

e-CTIM TECH 23/2013

25 February 2013

TO ALL MEMBERS

TECHNICAL

Direct Taxation

PUBLIC RULING NO. 1/2013 – DEDUCTIONS FOR PROMOTION OF EXPORTS

Further to our [e-CTIM 21/2013](#) (e-CTIM TECH 17/2013) dated 8 February 2013, this e-CTIM highlights the salient points to note on the Public Ruling.

Qualifying company and qualifying product/activity (paragraph 3)

The conditions that qualify a company to claim a deduction for promotion of exports are:

- The company must be resident in Malaysia and involved in manufacturing, trading and agricultural activities for the basis year for a year of assessment (paragraph 3.1);
- Expenses incurred are primarily and principally for the purpose of seeking opportunities, or creating/ increasing demand for the export of goods or agricultural produce manufactured, produced, assembled, processed, packed and graded or sorted in Malaysia (paragraph 3.2), and incurred on or after 1 January 1986 (paragraph 3.3).

Types of deduction (paragraphs 5 and 6)

The types of deduction available are: (paragraph 5)

1. Single deduction;
2. Further deduction;
3. Double deduction.

The following is a summary of the types of deduction available with legislative authority:

Type of Expenses (Dealt with in Paragraph of this PR)	Legislation	Deduction available
Paragraph 6.2.1 (a) Publicity & advertisements outside Malaysia (b) Provision of samples (c) Research on export market (d) Preparation of tenders (e) Expenses on representative negotiating/concluding contracts for sale of goods* (f) Travelling, accommodation and sustenance expenses for the participation trade fair /exhibitions* # (g) Provision of exhibits for the participation in approved trade fair or trade /industrial exhibitions # (h) Direct expenses incurred for the participation in approved trade fair or trade /industrial exhibitions [other than those in (e), (f) & (g)]# (i) Provision of technical information (j) Public relations work (k) Maintaining sales office*	Section 41, Promotion of Investments Act 1986 (PIA), Schedule to PIA, Income Tax (Promotion of Exports) Rules 1986. (ITR 1986)	Further deduction
(l) Professional fees on packaging design.	Income Tax (Promotion of Exports) (Amendment) Rules 2001 [P.U.(A) 170/2001]	Further deduction

Paragraph 6.2.2 (a) Participation in trade portal (b) Participation in virtual trade show (c) Maintain warehouses overseas	Income Tax (Promotion of Exports) Rules 2002 [P.U.(A) 115/2002]	Further deduction
Paragraph 6.1.2. Provision of hotel accommodation and sustenance to bring in potential importers to Malaysia, as a follow-up to the trade or investment missions organized by Government agencies or industrial/trade associations as verified by MATRADE.*	Income Tax (Promotion of Exports) Rules (No. 3) 2002 [P.U.(A) 117/2002]	Single deduction with restriction
Paragraph 6.3.1. Expenses directly incurred for the registration of patents, trademarks or product licensing overseas, including stamp duty, legal fees and consultancy fees.	Income Tax (Promotion of Exports) Rules 2007 [P.U.(A) 14/2007]	Double deduction
* <i>Restrictions:</i> (i) Return air fare (economy class) for a representative of the company [or employees in the case of Paragraph 6.2.1(k) above]. (ii) Ground transportation (overseas) (iii) Hotel accommodation (maximum of RM300/day) and (iv) Sustenance (maximum of RM150/day). # <i>Participation in trade fair or trade/industrial exhibition has to be approved by MATRADE</i>		

Restrictions on deductions (paragraph 7)

No deductions are allowed for the following:

- Expenses set out in section 39(1) of the ITA;
- Expenses incurred by a company having a place overseas and subject to tax in that country.

In addition, the Director General of Inland Revenue is empowered to disallow any amount of expenses which, in his opinion, is in excess of what would reasonably be expected to be incurred in the ordinary course of business.

Claims procedure (paragraph 8)

The forms to be completed are as follows:

- LHDN/BT/DD/POE/2003: Further deduction for promotion of exports
- LHDN/BT/DD/POE/PD/2003 – 1: Further deduction for professional fees on packaging design;
- LHDN/BT/SD/POE/2003: Single deduction for promotion of export.

Other matters

Other matters dealt with in the PR are:

- Expenses incurred during an overlapping period (paragraph 4);
- Special provisions applicable to a pioneer company/ company exempt under Income Tax Exemption Order (paragraph 6.5).

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