

TECHNICAL

Direct Taxation

[INCOME TAX \(DEDUCTION FOR EXPENDITURE ON ISSUANCE OF RETAIL DEBENTURE AND RETAIL SUKUK\) RULES 2016 \[P.U. \(A\) 347/2016\]](#)

The above Rules were gazetted on 22 December 2016, and takes effect from the year of assessment (YA) 2016 until YA 2018.

These Rules were reported in our [e-CTIM TECH-DT 1/2017](#) dated 11 January 2017 and the contents of these Rules are summarized below.

Deduction

- Subrule 2(1) provides that in ascertaining adjusted income of a company resident in Malaysia from its business for the basis period for a YA, a deduction is allowed of an amount equal to the amount specified in subrule 2(6) or 2(7), in respect of additional expenses [refer subrule 2(2)] incurred by the company on the issuance of:
 - (a) a *retail debenture** approved or authorized by the Securities Commission Malaysia (SCM) under the Capital Markets and Services Act 2007 (CMSA);
 - (b) a *retail sukuk** structured pursuant to the principle of Murabahah or Bai' Bithaman Ajil (based on the concept of *Tawarruq*), *Mudharabah*, *Musyarakah*, *Istisna'* or any Shariah principle other than the principle mentioned in subsubrule 2(1)(c), approved or authorized by the SCM under the CMSA; and
 - (c) a retail sukuk structured pursuant to the principle of *Ijarah*, or *Wakalah* comprising a mixed component of asset and debt, approved or authorized by the SCM under the CMSA.
- * *These terms are defined in subrule 2(8).*
- Subrule 2(3) states that the retail debenture referred to in subsubrule 2(1)(a) refers to any debenture issued or offered to a retail investor, including one where an invitation to subscribe or purchase the debenture is issued to the retail investor.
- Subrule 2(4) states that the retail sukuk referred to in subsubrule 2(1)(b) and (c) refers to any sukuk issued or offered to a retail investor, including one where an invitation to subscribe or purchase the sukuk is issued to the retail investor.

Amount of deduction

- The total amount of deduction allowed:
 - (a) under subsubrule 2(1)(a) or (b) is twice the amount of additional expenses allowed under these Rules. [Subrule 2(6)];
 - (b) under subsubrule 2(1)(c) is equal to the amount of additional expenses allowed under these Rules. [Subrule 2(7)]

Deductible expenses [Subrule 2(2)]

- The additional expenses allowed under subrule 2(1) refer to the following:
 - (a) professional fee relating to due diligence, drafting and preparation of prospectus;
 - (b) printing cost of prospectus;
 - (c) advertisement cost of prospectus;
 - (d) SCM prospectus registration fee;
 - (e) Bursa Malaysia (BM) processing fee and initial listing fee;

- (f) BM new issue crediting fee; and
- (g) primary distribution fee.

Meanings of terms

The following are the meanings of terms found in the Rules:

Word	Meaning
retail investor [Subrule 2(5)]	- refers to any person other than the following: <ul style="list-style-type: none">(a) the Central Bank of Malaysia (CBM) referred to in the CBM Act 2009;(b) a person to whom an excluded offer or excluded invitation is made as specified in Pt. I of Sched. 6 to the CMSA;(c) a person to whom an excluded issue is made as specified in Pt. I of Sched. 7 to the CMSA.
retail debenture [Subrule 2(8)]	- has the same meaning as assigned to the word “debenture” in the CMSA.
retail sukuk [Subrule 2(8)]	- has the same meaning as provided in the guidelines on retail sukuk issued by the SCM under S.377 of the CMSA.

Members may read the Rules in full at the [Attorney General Chamber's website](#).

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