

TECHNICAL

Direct Taxation

PUBLIC RULING NO. 8/2016 – INDUSTRIAL BUILDINGS PART 1

The above Public Ruling (PR) was issued on 23 November 2016. (Please refer to our [e-CTIM TECH-DT 98-2016](#) dated 25 November 2016.) Its objective is to explain the types of buildings that qualify as industrial buildings (IB).

Definitions

Paragraph 3 provides definitions of terms used in the [PR](#). Among them are the following:

| Words | Meanings |
|---------------------------------------|---|
| Building | Includes any structure erected on land which is not plant or machinery (P&M) |
| Qualifying building expenditure (QBE) | Capital expenditure incurred on the construction or purchase of a building which is used at any time after its construction or purchase, as the case may be, as an IB |
| Approved service project (ASP) | A project in the service sector in relation to transportation, communications, utilities or any other sub-sector as approved by the Minister of Finance (MOF) |

The contents of the PR are summarized below:

Types of Buildings that Qualify as Industrial Buildings (Paragraph 4 of PR)

| | Types of Buildings That Qualify as IB | Example # in PR |
|-----|---|------------------------|
| | Para. 4.1 – Buildings that qualify as stated in para. 63 of Sch. 3 of ITA | |
| (a) | Building used as a factory. Includes – | |
| | (i) a building that is equipped with P&M to carry out the manufacturing or processing of materials to produce a product. | 1 |
| | (ii) other buildings housing P&M for the manufacturing or processing of materials or products, or generating of power used in manufacturing or processing. | 2, 3 & 4 |
| | (iii) a workshop used for the repair or servicing of goods, provided that the repair or servicing is not carried out in conjunction with or incidental to the business of selling those goods. | 5 & 6 |
| | (iv) a building within the same compound (curtilage) which is used for the storage of raw material, fuel or stores used in the manufacturing of products or processing of goods/ materials, or for the storage of those | 7 |

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| | products or those goods/ materials when processed prior to sale. | |
| (b) | Building used as a <i>dock, wharf, depot or jetty</i> or other similar building. The meanings of the structures named (in <i>italics</i>) are explained. They qualify as IB. | |
| (c) | Building used as a warehouse in a business which consists or mainly consists of the hire of storage space to the public. (For the purpose of this paragraph, it means hiring the warehouse to a hirer having its own entity other than the warehouse owner.) | 8 |
| (d) | Building used in the business of supplying water or electricity for consumption by the public or providing telecommunication services to the public. | 9 |
| (e) | Buildings used in connection with the working of a farm, and the business consists or mainly consists of the working of a farm, with or without other farms, provided that no claim is made for qualifying agriculture expenditure. | 10 |
| (f) | Buildings used in connection with the working of a mine, and the business consists or mainly consists of the working of a mine, with or without other mines, provided that provided that no claim is made for qualifying mining expenditure. | 11 |
| Para. 4.2 – Buildings provided for the facility of employees. (The paragraph stated within brackets [] refers to the relevant paragraph in Sch. 3 of the ITA.) | | |
| (a) | Where the building is an IB, any building provided as a canteen, restroom, recreation room, lavatory, bathhouse, bathroom, or washroom for employees. [Para 65(1)] | |
| (b) | Building provided for the welfare of employees working in a farm*. [Para 65(2)] | |
| (c) | Building provided as living accommodation for employees, if it is – (i) for persons employed in connection with the working of a farm*; [Para 65(2)] (ii) constructed by a person who has an IB in use in his business; [Para 42(1)] (iii) constructed or purchased by a person carrying on a manufacturing, hotel or tourism business, or an ASP under Sch. 7B of the ITA. [Para 42A(1)] provided that the employee is not a director, an individual having control of the business, an individual who is a member of management, administration or clerical staff of that business. | 12 |
| | * <i>Qualifies as IB, provided that the building is likely to be of little or no value to any person, except in connection with the working of that farm or of another farm.</i> | |
| Para. 4.3 – Certain buildings treated as IB | | |

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| The following buildings are treated as IB provided that specific conditions are met. Please refer to the PR for full details of the conditions that apply in respect of each type of building. | | |
| (a) | <p>Licensed private hospital, maternity home and nursing home. [Para 37A]</p> <p>The construction or purchase of a building used for the above qualifies as an IB, provided that the business –</p> <ul style="list-style-type: none"> is registered and licensed by any written law for the time in force relating to the registration of the businesses named above; (if no such law is in force at the time) is approved by the DGIR after consultation with the Director General of Health. | 13 |
| (b) | <p>Building used for research [Para 37B]</p> <p>a building constructed or purchased is “used for research” if –</p> <p>(i) research is approved research by the MOF under S34A(1) and 34B(4) of the ITA; or</p> <p>(ii) research undertaken by a research and development company or a contract research and development company as defined in S2 of the Promotion of Investments Act 1986.</p> <p>Construction cost includes capital expenditure on the alteration or renovation of rented premises.</p> | |
| (c) | <p>Building used as warehouse [Para 37C]</p> <p>A building used solely for the purpose of storage of goods for export or of imported goods which are to be processed for distribution or re-export.</p> | 14 |
| (d) | <p>Building used for ASP [Para 37E]</p> <p>A building used solely for the provision of services and modernization of operations in relation to an ASP as defined in Sch. 7B of ITA.</p> | 15 |
| (e) | <p>Building used for hotel [Para 37F]</p> <p>A building used solely for the purpose of a hotel business and the hotel is registered with the Ministry of Tourism and Culture.</p> | 16 |
| (f) | <p>Airport [Para 37G]</p> <p>Capital expenditure incurred in relation to an airport, including any construction, reconstruction, extension, improvement or purchase of any building, runway, or ancillary structures.</p> | |
| (g) | <p>Motor racing circuit [Para 37H]</p> <p>Capital expenditure incurred in relation to a motor racing circuit approved by the MOF, including any construction, reconstruction, extension, or improvement of that circuit or ancillary structures.</p> | |
| (h) | <p>Child care centre [Para 42A(2)]</p> <p>A building purchased or constructed by an employer for the purpose of</p> | 17 |

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| | providing childcare facilities to his employees. | |
| (i) | School building or educational institution [Para 42B] Refers to a building used directly in the provision of education. (Please refer to para. 4.3(i) of the PR for information on the meaning of “school or educational institution” and those that qualify / do not qualify for the purpose of para. 42B of Sch. 3 of the ITA.) | 18 |
| (j) | Building for industrial, technical or vocational training [Para 42C] A building constructed or purchased for the purpose of industrial, technical or vocational training approved by the MOF. | 19 |
| (k) | Public roads under privatization [Para 67A] Capital expenditure incurred on the construction, reconstruction, extension or improvement of a public road and ancillary structures where the expenditure is recoverable through toll collection pursuant to an agreement made by a person with the Government. | 20 |
| (l) | Building on a build-lease-transfer basis [Para 67B] A building constructed on a build-lease-transfer basis pursuant to an agreement by a person with the government and subject to the approval of the MOF. | 21 |

Summary

[Paragraph 5](#) of the PR summarizes in a table the different types of industrial buildings (by reference to the relevant paragraph in [Sch. 3](#) of the ITA), and the rate of initial and annual allowance applicable in respect of each type.

Members may view the PR at the websites of the [Institute](#) and the [LHDNM](#).

You may write to the Institute at technical@ctim.org.my or secretariat@ctim.org.my in respect of any concern or comments you may have on the above [PR](#).

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