

# ▶▶ Tax Flash



May 2013

## PR No. 4/2013 – Accelerated Capital Allowance

The Inland Revenue Board [“IRB”] has recently issued the Public Ruling [“PR”] No. 4/2013 – Accelerated Capital Allowance [“ACA”]. This PR provides guidance on the qualifying capital expenditure incurred by a person in the provision of plant and machinery for business purposes.

Salient points of the abovementioned PR include:-

i. Standard Rates of Initial and Annual Allowances [“IA and AA”] under Schedule 3 of the Income Tax Act 1967 [“the Act”]

- Capital Allowance

<u>Qualifying Asset</u>	<u>IA Rate</u>	<u>AA Rate</u>
○ Heavy machinery and motor vehicles	20%	20%
○ Plant and machinery	20%	14%
○ Others	20%	10%

- Industrial Building Allowance

○ Industrial building (Paragraphs 63 and 64, Schedule 3 of the Act)	10%	3%
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- Agriculture Allowance

○ Clearing land, planting crops, roads and bridges	-	50%
○ Building used in farming business	-	10%
○ Living accommodation for workers	-	20%

- Forest Allowance

○ Roads and buildings for timber extraction	-	10%
○ Living accommodation for workers	-	20%

### Hyperlinks

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### References

PR No. 4/2013  
Appendix A  
Appendix B

ii. Special Rates of Allowances

- The special rates of allowances are categorised into ACA, accelerated or special rates of industrial building allowance, and accelerated agriculture allowance [“AAA”].
- Examples of ACA on plant and machinery (based on recent Income Tax Rules) are as shown below:-

Type of Asset	IA Rate %	AA Rate %	Authority	Effective
Waste recycling	40	20	P.U.(A) 505/2000	Year of Assessment [“YA”] 2001 onwards
Plant or machinery for qualifying projects	40	20	P.U.(A) 506/2000	YA 2001 onwards
Equipment for control of quality electric power	20	40	P.U.(A) 87/2005	YA 2005 onwards
Machine and equipment for agriculture sector	20	40	P.U.(A) 188/2005	YA 2005 onwards
Moulds for production of industrialised building system components	40	20	P.U.(A) 249/2006	YA 2006 onwards
Bus	20	80	P.U.(A) 356/2008	YA 2009 to YA 2011
Plant and machinery	20	80	P.U.(A) 357/2008	YA 2009 to YA 2010
Information and communication technology equipment	20	80	P.U.(A) 358/2008	YA 2009 to YA 2013
Security control equipment and monitor equipment	20	80	P.U.(A) 359/2008	YA 2009 to YA 2012
Plant and machinery	20	40	P.U.(A) 111/2009	10.03.2009 to 31.12.2010
Security control equipment and monitor equipment	20	80	P.U.(A) 4/2013	YA 2013 to YA 2015

- Accelerated or special rates of industrial building allowance are as shown below:-

Type of Building	IA Rate %	AA Rate %	Authority
Private hospital, maternity home, nursing home	10	3	Para 37A, Sch. 3 of the Act
Buildings used for research	10	3	Para 37B, Sch. 3 of the Act
Building used for warehouse	-	10	Para 37C, Sch. 3 of the Act
Building used in approved service sector	10	3	Para 37E, Sch. 3 of the Act
Hotel	10	3	Para 37F, Sch. 3 of the Act
Airport	10	3	Para 37G, Sch. 3 of the Act
Motor racing circuit	10	3	Para 37H, Sch. 3 of the Act
Living accommodation for employees	40	3	Para 42(1), Sch. 3 of the Act
Living accommodation for employees in manufacturing, hotel or tourism business or approved service project	-	10	Para 42A(1), Sch. 3 of the Act
Child care centre	-	10	Para 42A(2), Sch. 3 of the Act
School or educational institution	-	10	Para 42B, Sch. 3 of the Act
Industrial, technical or vocational training	-	10	Para 42C, Sch. 3 of the Act
Public road and ancillary structures	10	6	Para 67A, Sch. 3 of the Act
Building constructed by a person on built, lease and transferred	10	6	Para 67B, Sch. 3 of the Act
Old folks care centre	-	10	P.U.(A) 143/2003
Building used by Multimedia Super Corridor company	-	10	P.U.(A) 202/2006
Bionexus status company	-	10	P.U.(A) 374/2007
Building under privatization project and private financing initiatives	10	6	P.U.(A) 119/2010

- AAA is given to a non-rubber plantation company where at least 10% of total area of the agricultural project or forest plantation project is planted with rubber wood tree for the purposes of a qualifying project in accordance with the Income Tax (Accelerated Agriculture Allowance)(Plantation of Rubber Wood Tree) Rules 2008, effective YA 2003 to YA 2010.

iii. Special Allowances for Small Value Assets

- Pursuant to Paragraph 19A of Schedule 3 of the Act, 100% special allowances on small value assets ["SVA"] is given to the assets costing not more than RM1,000 each. The claim of SVA is restricted to RM10,000 for each year of assessment (other than Small and Medium Enterprises).

iv. Non-Application Rule

- Non-application provisions may differ for each Income Tax Rules.

**Deduction for Payment of Premium to Malaysia Deposit Insurance Corporation**

Pursuant to the Income Tax (Deduction for Payment of Premium to Malaysia Deposit Insurance Corporation) Rules 2013, a deduction of an amount equivalent to the first premium or annual premium paid by a member institution to the Malaysia Deposit Insurance Corporation ["MIDC"] in the basis period for a year of assessment is allowed to ascertain the adjusted income of that member institution from its business.

For the purpose of the above Rules, a member institution is:-

- i. a financial institution provided under Section 36(1)(a) of the MIDC Act 2011; or
- ii. a financial institution provided under Section 36(1) and a takaful operator or an insurance company provided under Section 36(2) of the MIDC Act 2011.

The Rules are deemed to have effect from the YA 2005 to YA 2010 in respect of a member institution mentioned in (i) above; and from the YA 2011 onwards in respect of a member institution mentioned in (ii) above.

The Income Tax (Deduction for Payment of Premium to Malaysia Deposit Insurance Corporation) Rules 2011 is revoked.

Income Tax (Deduction for Payment of Premium to Malaysia Deposit Insurance Corporation) Rules 2013

### **Income Tax (Deduction for Expenditure on Issuance of Retail Debenture and Retail *Sukuk*) Rules 2013 - Corrigendum**

The IRB has issued the above Corrigendum to replace reference to “Part A” to “Part I” in the paragraphs 2(5)(b) and 2(5)(c) of the Income Tax (Deduction for Expenditure on Issuance of Retail Debenture and Retail *Sukuk*) Rules 2013.

**Note:** For further information, kindly refer to our Tax Flash – March 2013 issue.

### **RPGT Exemption on Disposal of Chargeable Asset to a Business Trust**

Following the 2013 Budget announcement, the Real Property Gains Tax (Exemption) Order 2013 has been gazetted to exempt any person from payment of Real Property Gains Tax [“RPGT”] on the chargeable gains accruing on the disposal of any chargeable asset, including shares in real property company, to a trustee-manager on behalf of a business trust.

The above exemption applies to disposal of chargeable assets from 1<sup>st</sup> January 2013 to 31<sup>st</sup> December 2017 to a trustee-manager on behalf of a business trust in relation to the initial offering of the business trust.

### **Petroleum (Income Tax) (Marginal Field) Regulations 2013**

The Petroleum (Income Tax) (Marginal Field) Regulations 2013 have been gazetted to provide guidance on the manner to ascertain the adjusted income, statutory income, assessable income and chargeable income and utilisation of unabsorbed adjusted loss and unabsorbed capital allowance of a chargeable person in respect of petroleum operations in a marginal field in accordance with the provisions of the Petroleum (Income Tax) Act 1967.

“Marginal field” means a field within a petroleum agreement area which has potential crude oil reserves not exceeding 30 million stock tank barrels or natural gas reserves not exceeding 500 billion standard cubic feet.

A chargeable person shall maintain separate accounts for his income derived from a marginal field and for his income derived from other petroleum operations.

The above Regulations are deemed to have come into operation on 30<sup>th</sup> November 2010.

### **Tax Exemption on Income Derived from Petroleum Operations in a Marginal Field**

Pursuant to the Petroleum (Income Tax) (Exemption) Order 2013, a chargeable person carrying on petroleum operations in a marginal field is exempted from payment of petroleum income tax in respect of statutory income derived therefrom, determined based on a prescribed formula.

Income Tax (Deduction for Expenditure on Issuance of Retail Debenture and Retail *Sukuk*) Rules 2013 - Corrigendum

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Real Property Gains Tax (Exemption) Order 2013

Petroleum (Income Tax) (Marginal Field) Regulations 2013

Petroleum (Income Tax) (Exemption) Order 2013

It is noteworthy that where in a basis period for a year of assessment the accumulated production of petroleum in a marginal field, from the first basis year petroleum is produced to that year of assessment is in excess of 30 million stock tank barrels of crude oil or in excess of 500 billion standard cubic feet of natural gas, the exemption shall not apply to the income derived for that year of assessment and subsequent years of assessment in respect of income derived from that excess.

The above Order is deemed to have come into operation on 30<sup>th</sup> November 2010.

#### **Stamp Duty (Exemption) (No. 4) Order 2013 - Corrigendum**

The IRB has issued the above Corrigendum to replace reference to “Part A” to “Part I” in the paragraphs 2(4)(b) and 2(4)(c) of the Stamp Duty (Exemption) (No. 4) Order 2013.

**Note:** For further information, kindly refer to our *Tax Flash – March 2013 issue*.

#### **Stamp Duty Exemption on Transfer of Business, Asset or Real Property to a Business Trust**

Following the 2013 Budget announcement, the Stamp Duty (Exemption) (No. 7) Order 2013 has been gazatted to provide exemption from stamp duty on all instruments executed by a trustee-manager on behalf of a business trust in relation to the transfer of any business, asset or real property to a business trust.

The above exemption applies to instruments executed from 1<sup>st</sup> January 2013 to 31<sup>st</sup> December 2017 for the purpose of initial offering of the business trust.

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)  
(No. 4) Order 2013 -  
Corrigendum

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Stamp Duty (Exemption)  
(No. 7) Order 2013