

e-CTIM TECH-DT 79/2020

13 November 2020

TO ALL MEMBERS

TECHNICAL

Direct Taxation

LHDNM'S RESPONSE TO CTIM ON INCOME TAX (CAPITAL ALLOWANCE) (DEVELOPMENT COST FOR CUSTOMISED COMPUTER SOFTWARE) RULES 2019 [P.U. (A) 274/2019]

The Institute has submitted a [letter dated 28 September 2020](#) to the Inland Revenue Board of Malaysia ("LHDNM") to request for confirmation on its understanding of the verbal clarification given by LHDNM pertaining to the tax treatment of customised computer software. The LHDNM has responded to the Institute in a [letter dated 8 October 2020](#).

The request from CTIM and the response given by LHDNM is summarised below for ease of reference:

(1) Scope of P.U. (A) 274/2019

CTIM's request for confirmation

[P.U. \(A\) 274/2019](#) is specifically applicable to customised software.

LHDNM's response

Affirmative.

(2) Eligibility of 'payments for right to use software exclusively' for capital allowance as part of the development cost for customised software

Background information

P.U. (A) 274/2019 expressly spells out three types of cost to qualify for capital allowance in relation to development cost of customised software. This includes payments for the rights of software ownership, which [Practice Note \("PN"\) No. 2/2020](#) interprets as payment for the right to use the software exclusively.

CTIM's request for confirmation

The phrase "*hak menggunakan perisian secara eksklusif*", in LHDNM's response on "rights of software ownership" in rule 2 of the P.U. (A) 274/2019 in [its letter dated 3 September 2020](#) (refer to our [e-CTIM TECH-DT 66/2020](#)), means the right of the person referred to in rule 3 of P.U. (A) 274/2019 to use the customised software. Following this, a taxpayer who has incurred development cost for customised software for the purpose of use in its business would be entitled to claim capital allowance on the expenditure incurred under P.U. (A) 274/2019.

LHDNM's response

LHDNM had maintained its view in [its letter dated 3 September 2020](#).

(3) Software that does not need customisation

CTIM's request for confirmation

In respect of capital expenditure incurred on software which does not need customisation, the expenditure will qualify for capital allowance under the [Income Tax \(Accelerated Capital Allowance\) \(Information and Communication Technology Equipment\) Rules 2018 \[P.U. \(A\) 156/2018\]](#) as "software systems or software packages" as listed in the Schedule to P.U. (A) 156/2018.

LHDNM's response

P.U. (A) 156/2018 makes reference to capital allowance claim on software systems or software packages purchased from supplier without having elements of consultation fee, payment for rights of software ownership and incidental fee respectively as per the development cost of customized computer software under P.U. (A) 274/2019. Consultation fee, payment for rights of software ownership and incidental fee are qualifying expenditure for capital allowance claim under P.U. (A) 274/2019 which is for customised computer software only.

Members may read the [Institute's letter dated 28 September 2020](#) and the [LHDNM's reply letter dated 8 October 2020](#) in full at the Institute's website – Members Only.

The Institute will be following-up on the LHDNM's response in item 2 above and compiling further input on it. Members who would like to provide feedback on the LHDNM's response can do so via email to technical@ctim.org.my by or before 20 November 2020.

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