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**TECHNICAL**

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**Direct Taxation**

**[INCOME TAX \(DEDUCTION FOR EXPENSES IN RELATION TO NATIONAL GREENHOUSE GAS REPORTING PROGRAMME\) RULES 2016 \[P.U. \(A\) 295/2016\]](#)**

The above Rules were gazetted on 17 November 2016. The Rules have effect from the year of assessment (YA) 2015 until YA 2017.

The salient points in these rules are summarized below:

**Deduction [Rule 2\*]**

*\* CTIM's Note: There appears to be an error in the numbering of the Rules, there being two Rules that are numbered "2". The above refers to the first of the two "Rule 2".*

In ascertaining adjusted income of a qualifying company (QC) from its business in the basis period for a year of assessment, a deduction is allowed for qualifying expenditure (QE) incurred by the QC for the purpose of preparing the Greenhouse Gases Report (GGR) for the implementation of the National Greenhouse Gas Reporting Programme which is regulated by an authorized officer of the Ministry of Natural Resources and Environment.

*Meanings of words used*

Rule 2 also provides the meanings of the following words:

Word	Meaning
QC [Rule 2(2)]	Means a company - (a) incorporated under the Companies Act 1965(Act 125) and (b) resident in Malaysia.
QE [Rule 2(3)]	QE refers to – (a) the consultant fee for consultancy services of a consultant company for preparation of the GGR relating to – <ul style="list-style-type: none"><li>• the scope of the report,</li><li>• the collection of report data,</li><li>• the determination of the calculation method for the reduction on greenhouse gases discharge; and</li><li>• the advice on the reduction of the greenhouse gases discharge;</li></ul> (b) the cost for the preparation of the GGR internally by the QC, namely wages for additional work done by full-time and part-time employees who are directly involved in the preparation of the GGR;  (c) the service fee paid by the QC for the verification of the GGR in

	<p>relation to the following –</p> <ul style="list-style-type: none"> <li>• verification of information used for the calculation of the greenhouse gases discharge;</li> <li>• verification of the calculation method for the for the greenhouse gases discharge; and</li> <li>• preparation and issuance of the verification for the GGR.</li> </ul>
GGR [Rule 2(5)]	Means the report prepared by a QC relating to greenhouse gases emissions
Related company [Rule 2(5)]	Has the same meaning as in section 2 of the Promotion of Investments Act 1986.

#### Conditions [Rule 2(4)]

The conditions for allowing the deduction are as follows:

- QE must be incurred within a period of 2 years from 1.1.2015 to 31.12.2016.
- The amount allowed as deduction is limited to the maximum amount specified in the [Schedule](#) to the Gazette Order.
- QE specified in Rule 2(3)(a) and Rule 2(3)(b) are mutually exclusive.
- The company providing the verification [Rule 2(3)(c)] is not a related company of the consultant company [Rule 2(3)(a)] or the QC.
- The consultant company [Rule 2(3)(a)] is not a related company of the QC.
- Both the consultant company and the company providing the verification mentioned in (d) and (e) above must be approved by the Ministry of Natural Resources and Environment.
- The GGR in relation to which a claim is made must be verified by the Ministry of Natural Resources and Environment.

#### Non-application

The Rules do not apply to a QC which, in relation to the QE for a YA, has claimed allowance or deduction or been granted tax incentive or exemption under specific legislations which are listed in [Rule 2\(a\) to \(d\)](#)\*. Please refer to the Rules for the full list.

*\* CTIM's Note: This refers to the second of the two "Rule 2".*

Members may read the Rules at the official website of the [Attorney-General's Chambers](#).

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