



eNewsletter
16/2021

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Updates on special rental deduction and IRB's clarification on ACA

Special deduction for rental reduction on business premises given to Small and Medium Enterprise (“SME”) and non-SME

The following Rules have been gazetted by the Government on 8 September 2021:

- (a) Income Tax (Special Deduction for Reduction of Rental to a Small and Medium Enterprise) Rules 2021 [P.U.(A) 353/2021]; and
- (b) Income Tax (Special Deduction for Reduction of Rental to a Tenant Other Than a Small and Medium Enterprise) Rules 2021 [P.U.(A) 354/2021].

To recap, the above special deduction given to landlords for reduction of rental to SMEs and non-SMEs have been announced and extended through various Economic Stimulus Packages by the Government during years 2020 and 2021.

Owners of business premises may qualify for a special tax deduction equivalent to the amount of reduction in rent that is given to their tenants. As covered in our previous eNewsletters, there must be a minimum of 30% reduction in rent during the qualifying periods in order to qualify for this special deduction.

On 23 September 2021, the Inland Revenue Board (“IRB”) has updated its Frequently Asked Questions (“FAQ”) on special deduction for rental reduction on business premises given to SME and non-SME.

Summary of the key criteria for the following two (2) categories of tenants (as enacted in the Rules and updated FAQ) is set out below:

Criteria	SME tenant	Non-SME tenant
Effective Year of Assessment (YA)	From YA 2020	From YA 2021
Qualifying months	April 2020 to December 2021	January 2021 to December 2021
Residential status	A SME resident in Malaysia and is certified as a “SME” by SME Corporation Malaysia (“SME Corp”)	A person resident in Malaysia
Definition of “business premises”	Premises used for the purposes of its business and includes a bazaar lot, stall, vehicle park, storage warehouse or any place used only for the purposes of business. Note: The IRB has clarified that residential premises used for both business and residential would be excluded from the above.	

Criteria	SME tenant	Non-SME tenant
Documents to retain for claims	<ol style="list-style-type: none"> 1. a tenancy agreement (new / renewal) which is stamped under Stamp Act 1949; 2. a separate statement of rental income for the qualifying months in the basis period for a YA; 3. a confirmation made by landlord stating the amount of rental reduction given and tenant stating the receipt of rental reduction; 4. Tenants' information, rental information and rental reduction methods [to be completed in the following worksheets]: and <ul style="list-style-type: none"> HKC-16B Companies, Co-operative Societies, Limited Liability Partnerships and Business Trusts HK-4E Taxpayers other than the above categories 5. In the case of SME tenant, a SME Status Certificate issued by SME Corp. 	
SME Status Certificate requirement	<p>For a landlord to claim the above special tax deduction given to SME tenant, a SME Status Certificate (issued by SME Corp) must be obtained from the SME tenant to substantiate the SME status of the tenant.</p> <p>However, for the qualifying period from January 2021 to December 2021, SME tenants are no longer required to provide their SME Status Certificate if they have yet to receive the SME Status Certificate from SME Corp.</p>	N/A
Non-application	N/A	P.U.(A) 354/2021 shall not apply to a landlord who has claimed similar deduction under P.U.(A) 353/2021.

Another point to note from the Rules are where rent for the qualifying months is paid in advance, the landlord is eligible for the special tax deduction, provided that the landlord keeps the supporting documents (see above) stating the rental reduction given by way of refund or by any means agreed between the landlord and the tenant.

Clarification to the Accelerated Capital Allowance for Machinery and Equipment Including Information and Communication Technology Equipment

IRB has recently responded to clarification sought by the Chartered Tax Institute of Malaysia on the Income Tax (Accelerated Capital Allowance) (Machinery and Equipment including Information and Communication Technology Equipment) Rules 2021 [P.U.(A) 268/2021] (“the Rules”).

To recap, effective from YA 2020, the Rules is applicable to a person who has incurred qualifying plant expenditure (“QPE”) on machinery and equipment including information and communication technology (ICT) equipment (refer to our [**eNewsletter 10/2021**](#) for more details).

IRB has clarified that the definition of “machinery” and “equipment” in the Rules would cover the following assets:

1. Machinery that can be categorised as a machine and this includes heavy machinery; and
2. Equipment including ICT equipment, office equipment, office furniture and fittings, air conditioner and electrical appliances.

Please note that the IRB has further clarified that the following categories of assets are not eligible for the ACA claims under the Rules:

1. Motor vehicles including commercial vehicles;
2. Customised Computer Software;
3. Software systems or software packages; and
4. Plant not falling under machinery and equipment (see above).

RSM'S COMMENT

Taxpayers who filed their Tax Return for YAs 2020 and 2021 may consider to revise their income tax computation and submit a revised Tax Return in order to claim the following:

- (i) Special tax deduction on rental reduction [Item 1]; and / or
- (ii) ACA rate of 40% on the QPE incurred [Item 2].

The revision must be made within five years after the end of the year these Rules are gazetted, i.e. by 31 December 2026.

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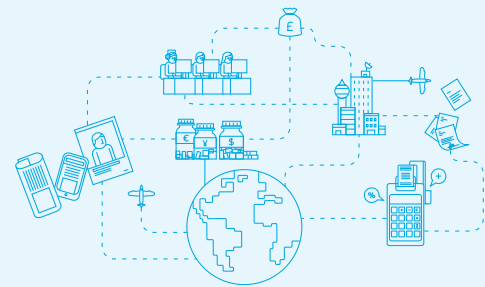


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