INLAND REVENUE BOARD OF MALAYSIA

QUALIFYING PLANT AND MACHINERY FOR CLAIMING CAPITAL ALLOWANCES

PUBLIC RULING NO. 12/2014

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DIRECTOR GENERAL'S PUBLIC RULING

Section 138A of the Income Tax Act 1967 (ITA) provides that Director General is empowered to make a Public Ruling in relation to the application of any provisions of ITA.

A Public Ruling is published as a guide for the public and officers of the Inland Revenue Board of Malaysia. It sets out the interpretation of the Director General in respect of the particular tax law and the policy as well as the procedure applicable to it.

The Director General may withdraw either wholly or in part, by notice of withdrawal or by publication of a new Public Ruling.

Director General of Inland Revenue,
Inland Revenue Board of Malaysia.

1. Objective

The objective of this Public Ruling (PR) is to explain whether an asset is a qualifying plant and machinery for the purpose of claiming capital allowances in determining the statutory income from a business.

2. Relevant Provisions Of The Law

2.1 This PR takes into account laws which are in force as at the date this PR is published.

2.2 The provisions of the Income Tax Act 1967 (ITA) related to this PR are section 18, section 42 and Schedule 3.

2.3 Relevant subsidiary laws referred to in this PR are the following Income Tax Rules:

(a) Income Tax (Qualifying Plant Allowances) (No. 2) Rules 1997 [P.U.(A) 474/1997];

(b) Income Tax (Qualifying Plant Annual Allowances) Rules 2000 [P.U.(A) 52/2000];

(c) Income Tax (Accelerated Capital Allowance) (Information and Communication Technology Equipment) Rules 2008 [P.U.(A) 358/2008]; and

(d) Income Tax (Accelerated Capital Allowance) (Information and Communication Technology Equipment) Rules 2014 [P.U.(A) 217/2014].

3. Interpretation

The words used in this PR have the following meanings:

3.1 ³ $ V V H W´ means property or equipment used for the purpose of a business.

3.2 ³ Balancing allowance ´ refers to the difference where the disposal value of an asset is less than the residual expenditure.

3.3 ³ %alancing charge ´ refers to the difference where the disposal value of an asset is more than the residual expenditure.

3.4 ³3 H U V R Q ´ L Q F O X G H V D F R P S D Q \ D E R G \ R I S H U V R Q V and a corporation sole.

3.5 ³4XDOLI\LQJ H[SHQGLWXUH´ means capital expenditure incurred on the provision, construction or purchase of plant or machinery used for the purpose of a business other than assets that have an expected life span less than two (2) years.

3.6 ³Agriculture´ means any form of cultivation of crops, animal farming, aquaculture, inland fishing and any other agricultural or pastoral pursuit.

3.7 ³6HWWLQJ´ means made to create a place for carrying out a business activity.

4. Application Of The Law

In determining the statutory income from a business source of a person, capital allowances, balancing allowances or balancing charges respectively under Schedule 3 can be deducted from or added to the adjusted income of a business source for the basis period for a year of assessment. Capital allowances is allowed to the person who incurred qualifying capital expenditure on the asset used for the purpose of his business.

5. Classification Of Asset

The rates of allowances provided under Schedule 3 of the ITA and P.U.(A) 52/2000 are prescribed for the three main categories of assets:

Category Of Qualifying Asset	Rate (%)	
	Initial Allowance	Annual Allowance
Heavy machinery, motor vehicle	20	20
Plant and machinery	20	14
Others	20	10

The three (3) rates mentioned above shall apply to any asset regardless of the type of industry or business. However, the three rates do not apply to the qualifying assets eligible for industrial building allowance, agriculture allowance, forest allowance and specified assets which should be dealt with in accordance with the special rates of allowances provided under Schedule 3 of the ITA and the relevant Income Tax Rules.

For further explanation on specified assets that qualify for the special rates of allowances which categorized into accelerated capital allowances, accelerated allowance or special allowance for industrial building and accelerated agricultural allowance, please refer to the PR No. 4/2013 ³Accelerated Capital Allowance´ dated 15 April 2013.

5.1 **Category of "heavy machinery"**

There are no specific guidelines in classifying heavy machinery. In general, it is determined by the nature of its usage. Normally, they are specially designed for carrying out construction works, especially used in earthwork operations. Heavy-duty machinery such as crane, root puller, rake, shovel, tower crane, offshore crane, wharf crane, bulldozer, land leveling equipment (dozer), excavating equipment (backhoe & excavator) and other similar machinery which are considered as heavy machinery.

For the purposes mentioned above, the category of heavy machinery does not include an imported heavy machinery as provided in [P.U.(A) 474/1997].

5.2 **Category of "motor vehicle"**

Motor vehicles include all types of vehicles that are powered by motors or engines such as car, van, motorcycle, aircraft, boat, motorized bicycle and other similar vehicles.

Motor vehicles are also categorized into commercial vehicles and non-commercial vehicles. A commercial vehicle is a licensed vehicle used for business purpose. The owner has a permit for the transportation of goods and passengers. Lorry, truck, bus, taxi and van are examples of commercial vehicles. A non-commercial vehicle is a vehicle that is not used for commercial purpose such as car and multi-purpose vehicle for private use.

5.3 **Category of "plant and machinery"**

General plant and machinery does not fall under the category of "heavy machinery" and "motor vehicle". Examples are compressors, elevators, medical and laboratory equipment and other similar assets.

5.4 **Category "others"**

(i) Office equipment such as facsimile machine, telephone, calculator, printer and photocopier.

(ii) Furniture and fittings such as cabinet, rack, chair and table.

6. **Definition Of Plant And Machinery**

Plant and machinery are not defined in the ITA. However, guidance can be obtained from judgment stated in case laws in determining whether an asset is a plant and machinery eligible for claiming capital allowances under Schedule 3 of the ITA.

The basic characteristic of machinery is that it has moving parts. A machinery is easily determined compared to a plant. Thus, a plant that qualifies for capital

allowances shall be determined based on the principles established in case laws and the facts on the function and use of the asset in the business.

7. Determination Of Plant

In general, a plant is whatever equipment used by a person for carrying on his business but does not include stock in trade. Test should be conducted to determine whether an asset is a plant or merely providing a setting for carrying out a business.

An asset may be regarded as a plant in a business but it is not regarded as a plant in another business. For example, a ship that is used as a floating restaurant in the restaurant business is not a plant but a ship used in the shipping business is a plant and eligible for capital allowances. Thus, in determining whether an asset is a plant, the function and need of the asset in a business activity have to be determined by the following tests:

7.1 Functional Test

Functional test or business use test is applied when the type of business carried and the role of an asset in the business activity are taken into account. If an asset meets the function as a tool with which need to be used in carrying on a business, then the asset is a plant and is eligible for capital allowances.

Example 1

Austra Mats Sdn Bhd provides floor mat renting service which receives fees for the rental and service of cleaning floor mats. The life span of a floor mat is between three to five years. The rental sum is based on the agreement in the contract.

The floor mat functioned as a tool in the company's business activity and it is also a fixed asset of the company. Thus, the floor mat is a plant and is eligible for capital allowances.

Example 2

Erantik Sdn Bhd purchased antiques for exhibitions in its museum. The public are required to buy tickets to enter the museum. The company reported the purchase of the antiques as business assets and claimed capital allowances in respect of the assets.

The antiques functioned as tools for the company to carry out the exhibitions. They are used in producing income for the company. Thus, the antiques is a plant and are eligible for capital allowances .

Example 3

Cinta Sdn Bhd has several clothing and fashion accessories boutiques in a shopping complex. The company claimed capital allowances in respect of the mannequins used in the business. The mannequins qualify as plant as they functioned as tools to display clothes and accessories of the company ¶ V business. The mannequins are eligible for capital allowances.

Example 4

Galaxy Zoo Sdn Bhd commenced the business of Mini Zoo and purchased birds, fishes and other animals to be displayed in cages and aquariums. The company claimed capital allowances for the following assets:

(i) aviary / cages, stables and fenced enclosures;

(ii) aquariums including blower piping, over flow piping, drain piping and rocket multi stage water filtration system;

(iii) watertank and fiber glass tank filter; and

(iv) pump.

The assets listed above functioned as tools used in the company ¶ V E X V L Q H V V activity as an operator of Mini Zoo. The assets claimed above are plant and machinery which are eligible for capital allowances.

Example 5

Asya & Scott Hotel Sdn Bhd operates a hotel business and incurred expenses on the installation of decorative lights, paintings and sculptures within the confines of the hotel to attract customers to visit and stay in the hotel. The company made a claim on the decorative assets as plant which are eligible for capital allowances.

In the hotel industry, the assets used for decorative purposes functioned as tools for creating an ambiance that is comfortable and cosy which is an important factor to attract customers to stay and dine in the hotel. The decorative assets are regarded as plants and therefore are eligible for capital allowances.

Note: The principle in example 5 does not apply to grocery store, supermarket, boutique of fashion accessories and clothing, pharmaceutical and other business where the important factors for consideration are types of products sold, quality of product, reasonable price and customer care

saliva and these nests are edible. The company claimed capital allowances on the construction of that building.

Although the swiftlets are not bred but the activity of harvesting bird nests is carried out for the production of an agriculture produce. Therefore, the building built specifically for swiftlet farming is a plant and eligible for capital allowances as provided under subparagraph 2(1)(c) of Schedule 3 of the ITA.

(iii) **Computer software**

Qualifying expenditure incurred on the costs of provision of computer software which are software systems or software packages as specified in the Schedule in P.U.(A) 358/2008 and P.U.(A) 217/2014 are eligible for capital allowances. Software package or software system means the computer software purchased together with the computer equipments from a supplier or purchased separately from a software supplier. These computer softwares are considered to be part and parcel of the information technology equipment.

8.2 **Do not qualified as plant**

(i) **Transportable camp and cabin**

In general, transportable camp and cabin are not plant. They are normally used as an office, store, laboratory, canteen and living accomodation for workers at construction site, or at a place near to the construction site.

Example 19

Mega Sdn Bhd (MSB) bought a cabin and placed it near quarry site operated by the company. The cabin is used as living accomodation for the company ¶ ẅorkers. Upon the completion of work at the quarry, the cabin will be moved to another quarry sites.

The cabin is not a plant and MSB is not eligible to claim capital allowances.

(ii) **Payment other than cost of provision of computer software**

Payment for developing software such as consulting fees, right to use the software such as licence fee and other incidental charges are not part of the cost for the provision of computer software.

Example 20

Black Management Services Sdn Bhd (BMS) bought the System Management Software at a cost of RM1.2 million from France Technologies Pty Ltd (FTPL). The software is owned by FTPL and BMS is only given a license to use the software in accordance with the terms of the agreement. BMS is granted distribution rights in the areas that have been designated in the agreement and the software proprietary information cannot be disclosed to third parties. BMS claimed the payment of RM1.2 million as part of the cost of computer software.

The payment made is for the purchase of a license for the System Management Software, thus the payment is not for the cost of provision of software but is the cost for getting the right to use the software. As such, the payment of RM1.2 million does not qualify as part of the cost of computer software and is not eligible for capital allowances.

(iii) **Trading stock**

Example 21

Bio Zealand Sdn Bhd is engaged in breeding of dairy cattle for sale. The company claimed capital allowances in respect of the dairy cattle prior to sale.

Cattle which are reared from birth and sold are the trading stocks of the company. Therefore, they are not plant and are not eligible for capital allowances.

Note: Expenditure incurred on animal feed and care of the cattle is revenue expenditure.

(iv) **Database**

Example 22

A financial Institution XYZ Bhd claimed capital allowances on core deposits and credit card customer databases which are classified as intangible assets in its accounts on the ground that the assets are intellectual storehouse used by the institution to operate its business. Core deposits are the source of funding and trading stocks for the institution. Core deposits database contains financial data belonging to customers and are stored in various forms for a long period. Credit card customer database is a data containing customer V ¶ information or credit card spending etc.

Core deposit and credit card customer databases are records containing customer V ¶ information only and are not intellectual storehouse which is used by the financial institution in carrying out the business activity.

Thus, both the intangible assets are not plant and are not eligible for capital allowances.