

Our Ref: TC-DT/Ltr to IRBM.Ext ACA ICT

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BY Fax and Email

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Dear Puan Nor'aini,

Clarification required on the interpretation of Sub-Rule 7(d) of the Income Tax (Accelerated Capital Allowance) (Information and Communication Technology Equipment) Rules 2014 [P.U.(A) 217/2014]

We seek your kind assistance on the interpretation of Sub-Rule 7(d) of the Income Tax (Accelerated Capital Allowance) (Information and Communication Technology Equipment) Rules 2014 [P.U.(A) 217/2014], which was gazetted on 21 July 2014.

As you are aware, the Rules provide that the purchase (and installation) of information and communication (ICT) equipment (as specified in the Schedule to the Rules) qualifies for 100% capital allowance (made up of an initial allowance of 20% and an annual allowance of 80%) for years of assessment 2014 to 2016. This incentive is an extension of the Income Tax (Accelerated Capital Allowance) (Information and Communication Technology Equipment) Rules 2008 [P.U.(A) 358/2008].

Sub-Rule 7(d) states that the Accelerated Capital Allowance (ACA) rules do not apply to a person if in the basis period for a year of assessment:

"the person has qualified for a deduction under any other rules made under section 154 of the Act"

The Income Tax (Deduction for Audit Expenditure) Rules 2006 [P.U.(A) 129] under Section 154(1)(b) of the Income Tax Act 1967 (ITA) provide that a company is entitled to a tax deduction on statutory audit fees that is incurred in the basis period for a year of assessment. Since it is a statutory requirement for companies to have its accounts audited, all companies will qualify for a deduction under "rules made under Section 154". (Furthermore, with effect from year of assessment 2014, the income tax return forms furnished by companies must be based on statutory audited accounts in accordance with Section 77A(4) of the ITA.) In view of this, companies will not be able to enjoy the ACA rate under P.U.(A) 217/2014 and this appears contrary to the Government's intention to provide this incentive due to the implementation of the Goods and Services Tax (GST) come 1 April 2015. You will note that the previous P.U.(A) 358/2008 did not include such a non-application Sub-Rule.

We therefore seek your kind assistance to clarify whether the inclusion of Sub-Rule 7(d) is an inadvertent error and if not, whether an exception may be made to Sub-Rule 7(d) of P.U.(A) 217/2014 in respect of audit fees.

We look forward to your early response in view that the tax filing programme for the year of assessment 2014 has commenced.

Yours sincerely,



**Aruljothi A/L Kanagaretnam
President
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