rule 10 of the principal rules.

(a) for sub-rule (1) thereof, there shall be substituted the following:

"(1) The tax credit due for a year of assessment under these rules shall be equivalent to 100% of the value of the eligible expenditure up to a maximum of €12,000 for every eligible project.";

(b) for sub-rule (2) thereof, there shall be substituted the following:

"(2) Notwithstanding the provisions of sub-rule (1), the total aid due to an eligible user in respect of an approved project shall not exceed in the aggregate €200,000 over a rolling three fiscal year period in terms of Commission Regulation (EC) No. 1998/2006 on the application of Articles 87 and 88 of the EC Treaty to de minimis aid:

Provided that where the eligible user in question has benefited from any state aid in respect of expenditure incurred in the carrying out of the project, other than as provided for in these rules, the said threshold of €200,000 shall be reduced by the value of that other benefit:

Provided further that the correct calculation of the said reduction, where applicable, shall be the sole responsibility of the eligible user."; and

(c) in sub-rule (4) thereof, for the words "a company" there shall be substituted the words "an eligible user".

Amends rule 11 of the principal rules.

10. In sub-rule (2) of rule 11 of the principal rules, for the word "company", wherever it may occur, there shall be substituted the words "eligible user".

Amends rule 12 of the principal rules.

11. In rule 12 of the principal rules for the words "A company" there shall be substituted the words "An eligible user".

Amends rule 13 of the principal rules.

12. Rule 13 shall be amended as follows:

(a) in sub-rule (1) thereof, for the words "a company" and "that company" there shall be substituted the words "an eligible user" and "that eligible user" respectively; and

(b) in sub-rule (2) thereof, the words "In addition to the database kept under the provisions of the Business Promotion Regulations, 2001," shall be deleted, and for the words "a company" there shall be substituted the words "an eligible user".

Amends rule 15 of the principal rules.

13. In rule 15 of the principal rules, for the words "a company", there shall be substituted the words "an eligible user".

Substitutes rule 17 of the principal rules.

14. For rule 17 of the principal rules there shall be substituted the following:

"Applicability of these rules.

17. Insofar as these rules provide for and regulate benefits for small and medium sized enterprises, they are prescribed and shall be applied in accordance with Commission Regulation (EC) No. 1998/2006 on the application of Articles 87 and 88 of the EC Treaty to de minimis aid, as subsequently amended.".

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