



INLAND REVENUE BOARD OF MALAYSIA

FOREST ALLOWANCES AND EXPENSES RELATING TO TIMBER EXTRACTION

PUBLIC RULING NO. 11/2014

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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 of Inland Revenue 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:

- (a) the type of capital expenditure that qualifies for forest allowances;
- (b) the computation of forest allowances;
- (c) the computation of forest charges on permanent cessation of the business of timber extraction and subsequent disposal of the forest; and
- (d) tax treatment in relation to logging expenses.

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) which related to this PR are subsection 33(1) and paragraph 39(1)(g), paragraphs 8, 28 to 32 and proviso to subparagraph 42(1) of Schedule 3.

3. Interpretation

The words used in this Ruling have the following meaning:

- 3.1 "Forest" in relation to a person, means a forest in respect of which he has a concession or a licence to extract timber therefrom, being a forest in use by him for the extraction of timber therefrom for the purposes of a business of his which consists wholly or partly of that extraction.
- 3.2 "Concession" means the right given by a government to a person for carrying on a specified activity in a designated area.
- 3.3 "Body of persons" means an unincorporated body of persons (not being a company) including a Hindu Joint Family but excluding a partnership.
- 3.4 "Person" includes a company, a body of persons, a limited liability partnership and a corporation sole.
- 3.5 "Disposal of forest" means the conveyance, assignment or surrendering of the concession or license for a valuable consideration or payment.
- 3.6 "Company" means a body corporate and includes any body of persons established with a separate legal identity by or under the laws of a territory outside Malaysia and a business trust.

4. Qualifying Forest Expenditure And Computation Of Allowances

- 4.1 A person who has been granted a concession or license and carries on a business of timber extraction is entitled to claim forest allowances on expenditure incurred on the construction in the forest of –
- (a) roads or buildings which are used for the purposes of the business of extracting timber and the rate of allowance is one-tenth (10%) of the expenditure incurred. As a concession, bridges or jetties constructed for such business would also qualify for the allowances specified; or
 - (b) buildings provided for the purposes of welfare or living accommodation of employees engaged in the extraction of timber and the rate of allowance is one-fifth (20%) of the expenditure incurred.
- 4.2 The roads or buildings constructed in the forest shall be of little or no value to any person if the activity of timber extraction ceases, except if they are used in connection with the business of timber from another forest or the working of a farm after timber have been extracted.
- 4.3 A person may make an election to treat the building as an industrial building which will qualify for an increased initial allowance at the rate of 40%. The election to claim industrial building allowances in the basis period for a year of assessment shall be made in Income Tax Return Form for that year of assessment. However, the election is not applicable if the relevant building is used by the employees who are directors or management, administrative or clerical staff of the business.
- 4.4 Only the expenditure incurred on buildings which are situated in the forest qualified to be given the allowances.

Example 1

Timberland Sdn Bhd was granted a timber concession by the Pahang state government in March 2014. The period of concession is for 10 years. Timberland started its business of timber extraction in September 2014. Normally, it closes accounts on 30 June every year, following the closing date of the holding company's accounts. Between July 2014 to September 2014, Timberland incurred expenditure on the construction of:

- (a) laterite road – RM60,000;
- (b) site office in the forest – RM100,000; and
- (c) workers' quarters – RM200,000.

Timberland is entitled to claim forest allowances on the above expenditure calculated as follows:

Year of Assessment	Laterite Road (10%) RM60,000	Site Office (10%) RM100,000	Workers' Quarters (20%) RM200,000
2015	6,000	10,000	40,000
2016	6,000	10,000	40,000
2017	6,000	10,000	40,000
2018	6,000	10,000	40,000
2019	6,000	10,000	40,000
2020	6,000	10,000	NIL
2021	6,000	10,000	NIL
2022	6,000	10,000	NIL
2023	6,000	10,000	NIL
2024	6,000	10,000	NIL

Example 2

Woodland Sdn Bhd ceased its activity of extracting timber and transferred its concession to Timberland Sdn Bhd in March 2014. Timberland Sdn Bhd did not construct any infrastructure in the forest. The laterite road, site office and workers' quarters had already been constructed by the former timber concessionaire, i.e. Woodland Sdn Bhd. Timberland Sdn Bhd agreed to pay compensation of RM400,000 to Woodland Sdn Bhd for all the infrastructures which are in the forest.

In this case, Timberland Sdn Bhd is not entitled to claim forest allowances on the amount of compensation paid in relation to the laterite road, site office and workers' quarters as the relevant infrastructures were not constructed by Timberland Sdn Bhd.

5. Permanent Cessation Of Timber Extraction Business

If a person ceases his business of timber extraction, the person will be given in the year of cessation of the business an allowance equivalent to the balance of the capital expenditure which has not been given. The person is not entitled to claim any forest allowances after the business has ceased.

Example 3

Same facts as in Example 1, except that the period of concession is for 5 years. Timberland ceases its business permanently in February 2019. The computation of forest allowances would be as follows:

Year of Assessment	Laterite Road (10%)	Site Office (10%)	Workers' Quarters (20%)
	RM60,000	RM100,000	RM200,000
2015	6,000	10,000	40,000
2016	6,000	10,000	40,000
2017	6,000	10,000	40,000
2018	6,000	10,000	40,000
2019	36,000	60,000	40,000

6. Disposal Of Forest And Computation Of Forest Charges

6.1 Where a person who has incurred qualifying forest expenditure disposes that forest, a forest charge shall be made to him in the year of disposal. The amount of forest charge is equivalent to the amount of forest allowances made to him for each year of assessment and on permanent cessation of the business of extracting timber. For the purpose of computing forest charge, the actual sale consideration received or receivable by the person is not taken into account.

Example 4

Same facts as in Example 1, except that Timberland ceased its business in December 2017 and the forest is disposed of to Agriland Sdn Bhd for a consideration of RM600,000. The computation of forest allowances and forest charges would be as follows:

Year of Assessment	Laterite Road (10%)		Site Office (10%)		Workers' Quarters (20%)	
	Allowance	Charge	Allowance	Charge	Allowance	Charge
2015	6,000		10,000		40,000	
2016	6,000		10,000		40,000	
2017	6,000		10,000		40,000	
2018	42,000	60,000	70,000	100,000	80,000	200,000

6.2 Where a forest is disposed of after the end of the basis period for a year of assessment in which the business has ceased permanently, the disposal is deemed to have been made in the basis period the business ceased.

Example 5

Same facts as in Example 4, except that Timberland disposed of the forest to Agriland in August 2018. In this case, the business of extracting timber had ceased permanently in the year of assessment 2018 but the disposal only takes place in the year of assessment 2019. For the purpose of computing forest charges, the disposal is deemed to have taken place in the year of assessment 2018. Thus, the computation of forest allowances and forest charges would be/ are the same as in Example 4.

7. Election To Spread Forest Charges

A person who has disposed of a forest may elect that the amount of forest charges be divided equally by the number of years of assessment for which allowances were made.

Example 6

Same facts as in Example 4, except that Timberland made an election to have the amount of forest charges spread back. The computation of forest allowances and forest charges would be as follows:

Year of Assessment	Laterite Road (10%) RM60,000		Site Office (10%) RM100,000		Workers' Quarters (20%) RM200,000	
	Allowance	Charge	Allowance	Charge	Allowance	Charge
2015	6,000	15,000	10,000	25,000	40,000	50,000
2016	6,000	15,000	10,000	25,000	40,000	50,000
2017	6,000	15,000	10,000	25,000	40,000	50,000
2018	42,000	15,000	70,000	25,000	80,000	50,000

Timberland is required to inform the Inland Revenue Board of Malaysia (IRBM) that it has made the election under proviso to paragraph 32(1), Schedule 3 of the ITA and it has to submit the amended tax computations (additional assessments for years of assessment 2015 to 2017) to the IRBM branch that handles its income tax file.

Example 7

Same facts as in Example 1, except that Timberland Sdn Bhd ceased its business in December 2022 and disposed of the forest to Agriland Sdn Bhd in March 2023 for a consideration of RM600,000. Timberland made an election to have the amount of forest charges spread back. The computation of forest allowances and forest charges would be as follows:

Year of Assessment	Laterite Road (10%) RM60,000		Site Office (10%) RM100,000		Workers' Quarters (20%) RM200,000	
	Allowance	Charge	Allowance	Charge	Allowance	Charge
2015	6,000	6,666	10,000	11,111	40,000	40,000
2016	6,000	6,666	10,000	11,111	40,000	40,000
2017	6,000	6,666	10,000	11,111	40,000	40,000
2018	6,000	6,667	10,000	11,111	40,000	40,000
2019	6,000	6,667	10,000	11,111	40,000	40,000
2020	6,000	6,667	10,000	11,111	NIL	NIL
2021	6,000	6,667	10,000	11,111	NIL	NIL
2022	6,000	6,667	10,000	11,111	NIL	NIL
2023	12,000	6,667	20,000	11,112	NIL	NIL

8. Logging Contactor Who Is Not A Licence-Holder

Normally a person who has been granted a timber concession or licence would engage a contractor to extract timber from the forest. An agreement would be entered by both parties and the logging contractor may have to make payments to the licence-holder.

8.1 Eligibility to claim forest allowance

A person who is not the holder of a concession or license is not entitled to claim forest allowances even if the person has incurred qualifying forest expenditure and may have made payments to the holder of the concession or license for the right to extract timber from the forest.

8.2 Payments Made By A Logging Contractor

- (a) Payment of royalty/premium paid to State Government in the name of the licence-holder

Royalty or premium paid to State Government by a logging contractor in the name of the licence-holder during extracting timber is allowed as a deduction from gross income. The payment is wholly and exclusively incurred in the production of the logging contractor's income and is allowed under subsection 33(1) of the ITA.

- (b) Purchase of timber from the licence-holder

Payment made to the licence-holder by a logging contractor for the purchase of timber is allowed as a deduction from gross income under subsection 33(1) of the ITA. Sale of the timber will be taken as part of the logging contractor's income.

- (c) Licence-fee

Licence-fee paid to any Forest Department by a logging contractor is a revenue expenditure and is allowed as a deduction from gross income under subsection 33(1) of the ITA.

- (d) Survey and demarcation fees

Survey and demarcation fees paid to any Forest Department by a logging contractor is a revenue expenditure and is allowed as a deduction from gross income under subsection 33(1) of the ITA.

- (e) Payment for the use of licence or permit

Any sum payable otherwise than to a State Government or with the approval of Minister, a statutory authority, or other body or fund which is substantially owned by the State Government or statutory authority for the use of the licence or permit to extract timber is not allowed as a deduction from gross income as provided under paragraph 39(1)(g) of the ITA.

- (f) Payment for the right to perform work, cut down, exploit and extract timber

Payment made by a logging contractor to a licence-holder for the right to perform work, cut down, exploit and extract timber is a capital expenditure and is not allowed as a deduction from gross income. If a lump sum payment is made or agreed to be paid by a logging contractor, the amount related to payment for the right to perform work, cut down, exploit and extract timber must be indicated.

(g) Commission to licence-holder

Commission paid by a logging contractor to obtain the timber concession is a capital expenditure and thereby is not allowed as a deduction from gross income.

(h) Fine or penalty

Fine or penalty paid to any Forest Department or authority by a logging contractor due to the infringement of the law is not allowed as a deduction from gross income as it is not incurred in the production of income.

Whether the payment made by a logging contractor is a revenue expenditure or capital expenditure would depend on the facts of each case.

9. One Business Or Separate Businesses

A person who carries on the activities of extracting timber in a forest and processing of sawn timber (operating a sawmill in the vicinity) is generally considered to be carrying on two separate businesses – one for timber extraction and the other for sawmill. The person is required to maintain separate records for each of his business source.

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