

TO ALL MEMBERS

**TECHNICAL**

**Direct Taxation**

**[PUBLIC RULING NO. 2/2017 – INCOME TAX TREATMENT OF GOODS AND SERVICES TAX, PART II – QUALIFYING EXPENDITURE FOR PURPOSES OF CLAIMING ALLOWANCES](#)**

Lembaga Hasil Dalam Negeri Malaysia (LHDNM) has issued the above Public Ruling (PR) dated 8 June 2017. (Please refer to our [e-CTIM TECH-DT 43/2017](#) dated 13 June 2017 and [e-CTIM TECH-DT 48/2017](#) dated 17 July 2017.)

**GST on Capital Goods**

The following table shows the headings and sub-headings of paragraphs 1 – 5 of the PR, and provides a broad outline of the contents of these paragraphs:

Paragraph #	Heading	Notes
1	Objective	
2	Relevant Provisions of the Law	
3	Interpretation	
4	Capital Goods and Capital Assets	Explains the meaning of “capital assets” and the GST treatment of capital goods in accordance with provisions of the Goods and Services Tax Act 2014 (GSTA)
4.1	Capital Assets	
4.2	GST treatment on capital goods	
5	Capital Goods Adjustment (CGA)	The CGA under the GST Regulations (P.U.(A) 190/2014) is the adjustment to the initial amount of input tax claimed during a specified period if there is a change in the proportion of usage of the capital goods on taxable supplies. The comprehensive explanation of this term provided in this <a href="#">paragraph</a> (subpara. 5.1 to 5.5) should be read in full.
5.1	Persons who have to make CGA	
5.2	Non-application of CGA	
5.3	Formula for CGA	
5.4	Adjustment Period	
5.5	Adjustment in the year of disposal	

**Income Tax Treatment**

The explanation of the treatment of GST incurred on the acquisition of capital assets in relation to claims of qualifying expenditure (QE) for income tax purposes commences from paragraph 6.

The following is a summary of the contents of paragraphs 6 – 10:

Paragraph # & Heading	Summary (Sections cited refer to sections of the ITA, unless otherwise stated.)
6 – Income Tax Treatment Of GST Incurred On The Acquisition Of Capital Assets And	<ul style="list-style-type: none"> <li>Under new provisions inserted in Sch. 3, Sch. 7A, and Sch. 7B (effective from YA 2015) QE incurred by a person shall not include any amount paid or to be paid in respect of GST if:               <ul style="list-style-type: none"> <li>(a) the person is entitled to the input tax credit under the GSTA; or</li> <li>(b) he is liable to be registered under the GSTA but failed to do so.</li> </ul> </li> <li>The following is the</li> </ul>

Qualifying Expenditure	<p>income tax treatment of GST paid on capital assets used in a business by:</p> <p>(a) a GST-registered person (GRP) – Input tax that is not claimable under the GSTA is included in QE for purposes of claiming allowances under the ITA. Conversely, input tax that is claimable is excluded from QE.</p> <p>(b) a person who is liable to be GST-registered but fails to do so – GST that is not claimable as input tax is not considered as part of QE.</p> <p>(c) a person who is not liable to be GST-registered – GST that is not claimable as input tax is included in QE for purposes of claiming allowances under the ITA.</p>		
<p>The following examples found in Paragraph 6 illustrate the income tax treatment of GST incurred on the purchase of capital assets.</p>			
Example #	Case illustrated	IT Treatment (whether GST incurred is included in QE)	
1	A GRP making taxable supplies (entitled to claim input tax)	GST not part of QE	
2	Blocked input tax: A GRP purchases a passenger car for a director's business and personal use	GST is part of QE. Amount of QE is subject to the restriction of the proviso to para 2(2) of Sch. 3.	
3	A passenger car purchased by a GRP solely for business purpose – does not fall under blocked input tax.	GST is not part of QE. In the absence of a licence for commercial use, QE is subject to the restriction of para. 2(2) of Sch. 3.	
4	A GRP fails to claim input tax.	GST is not part of QE.	
5	A person is liable to register for GST but fails to do so.	GST is not part of QE (company would be eligible to claim input tax credit if it had been GST-registered.)	
6	A person is liable to register for GST but registers late.	Machine A (purchased after the company has achieved the prescribed turnover) – GST not part of QE. Machine B (used to make exempt supplies) – GST not part of QE (company not GST-registered when it is liable to do so.)	
7	A person's GST status changes from not liable to register to liable to register.	1.6.2015 to 31.12.2016 (before co. is liable to register) – GST included in QE. W.e.f. 1.1.2017 (company achieved the prescribed turnover) – QE of asset is adjusted to take into account (deduct from QE) the GST previously included as part of QE.	
7 – IT Adjustment in relation to CGA	<ul style="list-style-type: none"> <li>• When a capital asset is used for making mixed supplies (taxable supplies and exempt supplies) only the portion of GST (input tax) incurred on the acquisition of the asset for making taxable supplies is claimable under the GSTA.</li> <li>• If there is a change in the percentage of usage of capital asset in making taxable supplies, an adjustment (CGA) is made to adjust the claim of input tax each year based on the usage of the asset.</li> <li>• In the above circumstance, a CGA has to be made to the initial amount of input tax claimed from the RMCD. If, as a result of the adjustment, the input tax initially claimed is – <ul style="list-style-type: none"> <li>(a) reduced – the excess amount previously claimed has to be paid</li> </ul> </li> </ul>		

		<p>back to RMCD (by way of an “output tax adjustment”); (b) increased – a further amount of input tax can be claimed from the RMCD.</p> <p>The method of determining QE and claim of allowances for assets used in making mixed supplies is explained in <a href="#">para. 7.1</a>.</p> <ul style="list-style-type: none"> <li>• After a CGA in the final year, the QE claimed in respect of an asset will change under the circumstances stated above. Where input tax credit <b>not claimable</b> is - (a) increased – the additional amount shall be deemed as part of the QE incurred, and the residual expenditure (RE) shall include that additional sum; or if (b) reduced - the QE incurred and the RE shall be reduced by the amount (of the reduction).</li> <li>• After the above adjustment, if the amount of Sch. 3 allowances made (or ought to have been made) exceeds the RE, the excess is included in the statutory income of that person from a business source in the basis period the adjustment is made. The excess amount so included must not exceed total allowances given.</li> </ul> <p>The method of computation is shown in the following examples in <a href="#">para. 7.1</a> (please refer):</p>
<b>Example</b>	8	Adjustment to QE after CGA – Additional QE
	9	Adjustment to QE after CGA – Reduction in the amount of QE
7.2	Disposal of assets	<ul style="list-style-type: none"> <li>• An adjustment to the QE in respect of an asset which is disposed of at any time during the period of adjustment, shall be made in the basis period for the YA in which the disposal is made.</li> </ul>
<b>Example</b>	10	Disposal of asset before the end of the adjustment period
7.3	Control transfer	<ul style="list-style-type: none"> <li>• Para. 39 and 40 of Sch. 3 are applicable where there is a transfer of assets between related parties (control transfer).</li> </ul>
<b>Example</b>	11	Disposal of assets to a related company
7.4		GST and Reinvestment Allowance (RA)
<b>Example</b>	12	CGA results in increase in RA
	13	CGA results in decrease in RA
	14	Same as Example 13, but disposal takes place within 5 years from the date of purchase.
8 – Documentation Required		<a href="#">Para. 8</a> lists the documents that should be kept to substantiate a claim for capital allowances on QE inclusive of GST incurred but not claimable under the GSTA.

Members may read the PR 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 suggestions, concern or comments you may have on the [PR](#) so that we may raise them to the LHDNM.

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