

**TECHNICAL**

**Direct Taxation**

**PUBLIC RULING NO.4/2015 ON ENTERTAINMENT EXPENSE**

Further to our [e-CTIM TECH-DT 59 -2015](#) dated 3 August 2015, the contents of the [Public Ruling \(PR\) 4/2015](#) are summarized below.

**Important Definitions**

Para. 3 of the [PR](#) explains the meaning of various terms used, among which are the following:

Term	Meaning
Entertainment	Includes: (a) the provision of food, drink, recreation or hospitality of any kind; or (b) the provision of accommodation or travel in connection with or for the purpose of facilitating entertainment of the kind mentioned in paragraph (a) above, by a person or an employee of his, <i>with or without consideration paid whether in cash or in kind, in promoting or</i> * in connection with a trade or business carried on by that person.
Entertainment related wholly to sales	Entertainment directly related to sales provided to customers, dealers and distributors but excluding suppliers.
Promotion	<i>An activity to inform and to offer a product or service which is to be marketed to customers, dealers and distributors but excluding suppliers and an activity undertaken to advertise the sale of the product or service.</i>

\* S.18 of ITA, as amended by Finance Act 2014 [Act 761] effective from year of assessment 2014. The words in italic are not found in the replaced PR No. 3/2008 dated 22 October 2008.

The following table summarizes the contents of the [PR](#):

Heading [Para. No.]	Subject and Summary
<b>The Law and Principles on Deductibility of Entertainment Expenses [4 – 6]</b>	<p><i>Application of <a href="#">S.33(1)</a> and <a href="#">S.39(1)</a> of ITA in relation to entertainment expenses</i></p> <ul style="list-style-type: none"> <li>Expenses “wholly and exclusively incurred in the production of gross income” is allowed for deduction under <a href="#">S.33(1)</a> of the ITA, subject to specific prohibition under <a href="#">S.39(1)</a>.</li> <li>Entertainment expense which qualifies for deduction under <a href="#">S.33(1)</a> is restricted to 50% deduction under <a href="#">S.39(1)(i)</a>, except if it falls within any of the categories specified in provisos (i) to (viii) of <a href="#">S.39(1)(i)</a> (in which case it would qualify for 100% deduction).</li> <li>The following are principles to observe in determining whether an entertainment expense is allowable and the amount to be allowed: <ul style="list-style-type: none"> <li>a) No deduction for entertainment expense is allowed if it does not fall within the definition of “entertainment” in <a href="#">S.18</a> of the ITA. (Example 1)</li> <li>b) An expense which falls within the definition of “entertainment” is not allowed to be deducted if it does not meet the requirements of <a href="#">S.33(1)</a> of</li> </ul> </li> </ul>

	the ITA. (Examples 2 and 3) c) An expense which meets both the above requirements is allowed a deduction of 100% if it falls under any of the provisos (i) to (viii) of <a href="#">S.39(1)(l)</a> . If it does not fall under any of the provisos, only 50% is allowable.	
Entertainment Expense That Qualifies for 100% Deduction		The Law & [Example]
[7.1]	Expenditure on food, drink and recreation to employees	<a href="#">S.39(1)(l)(i)</a> [Ex. 4]
[7.2]	Entertainment for customers in the ordinary course of business where payment is imposed for its provision	<a href="#">S.39(1)(l)(ii)</a>
[7.3]	Promotional gifts at trade fairs or trade exhibitions or industrial exhibitions outside Malaysia for the purpose of promoting exports from Malaysia	<a href="#">S.39(1)(l)(iii)</a>
[7.4]	Promotional samples of products of the business for the purpose of advertising that product	<a href="#">S.39(1)(l)(iv)</a> [Ex. 5]
[7.5]	Provision of entertainment for cultural * or sporting events open to the public wholly to promote the business * Cultural event means an event which is specifically held to promote arts activities.	<a href="#">S.39(1)(l)(v)</a>
[7.6]	Promotional gifts within Malaysia consisting of articles incorporating a conspicuous advertisement or logo of the business	<a href="#">S.39(1)(l)(vi)</a> [Ex. 6]
[7.7]	Entertainment which is related wholly to sales arising from the business. (Note: Vouchers, coupons, tickets, gifts and so on are only allowed as entertainment expenses when customers have redeemed them.)	<a href="#">S.39(1)(l)(vii)</a> [Ex. 7 & 8]
[7.8]	Leave passage benefit provided for employees by employers to facilitate a yearly event within Malaysia which involves the employer, employees and immediate family members of the employees	<a href="#">S.39(1)(l)(viii)</a> [Ex. 9]
<b>Entertainment Expense That Qualifies For 50% Deduction</b> [8]	Entertainment expenditure that falls within <a href="#">S.33(1)</a> of the ITA ("wholly and exclusively incurred....") but does not fall under any of the provisos (i) to (viii) of <a href="#">S.39(1)(l)</a> only qualifies for a deduction of 50% of the amount incurred.	<a href="#">S.39(1)(l)</a> [Ex. 10, 11 & 12]
<b>Promotional Expense As Entertainment Expense</b> (Not in the replaced PR No. 3/2008 dated 22 October 2008) [9]	<ul style="list-style-type: none"> <li>Effective from YA 2014, the definition of entertainment has been amended to include entertainment provided "<i>with or without any consideration paid whether in cash or in kind, in promoting or in connection with a trade or business</i>".</li> <li>Therefore, promotional expenses which <i>have an entertainment element</i> are also allowed a deduction of: <ul style="list-style-type: none"> <li>100% if it falls within any of provisos (i) to (viii) of <a href="#">S.39(1)(l)</a>. or</li> <li>50% if it does not fall under any of the above provisos.</li> </ul> </li> <li>Note that promotional expenses that <i>do not have an entertainment element</i> is allowed to be deducted in full (100%) under <a href="#">S.33(1)</a> of the ITA. (Refer to</li> </ul>	

	<p>Example 13.)</p> <ul style="list-style-type: none"><li>• Promotional gifts and samples under provisos (iii), (iv) and (vi) of <a href="#">S.39(1)(l)</a> which are given free are promotional expenses containing an entertainment element and provided without consideration. They are given to the public or to persons who have a business relationship with the giver. They are allowed to be deducted at 100% or 50%, depending on whether they fall within the provisos mentioned or not. (Refer to Examples 14 and 15)</li></ul>
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Members may view the PR at the [Institute website](#) and the [LHDNM website](#).

You may write to the Institute at [technical@ctim.org.my](mailto:technical@ctim.org.my) or [secretariat@ctim.org.my](mailto:secretariat@ctim.org.my) in respect of any suggestions, concern or comments you may have on the [PR](#) so that we may raise them to the LHDNM.

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