

Tajuk : 39. Deductions not allowed.

Tarikh Kuatkuasa :

Tarikh Tamat :

Kuatkuasa :

Kategori : Rujukan Perundangan\Akta Cukai Pendapatan 1967 - Seksyen\PART III - ASCERTAINMENT OF CHARGEABLE INCOME\Chapter 4 - Adjusted income and adjusted loss\

Rencana

Akta Cukai Pendapatan 1967

(Akta 53)

Pindaan Sehingga Akta 719 Tahun 2011

Tarikh Keluaran :

Title : Income Tax Act

Part : PART III - ASCERTAINMENT OF CHARGEABLE INCOME

Chapter : Chapter 4 - Adjusted income and adjusted loss

Section : 39. Deductions not allowed.

39. (1) Subject to any express provision of this Act, in ascertaining the adjusted income of any person from any source for the basis period for a year of assessment no deduction from the gross income from that source for that period shall be allowed in respect of-

(a) domestic or private expenses;

(b) any disbursements or expenses not being money wholly and exclusively laid out or expended for the purpose of producing the gross income;

(c) any capital withdrawn or any sum employed or intended to be employed as capital;

(d) any amount in respect of any payment to any pension, provident, savings, widows, widowers and orphans or other similar fund or society which is not an approved scheme;

History

Paragraph 39(1)(d) is amended by Act 719 of 2011 section 9, by inserting after the word "widows" the word ", widowers", has effect for the year assessment 2011 and subsequent years of assessment.

(e) any expenditure incurred in relation to a business, being expenditure which is-

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[Am.
Act 241;
Act 293;
Act 309;
Act A643;
Act 364;
Act 421
Act 644.)

(i) qualifying mining expenditure for the purposes of Schedule 2;

(ii) qualifying expenditure, qualifying agriculture expenditure or qualifying forest expenditure for the purposes of Schedule 3;

History

Paragraph 39(1)(e) is amended by s7(a), Act 644 of 2005 by inserting the word "or" at the end of subparagraph (ii) and shall have effect for the year of assessment 2006 and subsequent years of assessment.

(iii) qualifying prospecting expenditure for the purposes of Schedule 4 and which but for this paragraph would be deductible in ascertaining the adjusted income from the business.

(iv) (*Repealed by Act 644 - year 2005*)

History

Paragraph 39(1)(e) amended by Act 644 of 2005 by deleting subparagraph (iv) and shall have effect for the year of assessment 2006 and subsequent years of assessment.

Paragraph 39(1)(h) formerly reads:

"(iv). qualifying farm expenditure for the purposes of Schedule 4A".

(f) interest or royalty derived from Malaysia from which tax is deductible under section 109, if tax has not been deducted therefrom and paid to the Director General in accordance with subsection (1) of that section:

Provided that—

(i) this paragraph shall not apply if the payer has paid the amount referred to in subsection (2) of that section; and

(ii) where such tax is deducted or such amount is paid after the due date for the furnishing of a return for a year of assessment that relates to such payment, the tax or amount so paid shall not prejudice the imposition of penalty under subsection 113(2) if a deduction on such payment is made in such return or is claimed in the information given to the Director General in arriving at the adjusted

income of the payer;

History

Proviso to Paragraph 39(1)(f) is amended by Act 719 of 2011 Section 9, has effect effect from 1 January 2011 for the year of assessment 2011 and subsequent years of assessment. The proviso previously read:

"Provided that this paragraph shall not apply if the payer has paid the amount referred to in subsection (2) of that section."

Paragraph 39(1)(f) amended by Act 557 of 1997 s9(a), by substituting for the semicolon at the end of the paragraph a colon and inserting thereafter the following proviso:

" Provided that this paragraph shall not apply if the payer has paid the amount referred to in subsection (2) of that section.",shall have effect for year of assessment 1997 and subsequent years of assessment.

(g) any sum, by whatever name called, payable (otherwise than to a State Government or with the approval of the Minister, a statutory authority, or other body the capital or fund of which is wholly or substantially owned by a State Government or a statutory authority) for the use of a licence or permit to extract timber from a forest in Malaysia;

(h) *deleted*

History

Paragraph 39(1)(h) is deleted by Act 619 of 2002 s5, with effect from year of assessment 2002. Paragraph 39(1)(h) formerly reads:

" (h) any sum paid by way of a bonus to an employee in excess of two twelfth of his wages of salary;"

Paragraph 39(1)(h) inserted by Act 578 of 1998 s10, deemed to have come into force on 17 October 1997.

(i) any contract payment from which tax is deductible under section 107A, if tax has not been deducted therefrom and paid to the Director General in accordance with subsection(1) of that section:

Provided that—

(i) this paragraph shall not apply if the

payer has paid the amount referred to in subsection (2) of that section; and

(ii) where such tax is deducted or such amount is paid after the due date for the furnishing of a return for a year of assessment that relates to such payment, the tax or amount so paid shall not prejudice the imposition of penalty under subsection 113(2) if a deduction on such payment is made in such return or is claimed in the information given to the Director General in arriving at the adjusted income of the payer;

History

Proviso to Paragraph 39(1)(i) is amended by Act 719 of 2011 Section 9, has effect effect from 1 January 2011 for the year of assessment 2011 and subsequent years of assessment. The proviso previously read:

"Provided that this paragraph shall not apply if the payer has paid the amount referred to in subsection (2) of that section."

Paragraph 39(1)(i) amended by Act 557 of 1997 s9(b), by substituting for the semicolon at the end of the paragraph a colon and inserting thereafter the following proviso:

" Provided that this paragraph shall not apply if the payer has paid the amount referred to in subsection (2) of that section.",shall have effect for year of assessment 1997 and subsequent years of assessment.

(j) any payments from which tax is deductible under section 109B, if tax has not been deducted therefrom and paid to the Director General in accordance with subsection (1) of that section:

Provided that—

(i) this paragraph shall not apply if the payer has paid the amount referred to in subsection (2) of that section; and

(ii) where such tax is deducted or such amount is paid after the due date for the furnishing of a return for a year of assessment that relates to such payment, the tax or amount so paid shall not prejudice the imposition of penalty under subsection 113(2) if a deduction on such payment is made in such return or is claimed in the information given to the Director General in arriving at the adjusted income of the payer;

History

Proviso to Paragraph 39(1)(j) is amended by Act 719 of 2011 Section 9, has effect effect from 1 January 2011 for the year of assessment 2011 and subsequent years of assessment. The proviso previously read:

"Provided that this paragraph shall not apply if the payer has paid the amount referred to in subsection (2) of that section."

Paragraph 39(1)(j) is amended by Act 693 of 2009 s15 by inserting after the words "section 109B" the words "or 109F", come into force on 1 January 2009.

Paragraph 39(1)(j) amended by Act 557 of 1997 s9(c), by substituting for the semicolon at the end of the paragraph a colon and inserting thereafter the following proviso:

" Provided that this paragraph shall not apply if the payer has paid the amount referred to in subsection (2) of that section."

,shall have effect for year of assessment 1997 and subsequent years of assessment.

(k) any sum paid by way of rentals in respect of a motor vehicle, other than a motor vehicle licensed by the appropriate authority for commercial transportation of goods or passengers, in excess of fifty thousand ringgit:

Provided that if the motor vehicle has not been used by any person for any purpose prior to the rental and the total cost of the motor vehicle does not exceed one hundred and fifty thousand ringgit, any sum paid by way of rental in excess of one hundred thousand ringgit:

Provided further that the maximum amount of deduction in respect of the rentals of such motor vehicle in the year of assessment and subsequent years of assessment shall not in the aggregate exceed fifty thousand ringgit or one hundred thousand ringgit, as the case may be, in respect of that motor vehicle;

History

Paragraph 39(1)(k) amended by Act 619 of 2002 s6(b), by substituting for paragraph 39(1)(k), shall have effect for the year of assessment 2002 and subsequent years of assessment. Paragraph 39(1)(k) formerly reads as follows:

" (k) any sum paid by way of rentals in respect of a motor vehicle, other than a motor vehicle licensed by the appropriate authority for commercial transportation of goods or passengers, in excess of fifty thousand ringgit

Provided that the maximum amount of deduction of rentals in respect of such motor vehicle in the year of assessment and subsequent years of assessment shall not in the aggregate exceed fifty thousand ringgit in respect of the said motor vehicle;".

Paragraph 39(1)(k) amended by Act 608 of 2000 s7, by substituting for the words "(other than a lorry, truck, bus, mini bus, van, station wagon or taxi cab licensed or permitted, by the appropriate authority, for commercial transportation of goods or passengers)" with the words ", other than a motor vehicle licensed by the appropriate authority for commercial transportation of goods or passengers,", shall have effect for the year of assessment 2001 and subsequent years of assessment.

Section 39 amended by Act 451 of 1991 s9, by substituting for the word "twenty-five" wherever it appears in paragraph (k) of subsection (1) the word "fifty", shall have effect for the year of assessment 1991 and subsequent years of assessment.

(l) A sum equal to fifty percent of any expenses incurred in the provision of entertainment including any sums paid to an employee of that person for the purpose of defraying expenses incurred by that employee in the provision of entertainment:

History

Paragraph 39(1)(l) amended by Act 631 of 2003 by substituting the word "any expenses" the word "A sum equal to fifty percent of any expenses", shall have effect for the year of assessment 2004 and subsequent years of assessment. Previously, the whole amount of expenses is not allowable expenses.

Provided that this paragraph shall not apply to the following expenses:

- (i) the provision of entertainment to his employees except where such provision is incidental to the provision of entertainment for others;
- (ii) the provision of entertainment by a person who carries on a business which consists of or

includes the provision for payment of entertainment to clients or customers of that business and that entertainment is provided for payment by the clients or customers in the ordinary course of that business;

(iii) the provision of promotional gifts at trade fairs or trade or industrial exhibitions held outside Malaysia for the promotion of exports from Malaysia;

(iv) the provision of promotional samples of products of the business of that person;

History

Subparagraph (iv) of proviso to paragraph 39(1)(l) amended by Act 531 of 1995 s7(a), by deleting the word "or" at the end of subparagraph (iv), shall have effect for the year of assessment 1995 and subsequent years of assessment.

(v) the provision of entertainment for cultural or sporting events open to members of the public, wholly to promote the business of that person;

(vi) the provision of promotional gifts within Malaysia consisting of articles incorporating a conspicuous advertisement or logo of the business; or

History

Subparagraph (vi) of proviso to paragraph 39(1)(l) inserted by Act 531 of 1995 s7(b), shall have effect for the year of assessment 1995 and subsequent years of assessment.

(vii) the provision of entertainment which is related wholly to sales arising from the business of that person: or

History

Subparagraph (vii) of proviso to paragraph 39(1)(l) is inserted by Act 631 of 2003, shall have effect for the year of assessment 2004 and subsequent years of assessment.

(viii) the provision of a benefit or amenity to an employee consisting of a leave passage to facilitate a yearly event within Malaysia which

involves the employer, the employee and the immediate family members of that employee;
or

History

Subparagraph 39(1)(l)(viii) is inserted by s13(a), Act 661 of 2006 and shall have effect for the year of assessment 2007 and subsequent years of assessment.

(m) notwithstanding subparagraph (l)(i) and subject to subparagraph (l)(viii), any expenditure incurred in the provision of a benefit or amenity to an employee consisting of a leave passage within or outside Malaysia.

History

Paragraph (m) is amended by s13(b), Act 661 of 2006 by inserting after the words "(l)(i)" the words "and subject to subparagraph (l)(viii)" shall have effect for the year of assessment 2007 and subsequent years of assessment.

(2) It is hereby declared that section 33, except in so far as it relates to expenses of the kind specified in subsection (1) (a) to (d) thereof, is not an express provision of this Act within the meaning of this section.