VERŻJONI ELETTRONIKA

L.N. 349 of 2016

INCOME TAX ACT
(CAP. 123)

Industrial Buildings and Structures (Capital Allowances) Rules, 2016

IN exercise of the powers conferred by articles 2, 14(2) and 96 of the Income Tax Act, the Minister for Finance has made the following rules:-

Citation.

1. The title of these rules is the Industrial Buildings and Structures (Capital Allowances) Rules, 2016.

Meaning of "offices". Cap. 123.

2. For the purpose of the definition "industrial building or structure" in article 2 of the Income Tax Act, hereinafter referred to as "the Act", the term "offices" means an office business centre that is first used and occupied on or after the 1st January 2016. The word "office business centre" means any number of units suitably furnished and equipped, with a total office space area of more than two thousand five hundred square meters, to be used exclusively for offices, provided that such units are grouped together and have in common ancillary services and amenities within a single and defined parcel of land and are operated by a common management for the use by the owner or tenants, in the course of their trade or business against payment:

Provided that the deductions referred to in article 14(1)(f) and (j) shall be available only to the owner of the office business centre.

Deemed cost and date of the acquisition of the property in certain cases.

3. If the owner of an industrial building or structure is a person that acquired the property by means of a transfer that was not subject to tax in virtue of the provisions of articles 5(9), 5A(4)(f) or 5A(4)(j) of the Act ("exemption provisions"), the said owner shall be deemed, for the purpose of article 14(1)(f) and (j) of the Act and of these rules, to have acquired the property:

(a) at a cost equivalent to the actual consideration for that acquisition or the consideration for the original transfer, whichever is the lower, increased by any construction costs incurred by it after the acquisition; and

(b) on the date of the original transfer,

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and for this purpose "original transfer" means the last transfer of that property that did not qualify for relief under any of the above-mentioned exemption provisions.

Cost of the land to be excluded.

4. For the purpose of article 14(1)(j) of the Act, the capital expenditure on an industrial building and structure shall not include the cost of the land on which it is constructed.

Apportionment of land area.

5. When an industrial building or structure forms part of a building that comprises other premises, the land on which it is constructed shall be deemed to be a portion of the total area of the land occupied by the whole building that is proportionate to the surface area of the industrial building or structure.

Value of airspace.

6. When the ownership of an industrial building or structure includes any real right over the airspace, the value to be attributed to the cost of the land over which it is constructed shall include the value of that real right.

Deemed cost of the land.

7. (1) For the purpose of article 14(1)(f) and (j) of the Act and of these rules, the cost of the land on which an industrial building or structure is constructed shall, unless otherwise identified, be deemed to be equivalent to the market value of the land at the time of the construction or acquisition of the property, taking into account also the provisions of rule 5.

(2) In any dispute over the market value of property to which these rules refer, an architect's valuation that has been confirmed on oath and that includes a declaration that the provisions of these rules have been taken into account shall be admissible as evidence. When different valuations are produced in the proceedings in the Administrative Review Tribunal, the Tribunal shall, unless the parties otherwise agree, appoint another architect to report on the value after examining the valuations that have been produced and inspecting the property, and the Tribunal shall decide the matter after taking into account the said report and any other consideration that it may consider appropriate.

Exclusions.

8. (1) When a person claims, for a year of assessment, a deduction in terms of article 14(1)(f) or (j) of the Act in respect of property consisting of offices as defined in these rules, the Deduction of Expenses in respect of Immovable Property Rules shall not apply to the deductions that may be claimed by that person in respect of that property for that year or for any subsequent year.

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(2) When a person claims, for a year of assessment, a deduction in terms of the Deduction of Expenses in respect of Immovable Property Rules in respect of property consisting of offices

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as defined in these rules, that person may not claim deductions under article 14(1)(f) or (j) of the Act in respect of that property for that year or for any subsequent year.

(3) When, for any year of assessment, the tax on rental income derived by a person from property consisting of offices as defined in these rules is determined in accordance with the provisions of article 31D of the Act, that person shall not be entitled to claim deductions under article 14(1)(f) or (j) of the Act in respect of that property for that year or for any subsequent year.

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