L.N. 229 of 2024

INCOME TAX ACT
(CAP. 123)

Income Tax (Deductions) (Amendment) Rules, 2024

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

Citation and commencement.

S.L. 123.07.

1. (1) The title of these rules is the Income Tax (Deductions) (Amendment) Rules, 2024, and these rules shall be read and construed as one with the Income Tax (Deductions) Rules, hereinafter referred to as the "principal rules".

(2) The provisions of rule 6 of these rules shall apply with effect from the year of assessment 2024.

Amends rule 2 of the principal rules.

2. In the definition "FSS Rules" of rule 2 of the principal rules, the words "in replacement thereof." shall be substituted by the words "in replacement thereof;" and immediately thereafter there shall be added the following new definition:

" "qualifying income" means the income produced through the use or employment of the intellectual property or intellectual property rights chargeable to tax in accordance with the provisions of the Income Tax Acts before claiming the deductions contemplated in rule 6(1)(b) or (2), as may be applicable, and article 14(1)(o) of the Act.".

Adds new rule to the principal rules.

3. Immediately after rule 5 of the principal rules there shall be added the following new rule:

"Deductions in respect of expenditure of a capital nature on intellectual property or any intellectual property rights.

6. (1) Where any person claims a deduction in accordance with the second proviso to article 14(1)(m) of the Act in respect of expenditure of a capital nature on intellectual property or any intellectual property rights (hereinafter referred to as "expenditure"), the amount deductible in respect of any year of assessment shall be computed as follows:

(a) there shall be deducted that part of the said expenditure which would otherwise have been deductible by reference to the minimum period allowed in accordance with the first proviso to article 14(1)(m) of the Act; and

(b) there shall also be deducted that part of the said expenditure remaining after computing the deduction in accordance with paragraph (a):

Provided that where the deduction or a part thereof allowable in accordance with paragraph (b) cannot for any year be given effect to in full because there is no or insufficient qualifying income in that year of assessment, the expenditure provided for in said paragraph (b) shall not be available for deduction against any other income for the said year, or available for surrender in accordance with articles 16 to 22 of the Act, but shall be carried forward for deduction and be added to the deduction due for the following year and be deemed to be part of that deduction, or if there is no such deduction for that year, be deemed to be the deduction for that year and so on for subsequent years:

Provided further that, subject to the provisions of the third proviso to article 14(1)(m) of the Act, the aggregate of the deductions made in accordance with paragraphs (a) and (b) shall not in any case exceed the amount of the said expenditure.

(2) With respect to the year of assessment 2024, a claim for deduction in accordance with the second proviso to article 14(1)(m) of the Act may also be made with respect to any expenditure brought forward during the said year which, due to the provisions of the first proviso to article 14(1)(m) of the Act, had not been so deducted in the years of assessment preceding the year of assessment 2024, and in such case, the amount deductible in respect of the year of assessment 2024 and any subsequent year of assessment shall be computed as follows:

(a) there shall be deducted that part of the said expenditure which would otherwise have been deductible by reference to the period chosen in preceding years of assessment and allowed in accordance with the first proviso to article 14(1)(m) of the Act; and

(b) there shall also be deducted that part of the said expenditure remaining after computing the deduction in accordance with paragraph (a):

Provided that where the deduction or part thereof allowable in accordance with paragraph (b) cannot for any year be given effect to in full because there is no or insufficient qualifying income in that year of assessment, the expenditure under this part shall not be available for deduction against any other income for the said year, or available for surrender in accordance with articles 16 to 22 of the Act, but shall be carried forward for deduction and added to the deduction due for the following year and shall be deemed to be part of that deduction, or if there is no such deduction for that year, be deemed to be the deduction for that year and so on for subsequent years:

Provided further that, subject to the provisions of the third proviso to article 14(1)(m) of the Act, the aggregate of the deductions made in accordance with paragraphs (a) and (b) in conjunction with any other deductions made in the years of assessment preceding the year of assessment 2024 shall not in any case exceed the amount of the said expenditure.

(3) For the avoidance of doubt, nothing in sub-rules (1) and (2) shall be construed as allowing any person to deduct or carry forward the expenditure in circumstances where the deduction of such would not have otherwise constituted an allowable loss in accordance with article 14(1)(g) of the Act.".

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