

**e-CTIM TECH-DT 90/2016**

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**TO ALL MEMBERS**

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**TECHNICAL**

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**Direct Taxation**

**[GUIDELINES ON AUTOMATIC DOUBLE DEDUCTION FOR R & D PROJECT EXPENDITURE](#)**

The Inland Revenue Board of Malaysia (LHDNM) has issued Guidelines (Bahasa Malaysia only) dated 2 September 2016 relating to the claim for double deduction of qualifying expenses incurred on a research and development (R&D) project which is approved by the Minister of Finance. The guidelines set out the rules and procedure for making a claim.

Further to our [e-CTIM TECH-DT 79/2016](#) dated 8 September 2016, the following is a summary of the contents of the guidelines:

**1. Introduction**

(a) In the 2016 Budget presented on 23 October 2015, it was announced that companies –

- incorporated under the Companies Act 1965, and
- resident in Malaysia,
- with share capital of not more than RM2.5 million under paragraph 2A of Sch. 1 of the Income Tax Act 1967 (ITA); and
- having an in-house R&D project;

may automatically claim double deduction for qualifying R&D expenses incurred (under S34A of the ITA) in the Return Form for the year of assessment (YA) 2016, 2017 and 2018, without prior approval from LHDNM.

(All sections quoted hereafter refer to sections in the ITA, unless otherwise stated.)

(b) Expenses that qualify are expenses incurred on in-house R&D activities amounting to not more than RM50,000 per YA, excluding the following:

- capital expenditure such as that incurred on plant and machinery, fittings, equipment, land, premises and buildings;
- expenditure relating to structures or works of a permanent nature (e.g renovations, extension or additions to foundational structures) or;
- expenditure on the acquisition of rights to an asset (e.g. transfer of technology, intellectual property or royalty payments).

(c) Companies coming under para. 2A of Sch.1 of ITA are those with paid up ordinary share capital of not more than RM2.5 million on the first day of the basis period in the YA for which the claim for double deduction is made. This does not apply to a company in which –

- more than 50% of the ordinary share capital of that company is owned directly or indirectly by a related company;
- more than 50% of the ordinary share capital of the related company is owned by the claimant company; or
- more than 50% of the ordinary share capital of the claimant company and the related

company is owned, directly or indirectly, by another company,

where “related company” means a company with paid up ordinary share capital of more than RM2.5 million on the first day of the basis period for a YA.

## 2. Procedure for making a claim

- (a) The project for which a claim for double deduction is made must be approved by the Minister of Finance and therefore application for approval for the project must be made according to existing procedures. However, a claim for double deduction may be made before the project is approved.

The following procedure must be observed:

- Submit application form for approval of the project [Borang 1(Seksyen 34A ACP 1967)] to Jab. Dasar Percukaian, LHDNM – 6 months before the end of the financial year in which R&D expenses are incurred;
  - If there is an additional project after the 6 month-period mentioned above, a new application for approval of the additional project on the form [Borang1(Seksyen 34A ACP 1967)] must be submitted within 1 month after the financial year-end.
  - If an “automatic” claim for the double deduction has been made in the Return Form for a particular year and the R&D project was subsequently not approved, a revised tax computation withdrawing the claim for double deduction should be made and submitted to the branch of LHDNM in charge of that company’s tax file.
- (b) The above claim is subject to the provisions of S34A and the guide found in [Public Ruling No. 5/2004](#) & [addendum](#) on *Double Deduction Incentive on Research Expenditure*. LHDNM has the right to conduct an audit of the R&D expenses which qualify, even if the project has been approved under S34A, and the amount that is deductible is subject to the findings of the audit.

Please refer to the example in the Guidelines which illustrates when a company qualifies for a claim for double deduction on qualifying R&D expenses.

Members may read the Guidelines in full at the websites of the [Institute](#) and the [LHDNM](#).

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 concern or comments you may have on the above [Guidelines](#).

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