

**TECHNICAL**

**Direct Taxation**

**PUBLIC RULING NO. 3/2018 – QUALIFYING EXPENDITURE AND COMPUTATION OF INDUSTRIAL BUILDING ALLOWANCES**

The Inland Revenue Board of Malaysia (LHDNM) has issued the above Public Ruling on 12 September 2018 (reported in our [e-CTIM TECH-DT 61/2018](#) dated 25 September 2018).

An outline of the contents as shown by the headings of each paragraph is given below:

| Para. # | (The no. in brackets (#) denotes the no. of the sub-paragraph in the PR.)  |
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| 1       | <b>Objective</b><br>The objective is to explain the tax treatment of qualifying building expenditure (QBE) and the computation of industrial building allowances (IBA).  |
| 2       | <b>Relevant Provisions of the Law</b><br>This PR is based on the provisions of S2 and Schedule 3 of the Income Tax Act 1967 (ITA)  |
| 3       | <b>Interpretation</b><br>Provides the meanings of words found in this PR.  |
| 4       | <b>Qualifying Building Expenditure</b><br>QBE consists of capital expenditure incurred on<br>(a) constructing the original building which includes cost of constructing additions or rebuilding of that building, renovations and alteration; or<br>(b) purchase of a building,<br>provided that the building is used as an industrial building (IB) for the purpose of a business of that person at the end of the basis period.<br><br>The cost of construction of a building includes the following costs ( <a href="#">4.1</a> ):<br>(4.1.1) Construction cost (items (a) to (i))<br>(4.1.2) Cost of constructing additions (Example 1)<br>(4.1.3) Cost of renovations (Example 2)<br>(4.1.4) Cost of alterations (Example 3)<br><br>The QBE of a purchased building is the purchase price of the building (w.e.f YA 2005) (4.2.4)<br>The purchase price of an IB includes legal fee, stamp duty and other incidental expenses incurred by the purchaser in connection with the purchase but does not include the price of any land or interest in land purchased together with the building. (4.2.2) (Example 4)<br>Cost of the site and the building must be separately identified. (4.2.3) (Example 5)<br>Special provisions relating to an IB purchased prior to YA 2005 are explained in <a href="#">para. 4.2.5 and 4.2.6</a> (Example 6). |
| 5       | <b>Other QBE</b><br>If costs incurred in connection with the preparation of a site (cutting, tunneling or leveling land) for the installation of plant or machinery exceed 75% of the aggregate cost (of plant, machinery and installation), that total cost is treated as expenditure on a building (5.1) and qualifies as QBE if the building qualifies  |

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|   | as an IB (5.2) (Example 7)<br>See Appendix 1 for a summary of QBE.   |   |   |
| 6   | <p><b>The date QBE incurred</b></p> <p>QBE is deemed to be incurred:</p> <table border="0"> <tr> <td style="vertical-align: top;"> <p><b><u>Constructed building</u></b></p> <ul style="list-style-type: none"> <li>- on the day construction of the building is completed.</li> </ul> </td><td style="vertical-align: top;"> <p><b><u>Purchased building</u></b></p> <ul style="list-style-type: none"> <li>- on the day the expenditure becomes payable.</li> </ul> </td></tr> </table> <p>- except when construction or purchase of the building is completed before the commencement of the business ( refer to <a href="#">para. 6.1(b) and 6.2 (c)</a> for the rules that apply.)</p>  | <p><b><u>Constructed building</u></b></p> <ul style="list-style-type: none"> <li>- on the day construction of the building is completed.</li> </ul> | <p><b><u>Purchased building</u></b></p> <ul style="list-style-type: none"> <li>- on the day the expenditure becomes payable.</li> </ul> |
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| 7   | <p><b>Eligibility to Claim IBA</b></p> <p>In general, the rate of allowance is 10% for initial allowance (IA) and 3% for annual allowance (AA) unless another rate is specifically stated.</p> <p>Refer to <a href="#">para. 7.1(a) to (c)</a> for the rules of eligibility for IA and para. 7.2 (a) to (b) for the rules of eligibility for AA.</p>   |   |   |
| 8   | <p><b><u>Subparagraph 16B(1), Sched. 3 of ITA</u></b></p> <p>This provision took effect from YA 2016 and effectively makes it clear that a person who is eligible to claim IBA must be the owner and business operator of the types of IB that are listed in <a href="#">para. 8.1.1</a> (items (a) to (k)). (Example 8)</p> <p>A tenant of a building who operates a business using the building as an IB (of the kinds listed in <a href="#">para. 8.1.1</a>) is eligible to claim IBA in respect of capital expenditure incurred by him on alterations or renovations on the building (<a href="#">8.2</a>).</p> <p>Para 8.2.4 contains a table showing examples of whether the alteration or renovations incurred by a tenant on a building under subparagraph 16B(1) Sched. 3 of the ITA is QE for purposes of IBA.</p> <p>The “10% rule” which applies when part of a building is not used as an IB (subparagraph 16B(1) and 16B(2) of Sched. 3 of the ITA) is explained. (8.3)</p> <p>This rule applies to the owner of an IB who carries on a business using that IB (as listed in <a href="#">para. 8.1.1</a>), and rents out part of that building. If the space occupied by the part that is rented out does not exceed 10% of the floor area of the whole building, the whole building qualifies as an IB. (Examples 9, 10 and 11)</p> |   |   |
| 9   | <p><b>Part of a building or an Extension to a Building Not Used as an IB</b></p> <p>Part of a building or of an extension to a building is considered as an IB if the part that is not used as an IB does not exceed 10% of the overall construction cost of the building or extension. (9.1)</p> <p>Example 12 shows the calculation of capital expenditure pertaining to a part or extension to a building. (9.2)</p>  |   |   |
| 10  | <p><b>Relevant interest</b></p> <p>IBA is generally allowed to a person who incurs QBE for the purpose of his business. If the owner of a building (other than those listed under para 8.1.1 of this PR) leases/ rents out the building to another person (tenant) who uses the building as an IB, the owner is allowed to claim IBA under para. 60 of Sched. 3 of the ITA.. (Example 13)</p> <p>The relevant interest is the interest in the building to which the person who incurred the expenditure was entitled when he incurred it. <a href="#">Para. 10.2 to 10.10</a> explain the rules that apply in the computation of IBA based on relevant interest of the claimant.</p>   |   |   |

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|                   | (Examples 14, 15 and 16)   |
| 11                | <b>Temporary Disuse of Building</b><br>A building is deemed to be used as an IB if:<br>(a) it was used for the purpose of a business immediately before disuse;<br>(b) it is constantly maintained in readiness to be brought back into use during the period of disuse;<br>(c) the period of disuse is temporary.<br>(Example 17) |
| 12                | <b>Disclaimer</b><br>The examples in this PR are illustrative and not exhaustive.  |
| <b>APPENDIX 1</b> | Summary of QBE for claiming of IBA   |

Please read the PR in full at the website 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 No. 3/2018](#).

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