



INLAND REVENUE BOARD MALAYSIA

**BUSINESS EXPENSES
IN RESPECT OF
DISABLED PERSONS**

PUBLIC RULING NO. 3/2019

DATE OF PUBLICATION: 8 AUGUST 2019



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DIRECTOR GENERAL'S PUBLIC RULING

Section 138A of the Income Tax Act 1967 (ITA) provides that the Director General is empowered to make a Public Ruling in relation to the application of any provisions of the 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 this Public Ruling 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 the tax treatment of business expenses incurred by a person for –

- (i) employing disabled persons as employees; and
- (ii) providing training to disabled persons who are not employees to enable them to seek employment.

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 and paragraph 34(6)(e) of the ITA.
- 2.3 Relevant subsidiary laws referred to in this PR are the following Income Tax Rules (ITR) -
 - (a) Income Tax (Deductions For The Employment of Disabled Persons) Rules 1982 [P.U.(A) 73/1982];
 - (b) Income Tax (Deductions For Approved Training) Rules 1992 [P.U. (A) 61/1992].
 - (c) Income Tax (Deductions For Approved Training) (Amendment) Rules 1995 [P.U. (A) 111/1995].
 - (d) Income Tax (Deductions For The Employment of Disabled Persons) (Amendment) Rules 2019 [P.U.(A) 204/2019].

3. Interpretation

The words used in this PR have the following meaning:

- 3.1 “Employer” in relation to an employment, means –
 - (a) where the relationship of master and servant subsists, the master;
 - (b) where the relationship does not subsist, the person who pays or is responsible for paying any remuneration to the employee who has the employment, notwithstanding that that person and the employee may be the same person acting in different capacities.

- 3.2 “Disabled persons” means any individual who has -
- (a) certified in writing by the Department of Social Welfare to be a disabled person; or
 - (b) certified by the Social Security Organization (SOCSO) as a disabled person that is capable to work within his or her capabilities.
- 3.3 “Person” includes a company, a body of persons, a limited liability partnership and a corporation sole.
- 3.4 “Company” means a body corporate and includes any body of persons established with a separate legal entity by or under the laws of the territory outside Malaysia and a business trust.

4. Introduction

- 4.1 According to ‘The Persons of Disabilities Act 2008’, disabled persons include those who have long term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society.
- 4.2 In summary, disabled persons are persons who are unable to manage their daily living completely by themselves due to physical or mental difficulties. This means that those disabled persons are not able to perform the work of a normal person.
- 4.3 The deduction of expenditure for the employment of these disabled persons is one of the Government’s policies in fostering a caring society and to provide job opportunities for disabled persons in all sectors of employment whether public or private.

5. Application of the Law

- 5.1 In determining the adjusted income of a person from a business, deductions are allowable against the gross income for business expenses incurred by a person to –
- (i) assist the disabled persons by employing them as employees; or
 - (ii) train the disabled persons who are not employees in training programmes aimed at enhancing employment opportunities for disabled persons.

-
- 5.2 The deduction of expenses for the disabled persons is provided under paragraph 34(6)(e) of the ITA and in the ITR as stated in paragraph 2.3 of this PR.
- 5.3 The expenses will be allowed if the disabled persons are -
- (a) registered with the Department of Social Welfare (DSW) and the Disabled Persons's Card ("Kad OKU") are acquired as intended in paragraph 3.2(a) of this PR.
 - (b) provide a certification from the Social Security Organization (SOCSSO) which is based on the decision of the *Jemaah Doktor* as intended in paragraph 3.2(b) of this PR.

Note: *Jemaah Doktor* consists of Government doctors.

6. Deduction of Business Expenses in respect of Disabled Persons

6.1 Additional Deduction for the employment of disabled persons

Pursuant to the Income Tax (Deductions For The Employment of Disabled Persons) Rules 1982 [P.U.(A) 73/1982] and Income Tax (Deductions For The Employment of Disabled Persons) (Amendment) Rules 2019 [P.U.(A) 204/2019] -

- 6.1.1 Effective year of assessment (YA) 1982, in ascertaining the adjusted business income of a person, a deduction is allowable for the remuneration of a kind allowable under section 33(1) of the ITA payable by a person to each employee who is physically or mentally disabled (disabled persons) as intended in paragraph 5.3 (a) of this PR.
- 6.1.2 However, from YA 2019 the deduction is extended to an employee who is physically or mentally disabled due to an accident or critical illness as intended in paragraph 5.3 (b) of this PR.
- 6.1.3 The allowable deduction of remuneration mentioned in paragraph 6.1.1 and 6.1.2 are **in addition** to the **deduction allowable under section 33 (1) of the ITA**.
- 6.1.4 Remuneration is payment to an employee which is an allowable expense under section 33(1) of the ITA. If the

employee is a disabled person then under the Income Tax (Deductions For The Employment of Disabled Persons) Rules 1982 [P.U.(A) 73/1982] and Income Tax (Deductions For The Employment of Disabled Persons) (Amendment) Rules 2019 [P.U.(A) 204/2019], an additional deduction is allowed.

- 6.1.5 Types of remuneration in paragraphs 6.1.1, 6.1.2 and 6.1.3 of this PR are gross income in respect of gains or profits from an employment includes any wages, salary, overtime payment, commission, tips, allowance, bonus or incentives, fees, perquisite, employee's share option scheme (ESOS) and tax borne by the employer.
- 6.1.6 However, the type of remuneration as referred to in paragraph 6.1.5 of this PR is not including the benefits in kind under paragraph 13(1)(b) and the value of living accommodation under paragraph 13(1)(c) of the ITA.
- 6.1.7 To qualify for an additional deduction for this remuneration, the person claiming the deduction must ensure that the employee is fulfilled the conditions as specified in paragraph 5.3 of this PR.

Example 1

Creative Craft Enterprise (CCE) employed 10 disabled people who have Kad OKU, to work in handicraft manufacturing. For the year ended 31 December 2018, salaries and bonus are paid to 10 disabled workers amounting to RM12,000.

Payment of RM12,000 is an allowable expenses under section 33(1) of the ITA. Under the Income Tax (Deductions For The Employment of Disabled Persons) Rules 1982 [P.U.(A) 73/1982], an additional deduction of RM12,000 is allowed in computing the adjusted income of the CCE's business.

Example 2

Amanda met with a road accident on her way to work. As a result of this accident, Amanda has become disabled i.e blurred vision, unable to speak clearly and loss of the right kidney. A certification from SOCSO certifying that Amanda is able to work within her capabilities has been accepted by her employer, EXelectronics (M) Sdn Bhd (EXSB).

Amanda started working in January 2019 and for the year ended 30 June 2019, salaries and commissions amounting to RM6,000 were paid to Amanda.

Payment of RM6,000 is an allowable expense under section 33(1) of the ITA. Under the Income Tax (Deductions For The Employment of Disabled Persons) (Amendment) Rules 2019 [P.U.(A) 204/2019], an additional deduction of RM6,000 is allowed in computing the adjusted income of the EXSB's business.

6.2 Double Deduction for training a disabled person who is not an employee

Pursuant to the Income Tax (Deductions For Approved Training) Rules 1992 [P.U. (A) 61/1992] and Income Tax (Deductions For Approved Training) (Amendment) Rules 1995 [P.U. (A) 111/1995] -

6.2.1 Effective year of assessment (YA) 1992, in ascertaining the adjusted business income of a company, a double deduction is allowed on the amount of any **expenditure incurred** in training a disabled person who is not an employee of the company in **a training programme** which is –

- (a) approved by the Minister of Finance and conducted in Malaysia; or
- (b) conducted by a training institution which is approved by the Minister of Finance.

The training programme as mentioned above is for the purpose of enhancing the employment prospects of a disabled person.

"Expenditure incurred" means the amount paid by a company to the training institution in respect of a training programmes conducted by that training institution.

6.2.2 The expenses for training these disabled persons are not expenditure incurred in the production of income. Therefore it is not eligible for a tax deduction under section 33 (1) of the ITA.

- 6.2.3 However, under these Rules, the expenses for training these disabled persons are entitled to **double deduction** even though the disabled persons are not employees of the company. Persons with disabilities who are not employees of the company must be registered with the DSW as set out in paragraph 5.3(a) of this PR before the conditions stated in paragraph 6.2.4 are fulfilled.
- 6.2.4 In order to qualify for a double deduction under these Rules, a company has to satisfy the following conditions –
- (a) obtained a letter of approval from the relevant authority approving an approved training program; and
 - (b) obtained a letter from a training institution approved by the Minister of Finance certifying that the disabled person has participated in the training programme.

Example 3

DK Group Sdn Bhd (DKGSB) sponsored a training programme which is operated by the Kasih Training Center (KTC) to train disabled persons in the activities of making furniture, wood carving art and envelopes. The training programme is for the purpose of providing the appropriate services according to their needs.

KTC is a training institution approved by the Minister of Finance and a letter was issued to DKGSB to certify that the disabled persons had participated in the training programme.

DKGSB is entitled to a double deduction on the expenses incurred to sponsor the training programme even though the disabled persons are not the employees of the company as mentioned in paragraphs 6.2.1, 6.2.3 and 6.2.4 (b) of this PR.

- 6.2.5 With effect from 1.7.1993, companies that contribute to the Human Resources Development Fund (HRDF) do not qualify for deduction under the Income Tax (Deductions For Approved Training) Rules 1992 [P.U. (A) 61/1992]. HRDF is a fund established with the aim of encouraging direct participation of the private sector in skills development. Companies in certain sectors are required to pay the levy to HRDF at the rate that has been determined. Companies that have made levy

contributions qualify for a training grant from HRDF to fund the training expenses to enhance the skills of their employees.

6.3 Single Deduction

Pursuant to the paragraph 34(6)(e) of the ITA -

- 6.3.1 With effect from YA 1992 and subsequent years, under this special provision, employers are allowed to claim a deduction for capital expenditure incurred by him for the purchase of any equipment necessary to assist disabled persons employed by him.
- 6.3.2 Effective from the YA 2008, the capital expenditure is extended to the expenses for alteration and renovation of a business premise which is incurred by an employer to enhance the convenience and comfort of disabled persons.
- 6.3.3 Both types of capital expenditure as stated in paragraphs 6.3.1 and 6.3.2 of this PR are capital expenditure which are not eligible for tax deduction under section 33(1) of the ITA.
- 6.3.4 However, under this special provision i.e. paragraph 34(6)(e) of the ITA, both types of capital expenditure are eligible for **single deduction**.
- 6.3.5 To qualify for this single deduction, the claimant employer must keep the following evidence -
- (a) the disabled persons are registered with the DSW and the “Kad OKU” are acquired as intended in paragraph 3.2 and 5.3 of this PR;
 - (b) original receipt for the equipment purchased; and
 - (c) supporting documents for expenses on the alteration and renovation of the business premises.
- 6.3.6 Therefore, any expenses which are eligible to be deducted under paragraph 34(6)(e) of the ITA, shall not be entitled to any deductions or capital allowances under section 33 or Schedule 3 of the ITA respectively as provided under section 34(8) of the ITA.

Example 4

Saudia Sdn Bhd (SSB) purchased a wheelchair costing RM6,500 for an employee paralysed below the waist to assist him to move about in the office. A “Kad OKU” from the DSW confirming the employee is a disabled person and the original receipt for the purchase of the wheelchair were kept for audit purposes.

The Company is entitled to a single deduction of RM6,500 and no claim of capital allowance should be allowed under Schedule 3 of the ITA.

Example 5

Jaco Sdn Bhd (JSB) has 10 disabled employees with hearing and physical problems. A total of 4 disabled employees have acquired Kad OKU while another 6 disabled employees have obtained certification from the SOCSO.

To enhance the convenience and comfort of disabled employees working in the factory, JSB incurred renovation expenses as follows –

	Renovation	RM
(a)	Route for access to canteen and to rest room	20,000
(b)	Lowering workplace height in the factory area where the disabled workers work	10,000
(c)	To provide a platform for wheelchairs in the factory area where the disabled workers work.	15,000
	Total capital expenditure	45,000

The capital expenditure amounting to RM45,000 that was spent by JSB on renovations is eligible for a single deduction. Therefore, JSB is not entitled to claim any deduction or



industrial building allowance under section 33 or Schedule 3 of the ITA respectively.

7. Claim Procedure

- 7.1 A claim for business expenses for the disabled persons as explained in this PR should be made in the Income Tax Return Form.
- 7.2 All supporting documents for business expenses for disabled persons are to be kept by the claimant for purposes of verification upon tax audit by the Inland Revenue Board of Malaysia.

8. Disclaimer

The examples in this PR are for illustration purposes only and are not exhaustive.

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