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ACA for Information and Communication Technology Equipment

The Income Tax (Accelerated Capital Allowance) (Information and Communication Technology Equipment) Rules 2014 ["Rules 2014"] grants the extension for the claim of accelerated capital allowance ["ACA"] with an initial allowance and annual allowance of 20% and 80% respectively to a resident in Malaysia in respect of capital expenditure incurred for the purchase of information and technology equipment in the basis period for a year of assessment up to year of assessment ["YA"] 2016.

The Income Tax (ACA) (Information and Communication Technology Equipment) (Amendment) Rules 2015 has been gazetted to amend the non-application rule under the Rules 2014.

Hyperlinks

- [Moore Stephens Malaysia](#)
- [Moore Stephens International](#)
- [Inland Revenue Board](#)

- [Income Tax \(ACA\) \(Information and Communication Technology Equipment\) \(Amendment\) Rules 2015](#)

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Hyperlinks

Under the amendment Rules, the claim for the ACA shall not be applicable to a person who is eligible and has claimed in that basis period in respect of that information and technology equipment:-

- investment tax allowance under the Promotion of Investments Act 1986;
- reinvestment allowance under Schedule 7A of the Income Tax Act 1967 [“the Act”];
- investment allowance for service sector under Schedule 7B of the Act;
- ACA under any rules made under Section 154 of the Act; or
- tax exemption under any order made under Section 127 of the Act in respect of his statutory income which is equivalent to any part or whole of the amount of the qualifying capital expenditure incurred by the person.

The amendment Rules shall be deemed to have effect from the YA 2014.

Note : For further information relating to the Rules 2014, kindly refer to our *Tax Flash – August 2014 issue.*

➤ [Tax Flash – August 2014](#)

Recent Tax Case

KPHDN v Professor Syed Muhammad Naquib Al Attas

[Whether compensation received for “emotional pain, mental anguish and pain and suffering” was subject to income tax under Section 13(1)(e) of the Act]

In the case of Ketua Pengarah Hasil Dalam Negeri [“KPHDN”] v Professor Dr Syed Muhammad Naquib Al Attas [(2015) MSTC 30-094], the taxpayer had previously filed a civil suit against ISTAC, IIUM and others (i.e. defendants) asking for certain declaration. The civil suit was settled out of court when the defendants agreed to pay certain compensations to the taxpayer in accordance with the Deed of Settlement which includes compensation for loss of basic pay, loss of fixed allowance, loss of honorarium as well as compensation for “emotional pain, mental anguish and pain and suffering” totaling RM2,500,000. The Inland Revenue Board [“IRB”] taxed the portion of the compensation received for “emotional pain, mental anguish and pain and suffering” of RM1,950,000 as compensation for loss of employment under Section 13(1)(e) of the Act. However, the taxpayer appealed to the Special Commissioners of Income Tax [“SCIT”] and the SCIT allowed the appeal. Subsequently the IRB appealed against the decision of the SCIT.

Hyperlinks

The taxpayer contended that the sum of RM1,950,000 described as compensation for “emotional pain, mental anguish, pain and suffering” in the Deed of Settlement and the letter from solicitors for the taxpayer was not intended to be compensation for his loss of employment. The taxpayer agrees to withdraw and discontinue the civil suit upon settlement of the compensation by the defendants. The IRB did not rebut the content of the Deed of Settlement and the letter from solicitors.

The High Court upheld the decision of the SCIT and was of the view that the sum of RM1,950,000 received by the taxpayer was not in respect of gains or profits for an employment but it is a consideration for agreeing to discontinue the civil suit exempted from tax under Paragraph 14, Schedule 6 of the Act which provides tax exemption on sums received by way of death gratuities or as consolidated compensation for death or injuries. The High Court agreed with the taxpayer that his reputation as a World Scholar was injured and hence, the exemption under Paragraph 14 of Schedule 6 of the Act is applicable in respect of the aforesaid sum received.

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