

TECHNICAL

Direct Taxation

PUBLIC RULING NO. 3/2019 - BUSINESS EXPENSES IN RESPECT OF DISABLED PERSONS

This Public Ruling (PR) was published on 8 August 2019.

The contents of the PR are summarized below:

Para. #	All sections quoted below refer to sections of the ITA unless otherwise stated.
1	Objective The objective is to explain the tax treatment of business expenses incurred for employing disabled persons, and for providing training to disabled persons who are not employees to enable them to seek employment.
2	Relevant Provisions of the Law The provisions of the ITA that applies are S18 and S34(6)(e). The relevant Income Tax Rules are listed in para. 2.3 (and stated below).
3	Interpretation The meanings of words and phrases used in this PR are given here. (The meanings of words underlined below are found in this paragraph.)
4	Introduction <u>Disabled persons</u> may be regarded (in general) as persons who are not able to perform the work of a normal person due to physical or mental difficulties. The deductions dealt with in this PR are part of policy measures aimed at helping to provide job opportunities for disabled persons in both the private and public sector.
5	Application of the Law In ascertaining the adjusted income of a <u>person</u> from a business, deductions are allowed for expenses incurred: - <ul style="list-style-type: none"> - for employing disabled persons as employees; or - to train disabled persons who are not employees in training programs aimed at enhancing employment opportunities for them. (Refer para. 2 for the relevant law.)
5.3	The expenses are allowed if the disabled persons are – (a) registered with the Department of Social Welfare (DSW) and are issued with a Disabled Person's Card ("Kad OKU")

		(b) able to provide certification from the Social Security Organisation (SOCSO) which is based on the decision of the <i>Jemaah Doktor</i> .						
6	6.1	<p>Additional deduction for the employment of disabled persons</p> <p>The deduction is allowed under the <i>Income Tax (Deductions For the Employment of Disabled Persons) Rules 1982</i> and <i>Income Tax (Deductions For the Employment of Disabled Persons) (Amendment) Rules 2019</i>.</p> <ul style="list-style-type: none">The deductions that are allowed are as follows:<table><tr><th><u>From YA</u></th><th><u>Deduction from adjusted income allowed for:</u></th></tr><tr><td>1982</td><td>- remuneration of a kind allowable under S33(1) payable by a person to each employee who is physically or mentally disabled.</td></tr><tr><td>2019</td><td>- deduction is extended to an employee who is physically or mentally disabled due to an accident or critical illness.</td></tr></table>The deduction is in addition to that allowable under S33(1);The kind of remuneration that is allowed or not allowed are detailed in para. 6.1.4 to 6.1.6.The deduction is allowed only if the requirements stated in para. 5.3 are satisfied. (Refer Examples 1 and 2)	<u>From YA</u>	<u>Deduction from adjusted income allowed for:</u>	1982	- remuneration of a kind allowable under S33(1) payable by a person to each employee who is physically or mentally disabled.	2019	- deduction is extended to an employee who is physically or mentally disabled due to an accident or critical illness.
<u>From YA</u>	<u>Deduction from adjusted income allowed for:</u>							
1982	- remuneration of a kind allowable under S33(1) payable by a person to each employee who is physically or mentally disabled.							
2019	- deduction is extended to an employee who is physically or mentally disabled due to an accident or critical illness.							
	6.2	<p>Double Deduction for training a disabled person who is not an employee</p> <p>This is allowed under the <i>Income Tax (Deduction For Approved Training) Rules 1992</i> ("1992 Rules") and <i>Income Tax (Deduction For Approved Training) (Amendment) Rules 1995</i>.</p> <ul style="list-style-type: none">A double deduction is allowed in ascertaining adjusted income for:<table><tr><th><u>From YA</u></th><th><u>Deduction</u></th></tr><tr><td>1992</td><td>- any <i>expenditure incurred</i>* in training a disabled person who is not an employee of the <u>company</u> in a training program which is<ul style="list-style-type: none">(a) approved by the Minister of Finance (MOF) and conducted in Malaysia; or(b) conducted by a training institution which is approved by the MOF.</td></tr></table><p>* More explanation regarding this term is provided in paras. 6.2.1 to 6.2.3</p>To qualify for approval, the following must be obtained:<ol style="list-style-type: none">A letter of approval for the training program from the relevant authority;A letter from a training institution approved by the MOF certifying that the disabled person had participated in the training program. (Refer Example 3)From 1/7/1993, companies that contribute to the Human Resources Development Fund do not qualify for the deduction under the 1992 Rules.	<u>From YA</u>	<u>Deduction</u>	1992	- any <i>expenditure incurred</i> * in training a disabled person who is not an employee of the <u>company</u> in a training program which is <ul style="list-style-type: none">(a) approved by the Minister of Finance (MOF) and conducted in Malaysia; or(b) conducted by a training institution which is approved by the MOF.		
<u>From YA</u>	<u>Deduction</u>							
1992	- any <i>expenditure incurred</i> * in training a disabled person who is not an employee of the <u>company</u> in a training program which is <ul style="list-style-type: none">(a) approved by the Minister of Finance (MOF) and conducted in Malaysia; or(b) conducted by a training institution which is approved by the MOF.							

6.3	<p>Single deduction</p> <ul style="list-style-type: none"> This is allowed under S34(6)(e). The deduction is for the following: <ul style="list-style-type: none"> From YA Deduction from adjusted allowed for: 1992 - capital expenditure incurred by the employer on the purchase of any equipment necessary to assist disabled persons employed by him. 2008 - capital expenditure extended to include expenditure on alteration and renovation of a business premise to enhance the convenience and comfort of disabled persons. To qualify for deduction the following must be submitted as evidence: <ol style="list-style-type: none"> 1. "Kad OKU" to show that the disabled persons are registered with the DSW; 2. Original receipt for the equipment purchased; 3. Supporting documents for expenses on the alteration and renovation of the business premises. Expenses which are eligible for above deduction are not allowed to be deducted under S33, and not entitled to capital allowance under Schedule 3. (Refer Examples 4 and 5).
7	<p>Claim Procedure</p> <p>The claim should be made in the Income Tax Return Form. All supporting documents should be kept for verification in the event of a tax audit.</p>
10	<p>Disclaimer</p> <p>The examples in this PR are for illustration purposes only and are not exhaustive.</p>

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 above [PR](#) so that we may raise them to the LHDNM.

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