

# Tax Flash



May 2012

## Income Tax (Amendment) Bill 2012

The Income Tax (Amendment) Bill 2012 which seeks to amend the definition of “organisation” under Section 44(7) of the Income Tax Act 1967 [“the Act”] has recently been tabled:-

### i. New Section 44(7)(aa)

An organisation established and maintained exclusively to administer and augment a public or private fund established or held for the sole purpose of carrying out the objective in which the institution is operated or conducted.

### ii. Substitution of Section 44(7)(c)

An organisation established and maintained exclusively to administer and augment a public fund established and held solely for the purposes of religious worship or the advancement of religion and such fund is to be used:-

- for the construction, improvement or maintenance of a building in Malaysia which is:-
  - intended to be used (and, when constructed, is used) exclusively for those purposes; and
  - intended to be open (and, when constructed, is open) to any member of the public for those purposes; or
- to provide facilities to carrying on the activity related to those purposes; or
- to provide for the management of the activity related to those purposes.

**Note :** *With the inclusion of the new category of organisations, a person will be eligible to claim for deduction in respect of any gift of money made by that person for the management of an institution or organisation approved by the Director General [“DG”] and gift of money made by that person to such organisations which is to be used for the construction, improvement or maintenance of a building for religious purposes open to public or in carrying on and managing any activity related to the religious worship or advancement of religion which is approved by the DG.*

## Hyperlinks

Advent Consulting Group  
Inland Revenue Board

## References

Income Tax (Amendment)  
Bill 2012



## **Deduction for Promotion of International or Private School**

Following the 2012 Budget announcement, the Income Tax (Deduction for Promotion of International or Private School) Rules 2012 have been gazetted to allow for deduction of certain expenses incurred by an international or private school which:-

- is a resident company or society in Malaysia, registered with the Ministry of Education Malaysia;
- carries on a business of providing education in a school operated and located in Malaysia; and
- is not eligible for a deduction under the Income Tax (Deductions for Promotion of Export of Services) Rules 1999.

The allowable expenses incurred for the purpose of promoting the international or private school are as follows:-

- market research for international or private school education;
- preparation of technical information to a person outside Malaysia relating to the services provided by that school;
- overseas travelling expenses incurred by representatives (not more than 3 representatives) for the purpose of participating in education fairs which are held outside Malaysia and approved by the Ministry of Education Malaysia (economy class air fare and restricted to RM300 per day for accommodation and RM150 per day for sustenance);
- other expenses directly incurred for participating in the education fairs held outside Malaysia; and
- publicity and advertisement in any media outside Malaysia for the promotion of international or private school in Malaysia.

The total amount of deduction allowable for participating in the education fairs which are held outside Malaysia shall be in addition to a deduction under Section 33 of the Act and shall not exceed RM100,000 for each year of assessment.

The above Rules take effect from the year of assessment ["YA"] 2012.

Income Tax (Deduction for Promotion of International or Private School) Rules 2012



## Deduction on Expenditure to Obtain the 1-InnoCERT Certification

The Income Tax (Deduction for Expenditure to Obtain the 1-InnoCERT Certification) Rules 2012 have been gazetted to allow the deduction for expenses incurred by a “qualified person” in obtaining the first 1-InnoCERT Certification from Small and Medium Enterprise Corporation Malaysia in arriving at his adjusted income, provided that the application to obtain the 1-InnoCERT Certification is made not later than 31<sup>st</sup> December 2014.

The allowable expenses consist of certification fee of RM5,000 and expenses incurred by SIRIM Berhad’s auditors (costs of travelling, accommodation and meal allowance). These expenses shall be deemed to be incurred in the basis period for a year of assessment in which the 1-InnoCERT Certification is granted.

A “qualified person” means:-

- i. For the manufacturing industry, manufacturing related services industry and agro-based industry
  - a resident person who at the end of the basis period for a year of assessment has between 5 and 150 full-time employees or achieved annual sales of between RM250,000 and RM25 million.
- ii. For the services industry, primary agriculture, information and communication technology industry
  - a resident person who at the end of the basis period for a year of assessment has between 5 and 50 full-time employees or achieved annual sales of between RM250,000 and RM5 million.

The above Rules take effect from the YA 2010.

**Note :** *The Innovative Certification for Enterprise Rating and Transformation (1-InnoCERT) is a certification programme for recognising and certifying innovative enterprises and Small and Medium Enterprises and to encourage entrepreneurs to venture into high technology and innovation-driven industries.*

Income Tax (Deduction for Expenditure to Obtain the 1-InnoCERT Certification) Rules 2012



## Stamp Duty Exemption on Loan Agreement for SME under the Green Lane Policy

Pursuant to the Stamp Duty (Exemption) Order 2012, exemption from stamp duty is granted on any instrument of loan agreement or financing under *syariah* executed between a Small and Medium Enterprise ["SME"] which has been approved for an incentive under the Green Lane Policy of the Ministry of Finance and:-

- Bank Perusahaan Kecil & Sederhana Malaysia Berhad;
- Bank Pembangunan Malaysia Berhad; or
- Export-Import Bank of Malaysia Berhad.

This exemption applies to:-

- the instrument executed between 15<sup>th</sup> June 2011 and 31<sup>st</sup> December 2014; and
- the application for this exemption can only be made once.

**Note :** *The Green Lane Policy is intended to provide incentive to innovative SMEs under 1-InnoCERT Programme, Bio Nexus and MSC status companies as well as the recipients of grant from Malaysian Technology Development Corporation.*

## DTA between Malaysia and Hong Kong

The Government of Malaysia has on 25<sup>th</sup> April 2012 signed a Double Taxation Agreement ["DTA"] with Hong Kong. The DTA will come into force upon rectification by both parties.

This publication is provided gratuitously and without liability. It is intended as a general guide only and the application of its contents to specific situations will depend on the particular circumstances involved. Readers should seek appropriate professional advice regarding any particular problems that they encounter, and this tax update should not be relied on as a substitute for this advice. Accordingly, Advent Tax Consultants Sdn Bhd assumes no responsibility for any errors or omissions it may contain, whether caused by negligence or otherwise, or for any losses, however caused, sustained by any person that relies on it. Should further information, clarification or advice be required on any of the contents stated herein, please feel free to contact our tax team.

Stamp Duty (Exemption)  
Order 2012