
TECHNICAL

Direct Taxation

PUBLIC RULING NO. 5/2016 – TAX INCENTIVES FOR EMPLOYERS WHO PROVIDE CHILD CARE CENTRES

The above Public Ruling (PR) was issued on 22 August 2016 and reported in our [e-CTIM TECH-DT 75/2016](#) dated 23 August 2016. The [PR](#) explains the tax treatment relating to incentives granted to employers who provide child care centre facilities for the benefit of employees.

Definitions

Paragraph 3 provides definitions of terms used in the [PR](#).

Among these is “qualifying building expenditure” (QBE) which means capital expenditure incurred on the purchase or construction of a building which is used as an industrial building for the purpose of his business.

The terms “employer”, “employee” and “employment” are also [defined](#).

Incentives for employers who provide child care centre facilities for employees

The contents of the [PR](#) are summarized below:

Para No. in Ruling	Subject Matter & Summary
4	<p><i>Meaning of child care centre (CCC)</i></p> <ul style="list-style-type: none">• A CCC is where 4 or more children under the age of 4 years from more than one household are cared for a fee.• It must be registered with the Department of Social Welfare (DSW) and is subject to the Child Care Centre Act 1984 (Act 308) under the Ministry of Women, Family and Community Development.
5.1	<p><i>Deductions for employers who provide benefits relating to child care</i></p> <ul style="list-style-type: none">• S 34(6)(i) of the ITA* provides for a deduction to be allowed for expenses incurred by an employer for the provision and maintenance of a CCC for the benefit of employees, in computing the adjusted income from the employer's business. The deduction is available even though the CCC is provided outside the business premises, but capital expenditure on land, premises, buildings, structures or works of a permanent nature or on alterations, additions and extensions does not qualify for deduction. <p>* Income Tax Act 1967. All sections quoted hereafter refer to sections of the ITA unless otherwise stated.</p> <ul style="list-style-type: none">• Child care allowances paid by an employer to his employees who have children are allowed to be deducted in computing adjusted income under S33(1). Such allowances are assessable income of the employees under S13(1)(a), but an exemption of up to RM2,400 a year is granted to the employee/recipient.

6.1 – 6.5	<p><i>Enhanced incentives (effective from YA 2013)</i></p> <ul style="list-style-type: none"> W.e.f YA 2013, an additional deduction for the expenses stated below is granted to employers who are resident in Malaysia, who provide their own CCC for the benefit of their employees: <ul style="list-style-type: none"> (a) Expenses incurred for the provision and maintenance of CCC; and (b) Expenses on child care allowances paid to employees. <p>The total amount of deduction allowed is in addition to the deductions allowed under S34(6)(i) and S33(1).</p> Only CCC registered with the DSW under the Child Care Centre Act 1984 are eligible for above incentive. For examples of tax computations of adjusted income, refer to the following examples in the PR; <ul style="list-style-type: none"> (a) Example 1 (further deduction for expenditure on provision and maintenance of CCC); (b) Example 2 (further deduction for child care allowance); (c) Example 3 (CCC operated by a third party) If there is an overlapping period, (a period in the basis period that falls within 2 YAs) the overlapping period is deemed to fall into the first basis period only. (Example 4) If the amount of deduction claimed exceeds an amount which, in the opinion of the DGIR, would reasonably be expected to be incurred in the ordinary course of business, the excess amount will be disallowed. (Example 5)
7	<p><i>Industrial building allowances (IBA)</i></p> <ul style="list-style-type: none"> Under S42A(2) and paragraph 16B of Sch. 3 of the ITA, an employer who builds or purchases a building and uses it as a CCC for the children of his employees, may claim IBA on the building. The rate is 10% of capital expenditure (excluding cost of land) for the YA in the basis period in which the building commenced to be used as a CCC, and for each of the 9 subsequent YAs. (Example 6)

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

You may write to the Institute at technical@ctim.org.my or 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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