

COVID-19: TAX UPDATES FAQs ON SPECIAL DEDUCTION FOR RENTAL REDUCTION



On 6 April 2020, the Malaysian Prime Minister announced that under the Prihatin SME+ package, owners of buildings or business premises will be given a special tax deduction in respect of reduction in rent from April to June 2020 given to tenants who are qualified Small and Medium Enterprises (“**SMEs**”).

Subsequently, on 25 April 2020, the Inland Revenue Board (“**IRB**”) issued a list of frequently asked questions providing clarification on this special deduction (“**FAQs**”). The IRB has now clarified the following.

This special deduction, which will be equivalent to the amount of monthly rental reduction, is available to any taxpayers (including corporate, individuals, cooperatives and business and non-business entities) who rent business premises to SMEs and has reduced the said rent. Rental of premises to a related company is included so long as the said company is an SME within the meaning of this deduction and fulfils the requirements.

This special deduction is allowed if the rental reduction is at least 30% of the existing monthly rental rate. An eligible entity may claim this special deduction notwithstanding the rental reduction is at a different rate every month, so long as the rental reduction is not less than 30% for each eligible month.

For the purposes of this special deduction, the IRB has also indicated that they will follow the SME definition by the SME Corporation. So long as a tenant meets either the specified sales turnover or number of full-time employees, whichever is the lower, as follows, it will be considered an SME for the purposes of this special deduction:

Type of enterprise	Sector	Sales Turnover	OR	Number of full-time employees
Micro	All	less than RM 300,000		less than 5
Micro	Manufacturing	RM 300,000 to less than RM 15 million		5 to less than 75
	Services & Other Sectors	RM 300,000 to less than RM 3 million		5 to less than 30
Medium	Manufacturing	RM 15 million to not exceeding RM 50 million		75 to not exceeding 200
	Services & Other Sectors	RM 3 million to not exceeding RM 20 million		30 to not exceeding 75

However, the following entities will not be eligible for this special deduction:

- (a) Entities that are publicly listed on the main board; and
- (b) Subsidiaries of:
 - (i) Publicly listed companies on the main board;
 - (ii) Multinational corporations (MNCs);
 - (iii) Government-linked companies (GLCs);
 - (iv) Syarikat Menteri Kewangan Diperbadankan (MKDs); and
 - (v) State-owned enterprises.

It is also further clarified that this deduction is for taxpayers who receive rental income subject to tax under subsection 4(a) and subsection 4(d) of the Income Tax Act 1967. Further, “business premises” for this purpose means all premises used for carrying out a business, for example, offices, workshops, warehouses and rented stalls. Rental of residential properties which are used for both residential and business is excluded.

The FAQs further exclude deduction for rental of plant and machinery, including areas such as parking spaces, machines, telecommunication towers, all of which have been decided by the Malaysian tax courts to be “plant” within the meaning of Schedule 3 of the Income Tax Act 1967, on which capital allowance may have been claimed.

The FAQs also provided some examples of the supporting documents to be kept by the taxpayers (landlords) who claim this special deduction, including:

- (a) Tenancy agreement;
- (b) Rental income statement;
- (c) Details of the tenant as SME such as number of business registration, tax file number; and
- (d) Details of the rental reduction

At present, no rules have been gazetted in respect of this special deduction.

Notwithstanding so, taxpayers who are keen to utilise this deduction should take care in obtaining, recording and retaining the relevant supporting documents and ensure that the details pertaining to the deduction (especially the details of the tenant as SME and rental reduction) are reflected in the relevant Working Sheet of the company's income tax returns.



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