

TECHNICAL

Direct Tax

LHDNM UPDATES – OPERATIONAL GUIDELINES AND TECHNICAL GUIDELINES

1. [Operational Guidelines – Imposition of Penalties Under Subsection 112\(3\) of the Income Tax Act 1967, Subsection 51\(3\) of the Petroleum \(Income Tax\) Act 1967 and Subsection 29\(3\) of the Real Estate Gains Tax Act 1976 \(GPHDN 3/2020\)](#)

The LHDNM has uploaded the [Guidelines on Imposition of Penalties Under Subsection 112\(3\) of the Income Tax Act 1967, Subsection 51\(3\) of the Petroleum \(Income Tax\) Act \(PITA\) 1967 and Subsection 29\(3\) of the Real Property Gains Tax Act 1976 \(GPHDN 3/2020\)](#) (“GPHDN 3/2020 Guidelines”) dated 13 August 2020 on its [website](#). The GPHDN 3/2020 Guidelines are available in Bahasa Malaysia only.

The GPHDN 3/2020 Guidelines replace the [Operational Guidelines No. 5/2019](#) (GPHDN 5/2019) dated 16 October 2019 (as reported in our [e-CTIM TECH-DT 105/2019](#) dated 13 December 2019).

What are the key changes

The key changes are the inclusion of the additional penalties under Subsection 112(4) of the Income Tax Act 1967, Subsection 51(4) of the Petroleum (Income Tax) Act 1967 and Subsection 29(5) of the Real Estate Gains Tax Act 1976 as per paragraph 4.2 and 4.3 of the Guidelines. We have highlighted in yellow the relevant changes made by the LHDNM in the [GPHDN 3/2020](#) Guidelines for easy reference.

Members may read the GPHDN 3/2020 Guidelines in full on 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 GPHDN 3/2020 Guidelines so that we may raise them to the LHDNM.

2. [Technical Guidelines – Guidelines on the Application Procedure for a Special Deduction in Respect of a Qualifying Research and Development Activity](#)

The LHDNM has uploaded the [Guidelines on the Application Procedure for a Special Deduction in Respect of a Qualifying Research and Development Activity](#) dated 13 August 2020 on its [website](#).

The purpose of these Guidelines is to explain the application procedure for an approved qualifying research and development (R&D) activity that qualifies for a special deduction

under section 34A of the Income Tax Act 1967 (ITA) and the requirement to complete the relevant forms for submission when a claim is made in respect of a qualifying R&D activity undertaken by a company in Malaysia as follows:-

- (a) Deduction under a special provision by virtue of subsection 34(7) of the ITA (single deduction) for expenditure, non-capital in nature; or
- (b) a special deduction under section 34A of the ITA (double deduction) for in-house research expenditure, non-capital in nature; and
- (c) a special deduction under section 34B of the ITA (double deduction), for –
 - (i) contribution to an approved research institute; or
 - (ii) payment for use of the services of an approved research institute or approved research company, or an R&D company or a contract R&D company.

The application forms to make a claim for a special deduction are as follows:-

- 1. [Borang 1 - Application for an approved R&D activity under S.34A of the ITA](#)
- 2. [Borang 1 \(Lampiran 1\) - Particulars of R&D projects](#)
- 3. [Borang 2 - Claim for double deduction on R&D expenditure under S.34A of the ITA](#)
- 4. [Borang 3 - Claim for special deductions \(double deductions\) under S.34B of the ITA](#)
- 5. [Borang 4 - Claim for special provisions \(single deduction\) under S.34\(7\) of the ITA](#)

The application form (Borang 1 and Lampiran 1) and the forms to claim a special deduction (Borang 2 and Borang 4) are to be submitted to the:-

Ketua Pengarah Hasil Dalam Negeri
Lembaga Hasil Dalam Negeri Malaysia
Jabatan Dasar Percukaian
Aras 17, Menara Hasil
Persiaran Rimba Permai, Cyber 8
63000 Cyberjaya Selangor.

[For the attention of: Pengarah Jabatan Dasar Percukaian]

Please note that the due date for submission of the above-mentioned forms is stated in the Guidelines and also in the respective form except for Borang 3 which must be kept and should be furnished upon request when an audit is conducted.

The [Guidelines](#) should be read together with the following Public Rulings (PR) (also reported in our [e-CTIM TECH-DT 68/2020](#) dated 6 October 2020):-

- 1. [PR No.5-2020 - Tax Treatment of Research and Development Expenditure Part I – Qualifying Research and Development Activity](#); and
- 2. [PR No.6-2020 - Tax Treatment of Research and Development Expenditure Part II – Special Deductions](#).

Members may read the Guidelines in full on 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-mentioned Guidelines so that we may raise them to the LHDNM.

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