

**TO ALL MEMBERS**

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**TECHNICAL**

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**Direct Taxation**

**TAX INCENTIVES FOR CHILD CARE CENTRES AND PRESCHOOL EDUCATION (2013 BUDGET PROPOSALS)**

- 1. Income Tax (Exemption) Order 2013 [P.U. (A) 3/2013]**
- 2. Income Tax (Industrial Building Allowance) (Child Care Centre) Rules 2013 [P.U. (A) 2/2013]**
- 3. Income Tax (Industrial Building Allowance) (Kindergarten) Rules 2013 [P.U. (A) 1/2013]**

The above Exemption Order and Rules, all dated 2 January 2013, have been issued to give legal effect to tax incentives for child care centres and preschool education proposed in the 2013 Budget.

**[Income Tax \(Exemption\) Order 2013 \[P.U. \(A\) 3/2013\]](#)**

This Order is effective from the year of assessment (YA) 2013.

*Application* – The Order applies to a person in respect of a business of his for the provision and maintenance of a child care centre registered with the Department of Social Welfare under the Child Care Centre Act 1984.

*Exemption* – Exemption from payment of income tax is granted to a person referred to above in respect of statutory income derived from the business referred to above for a period of five consecutive years of assessment (the exempt YA) commencing from –

- a) YA 2013 for an existing child care centre; or
- b) the first invoice issued by the child care centre that commences its business from YA 2013.

“Statutory income” is determined after deducting allowances under Schedule 3 of the Income Tax Act 1967 (ITA) notwithstanding that no claim for such allowances has been made.

*Losses* – Any adjusted loss incurred –

- a) from the YA in the basis period in which the income that qualifies for exemption commenced until the YA immediately prior to the exempt YA; and
- b) during the exempt YA;

must be carried forward to be deducted against statutory income from that source in the post-exempt years of assessment until fully utilized, and any losses utilized in this way will be disregarded for the purposes of subsection 43(2) and 44(2) of the ITA.

*Separate sources and accounts* – Where a person exempted under this Order carries on another business other than a child care centre, separate accounts must be maintained in respect of the business of a child care centre, which is treated as a separate business source.

**[Income Tax \(Industrial Building Allowance\) \(Child Care Centre\) Rules 2013 \[P.U. \(A\) 2/2013\]](#)**

**[Income Tax \(Industrial Building Allowance\) \(Kindergarten\) Rules 2013 \[P.U. \(A\) 1/2013\]](#)**

The above Rules take effect from YA 2013. Their objectives are similar in that they both grant industrial building allowance (IBA) in respect of buildings used for the purpose of the targeted businesses. The following are the meanings of ‘Industrial building’ (IB) as stated in the respective Rules:

*Industrial building for the purpose of Schedule 3 to the ITA*

Rule 3 of the Income Tax (Industrial Building Allowance) (Child Care Centre) Rules 2013, states that a building which is constructed or purchased by a person where –

- a) that person is the owner of that building; and
- b) that building is used by that person for the purpose of a *business of childcare centre registered with the Department of Social Welfare*

shall be treated as an IB for the purposes of Schedule 3 to the ITA.

Rule 3 of the Income Tax (Industrial Building Allowance) (Kindergarten) Rules 2013, states that a building which is constructed or purchased by a person where –

- a) that person is the owner of that building; and
- b) that building is used by that person for the purpose of a *business relating to the provision and maintenance of a kindergarten approved by the Ministry of Education*

shall be treated as an IB for the purposes of Schedule 3 to the ITA.

The Rules above apply to qualifying building expenditure incurred by the person for the purpose of his business relating to the purchase or construction of a building referred to in rule 3 of the respective Rules (above).

The following rules are similar under both the above Rules:

*Rate of IBA* – The rate is one-tenth or 10% of qualifying building expenditure for each YA for 10 years.

*Building used partly as IB* – Where only a part of the building is used as an IB, if the capital expenditure incurred on the construction of the part not used as an IB is not more than 10% of the expenditure incurred on the construction of the whole building, the building shall be treated as an IB.

Where expenditure incurred in construction of the part not used as an IB is not identifiable from expenditure incurred on the whole building, the part that is not identifiable shall be apportioned by reference to the respective floor areas of those respective parts or in such manner as directed by the Director General of Inland Revenue.

*Building used for more than one business* – Where an IB used for the purpose of the business referred to in rule 3 of the respective Rules (above), is also used for the purpose of another business, the allowances that fall to be made under Schedule 3 of the ITA shall be deducted as is reasonable, having regard to the extent to which the building is used for the purpose of the business referred to in rule 3 of the respective Rules.

*Disposal of IB* – Subrule 5(5) provides that if an IB is disposed of within 2 years from the date the qualifying building expenditure was incurred, any allowance which falls to be made but for subrule 5(5) shall not be made, and if such an allowance has been made, a balancing charge equal to the amount of such allowance will be made for the YA in the basis period in which the building was disposed of.

The legislation can be viewed from the website of [Attorney General Chambers](#).

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