e-CIRCULAR TO MEMBERS

CHARTERED TAX INSTITUTE OF MALAYSIA (225750-T)

e-CTIM TECH-DT 7/2018 **23 January 2018**

TO ALL MEMBERS

TECHNICAL

Direct Taxation

PUBLIC RULING 7/2017 – DISPOSAL OF PLANT OR MACHINERY PART I – OTHER THAN CONTROLLED SALES

This Public Ruling (PR) is dated 12 December 2017. (Please refer to our e-CTIM TECH DT 88/2017 dated 15 December 2017.)

Objective (paragraph 1)

The objective is to explain the income tax treatment on disposal of plant and machinery which does not come within controlled sales provisions.

The following is a summary of the contents of the PR:

Paragraph # & Heading		Summary (Sections cited refer to sections of the ITA, unless otherwise stated.)
3 - Interpretation		Provides the meanings of words used in this PR. (Meanings of words underlined below are found in this paragraph.)
4 – Application of the Law		A balancing charge (BC) or balancing allowance (BA) must be computed upon disposal of a plant or machinery (P&M) in the basis period for a year of assessment (YA) by a person who has claimed capital allowances (CA) in respect of that P&M
5 – Date of Disposal		The date of disposal is the date when the asset is sold, discarded or destroyed, or ceased to be used for the purposes of the business.
6 – Disposal Value		• The disposal value (DV) of an asset on the date of its disposal is its market value on that date, or if the asset is disposed by way of sale, transfer or assignment, it is: i. its market value on the date of sale, transfer or assignment ; or ii. the net proceeds from the disposal, whichever is the greater. • If disposal of the asset results in receipt of insurance or compensation moneys, the DV is the market value or insurance or compensation moneys received, whichever is the greater.
		Refer Examples 1, 2 and 3
7 – Amount of Adjustment		The amount of adjustment is the difference between the DV of the asset and its residual expenditure (RE) which is referred to as a BC or a BA. A BC or BA only arises when an initial allowance (IA) and annual allowances (AA) have been given or would have been given if claimed.
	7.1	Computation of BA – illustrated in Example 4
	7.2	Computation of BC – illustrated in Example 5 A BC is added back to adjusted income
	7.3	The amount of BC added back to adjusted income is restricted to the amount of CA claimed in respect of the asset.
		Refer Examples 6 and 7
	7.4	For motor vehicles not licensed for commercial purposes for transportation of goods or passengers, the DV is restricted following the ratio of the

		qualifying expenditure (QE) compared to the capital expenditure incurred on the asset. (Please also refer to PR 6/2015 entitled " QE and Computation of CA")
		Refer Example 8
8 – Other Disposal of Assets	8.1	The general rule stated in paragraph 6 of this PR (see above) of taking the market value as the DV does not apply to disposals of the following assets: • Disposal of an asset to the Government, State Government or a local authority; • Where an asset is given as a gift to a technical or vocational training institution that meets specified qualifications, or an approved research institute defined in S34B of the ITA. (Refer paragraph 8.1(a) and (b)) The DV is deemed to be zero and the donor is given a BA equal to the RE of the asset
		Refer Examples 9 and 10
	8.2	W.e.f. YA 2016, where a significant part of an asset (essential part that forms part of the asset) is replaced with a new part, and the new part is depreciated separately following generally accepted accounting principles, the old part is deemed to have been disposed of in the basis period for a YA. For the part that is deemed disposed of – • BC or BA must be computed; • The cost of the part is determined on a consistent basis based on generally approved accounting principles such as the discounted value basis.
		Refer Example 11
	8.3	Where QE was incurred on an asset which is owned for less than 2 years*, paragraph 71 of Sched 3 applies (except by reason of death of the owner or any other reason acceptable to the DGIR), whereby the DGIR has the discretionary power to determine that any CA given to the owner – i. should not have been given; and ii. should be withdrawn and a BC imposed in the basis period for the YA in which the asset is disposed of. * 2 calendar years based on exact number of days. CA will not be withdrawn if the asset was disposed of for valid commercial reasons, or due to fire or theft (proven by supporting documents).
		Refer Examples 12 and 13
	8.4	Where an asset is disposed of together with other assets for 1 aggregate sum, the sale price must be allocated among the assets on a fair and reasonable basis, e.g. based on costs or RE of each asset.
	8.5	Assets which are written off (e.g. due to obsolescence or damage beyond repair) are treated as having zero market value.
		Refer Example 14
	8.6	Non-current assets held for sale (HFS) are assets held and classified as assets planned to be sold within a year or an extended period and not used in the business. Worn-out and damaged assets are not included in the HFS classification. The tax treatment of HFS assets are dealt with in IRBM's "Guidelines for Income Tax Treatment of Malaysian Financial Reporting Standards (MFRS) 5; Non-Current Assets Held for Sale and Discontinued Operations".

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 or secretariat@ctim.org.my in respect of any suggestions, concern or comments you may have on the PR No. 7/2017 so that we may raise them to the LHDNM.

Disclaimer

This document is meant for the members of the Chartered Tax Institute of Malaysia (CTIM) only. CTIM has taken all reasonable care in the preparation and compilation of the information contained in this E-CTIM. CTIM herein expressly disclaims all and any liability or responsibility to any person(s) for any errors or omissions in reliance whether wholly or partially, upon the whole or any part of this E-CTIM.