

## TECHNICAL

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### Direct Taxation

#### LHDNM GUIDELINES ON DEDUCTION FOR EXPENSES IN RELATION TO SECRETARIAL FEES AND TAX FILING FEES

The Inland Revenue Board of Malaysia (LHDNM) has issued the above guidelines (Bahasa Malaysia version only) on 8 February 2017. The guidelines were circulated to members via our [e-CTIM TECH-DT 21/2017](#) dated 7 March 2017.

The following are salient points from the guidelines.

#### Introduction

The law that allows the deduction for secretarial fees and tax filing fees was made with the objective of facilitating the implementation of GST as well as helping to raise the level of tax compliance and reduce the costs of carrying on a business. The deduction is available to taxpayers carrying on a business and resident in Malaysia. They are eligible to claim a deduction for secretarial fees and tax filing fees for each year of assessment (YA) in the following amounts with effect from the YA stipulated in the law:

- |                       |                |
|-----------------------|----------------|
| i. secretarial fees – | up to RM5,000  |
| ii. tax filing fees – | up to RM10,000 |

#### Legislation

The deductions for secretarial fee and tax filing fee are made under the [Income Tax \(Deduction For Expenses In Relation To Secretarial Fee And Tax Filing Fee\) Rules 2014 \[P.U.\(A\) 336/2014\]](#) (“the Rules”)

#### Tax Treatment

##### *Secretarial Fees*

- Secretarial fees that qualify for deduction are fees that are paid to a company secretary registered under the Companies Act 1965 (CA), for secretarial services rendered in connection with complying with statutory requirements under the CA.
- Deduction of the expense for a year of assessment (YA) is only allowed if the fees are *incurred and paid* in the basis period for that YA.
- The type of secretarial services for which fees are paid that relate to compliance with requirements of the CA are services such as advisory services in connection with meetings of the company, preparation of directors’ resolution, share issues, submission of forms prescribed under the CA and other matters relating to the affairs of the company.
- Secretarial fees do not include reimbursements/out-of-pocket expenses, charges for telephone/fax, printing, stationery, postage, travelling, accommodation and Annual General Meeting expenses.
- Pursuant to the Rules, the claim for deduction must be made in the basis period for a YA in which the expenses are *incurred and paid*. Expenses that are incurred but not paid in that basis period do not qualify for deduction. (Please refer to Examples 1, 2 and 3 in the

[Guidelines](#).) (Members may also refer to item 1 on page 32 of the LHDNM's [Minutes of the Dialogue on the Joint Memorandum on Issues arising from the 2015 Budget & Finance Bill \(No.2\) 2014 & Other Technical Matters](#) as reported in our [e-CTIM TECH-DT 52/2015](#).)

#### *Tax Filing Fees*

- Tax filing fees relating to estimates of tax payable and instalment payments under S107C of the ITA (e.g. submission of Forms CP 204, CP204A and CP204B) are eligible to be claimed from YA 2015 and subsequent years. In a case where the fees were paid for tax filing for YA 2016 and the said fees were incurred and paid in the basis period for YA 2015, the claim for deduction can be made in YA 2015.
- Tax filing fees for filing of Form GST-03 for the taxable period of December 2015 qualify for deduction under the Rules, for YA 2016 if incurred and paid in the basis period for YA 2016.
- Tax filing fees must be paid for the filing of tax forms only and do not include fees paid for advisory services of the tax agent, or for doing the tax computation. Incidental expenses such as reimbursements / out-of-pocket expenses, charges for telephone/fax, printing, stationery, postage, travelling and accommodation, also do not qualify. (Please refer to Example 4 in the [Guidelines](#).)

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

The Institute has received comments from members on the [Guidelines](#) and is pleased to inform that it has brought the matter up with the LHDNM. Members will be informed via e-CTIM if there are any developments.

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