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PR No. 8/2016 – Industrial Buildings Part I

The Inland Revenue Board [“IRB”] has recently issued the Public Ruling [“PR”] No. 8/2016 – Industrial Buildings Part I to provide guidance on the types of building that qualify as industrial buildings under Schedule 3 of the Income Tax Act 1967 [“the Act”].

The types of industrial building eligible for industrial building allowance are summarised below:-

- i. A Building Used as a Factory
 - A building that is equipped with plant and machinery to carry out the manufacturing or processing of materials to produce a product
 - Other buildings that house machinery or plant for:-
 - the manufacture or process of materials and products;
 - or
 - the generating of power used for the purposes of that manufacturing or processing
 - A workshop used for the repair or servicing of goods, provided that the repair or servicing is not carried out in conjunction with or incidental to the business of selling those goods

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- [PR No. 8/2016](#)

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- A building within the same compound (i.e. adjoining or adjacent to or in the land immediately surrounding a building which is used as factory) which is used:-
 - for the storage of raw material, fuel or stores necessary for the manufacture of product or processing of goods or materials; or
 - for the storage of that product or those goods or materials when processed prior to the sale
- ii. A Dock, Wharf, Jetty or Other Similar Building
 - A dock is a place for repairing ships
 - A wharf is a place where cargo ships can load and unload goods
 - A depot or jetty is a place where boats and ships are anchored
- iii. A Building Used as a Warehouse and the Business Consists or Mainly Consists of the Hire of Storage Space to the Public
 - The hire of storage to the “public” means hiring out the warehouse to a hirer having its own entity other than the warehouse owner
- iv. A Building Used for the Purposes of a Business of Supplying Water or Electricity for Consumption by the Public or Providing Telecommunication Services to the Public
- v. A Building Used in connection with the Working of a Farm and the Business Consists or Mainly Consists of the Working of the Farm, with or without other Farms (provided that no claim for agriculture allowance is made in respect of the same building)
 - Examples are stores in the farm for the storage of materials or tools used for farming (e.g. fertilizers, seeds, farm equipment) and collection centers to facilitate the collection of produce, grading, clearing, packaging etc.
- vi. A Building Used in connection with the Working of a Mine and the Business Consists or Mainly Consists of the Working of the Mine, with or without other Mines (provided that no claim for mining allowance is made in respect of the same building)
- vii. Buildings Provided for the Facility of Employees
 - Any building provided as a canteen, restroom, recreation room, lavatory, bathhouse, bathroom, or washroom for employees (provided there is an industrial building in use for a business)
 - A building provided for the welfare of employees working in a farm provided that the building is likely to be of little or no value to any person except in connection with the working of that farm or of another farm
 - A building provided as living accommodation:-
 - for employees working in a farm provided that the building is likely to be of little or no value to any person except in connection with the working of that farm or of another farm;

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- constructed by a person for employees (provided there is an industrial building in use for a business);
- constructed or purchased by a person carrying on manufacturing, hotel or tourism business or an approved service project under Schedule 7B of the Act for employees employed in that business

“Employees” excludes a director, an individual having control of the business, an individual who is a member of management, administration or clerical staff of that business.

viii. Certain Buildings Treated as Industrial Buildings

- Licensed private hospital, maternity home and nursing home
- Buildings used for research i.e. for the purposes of:-
 - approved research under Sections 34A(1) and 34B(4) of the Act
 - research undertaken by a research and development company or a contract research and development company under Section 2 of the Promotion of Investments Act 1986
- Warehouse
 - A building or part thereof used by a person solely for the purpose of:-
 - storage of goods for export; or
 - storage of imported goods which are to be processed for distribution or re-exported
- Building used solely for the provision of services and modernisation of operations in relation to an approved service project under Schedule 7B of the Act
- Hotel
- Airport
- Motor racing circuit
- Buildings constructed or purchased by a person for the purposes of providing child care facilities to employees employed in the business of that person
- Buildings for schools or educational institutions
 - This does not include tuition centres
- Buildings for industrial, technical or vocational training
- Public roads under privatisation
 - Construction, reconstruction, extension or improvement of a public road and ancillary structures where the expenditure is recoverable through toll collection
 - Extension includes widening or connecting of a public road
 - Ancillary structures include retaining walls, toll plazas, rest and service areas but excluding landscaping
- Buildings on a build-lease-transfer basis

PR No. 9/2016 - Gratuity

The IRB has recently issued the PR No. 9/2016 – Gratuity. This new PR is to replace the PR No. 8/2013 issued on 25th June 2013 taking into account the relevant amendments / new provisions of the Act which are currently in force.

Among others, it is noteworthy of the following changes made:-

- i. Paragraph 7 of the new PR
 - Effective year of assessment [“YA”] 2016, all employment income (inclusive of gratuity) receivable for any particular period will be taxed in the year of receipt, regardless of the period to which the income is attributable by virtue of Section 25(1) of the Act.
- ii. Paragraph 7.2 of the new PR
 - Effective YA 2016, an employee who receives sums by way of gratuity on retirement from an employment or upon termination of contract of employment (other than when Paragraphs 25, 25A, 25B or 30A, Schedule 6 of the Act applies) is given an exemption of RM1,000 for each completed year of service on gratuity payment pursuant to Paragraph 25D, Schedule 6 of the Act.
- iii. Paragraph 7.3 of the new PR
 - Sums received by way of gratuity while still in service will be taxed as part of the remuneration of the employee

Note : For further information relating to gratuity and PR No. 8/2013, kindly refer to our Tax Flash – July 2013 issue.

Deduction for Expenses in relation to National Greenhouse Gas Reporting Programme

Pursuant to the Income Tax (Deduction for Expenses in relation to National Greenhouse Gas Reporting Programme) Rules 2016, a deduction is allowed for qualifying expenditure incurred by a locally incorporated and resident company for the purpose of preparing the Greenhouse Gases Report for the implementation of the National Greenhouse Gas Reporting Programme (MYCarbon) which is regulated by an authorised officer of the Ministry of Natural Resources and Environment.

The qualifying expenditure are:-

- i. the consultant fee for the consultancy services by a consultant company for the preparation of the Greenhouse Gases Report relating to:-
 - the scope of report;
 - the collection of report data;
 - the determination of the calculation method for the reduction on greenhouse gases discharge; and
 - the advice on the reduction of the greenhouse gases discharge;

Hyperlinks

➤ [PR No. 9/2016](#)

➤ [Tax Flash – July 2013](#)

➤ [Income Tax \(Deduction for Expenses in relation to National Greenhouse Gas Reporting Programme\) Rules 2016](#)

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- ii. the cost for the preparation of the Greenhouse Gasses Report internally by the company namely wages for the additional works done by the full-time employee and part-time employee, who are directly involved in the preparation of the Greenhouse Gases Report; and
- iii. the service fee for the verification of the Greenhouse Gases Report paid by the company in relation to:-
 - the verification of the information used for the calculation of the greenhouse gases discharge;
 - the verification of the calculation method for the greenhouse gases discharge; and
 - the preparation and issuance of the verification for the Greenhouse Gases Report.

The deduction of the above qualifying expenditure is subject to certain conditions as prescribed in the above Rules.

The above Rules shall have effect from the YA 2015 to YA 2017.

GST Guides

The Royal Malaysian Customs Department has recently updated the following guides on Goods and Services Tax ["GST"] to provide guidance on GST related matters:-

- Specific Guides
 - Employee Benefits (revised as at 10.11.2016)
 - Tax Invoice and Records Keeping (revised as at 05.12.2016)
 - Input Tax Credit (revised as at 13.12.2016)

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