



GUIDELINES ON THE APPLICATION PROCEDURE FOR A SPECIAL DEDUCTION IN RESPECT OF A QUALIFYING RESEARCH AND DEVELOPMENT ACTIVITY

1. INTRODUCTION

The purpose of this guideline is to explain the:

- 1.1 Application procedure for an approved qualifying research and development (R&D) activity that qualifies for a special deduction under section 34A of the Income Tax 1967 (ITA); and
- 1.2 Requirement to complete the relevant forms for submission when a claim is made for a –
 - (a) Deduction under a special provision by virtue of subsection 34(7) of the ITA (single deduction) for expenditure, non-capital in nature; or
 - (b) a special deduction under section 34A of the ITA (double deduction) for in-house research expenditure, non-capital in nature; and
 - (c) a special deduction under section 34B of the ITA (double deduction), for –
 - (i) contribution to an approved research institute; or
 - (ii) payment for use of the services of an approved research institute or approved research company, or an R&D company or a contract R&D company.

in respect of a qualifying R&D activity undertaken by a company resident in Malaysia.

2. RESEARCH AND DEVELOPMENT

The definition of R&D under section 2 of the ITA was amended effective 28.12.2018.

2.1 Definition

“Research and development” means any systematic, investigative and experimental study that involves novelty or technical risk carried out in the field of science or technology with the object of acquiring new knowledge or using the results of the study for the production or improvement of materials, devices, products, produce, or processes, but does not include –

- (a) quality control or routine testing of materials, devices or products;
- (b) research in the social sciences or the humanities;
- (c) efficiency surveys or management studies;
- (d) routine data collection;
- (e) market research or sales promotion;
- (f) routine modifications or changes to materials, devices, products, processes or production methods; or
- (g) cosmetic modifications or stylistic changes to materials, devices, products, processes or production methods.

2.2 Qualifying criteria

If the R&D activity fulfils the definition of R&D and its qualifying criteria under section 2 of the ITA, an incentive can be claimed as -

- (a) a special provision under subsection 34(7) of the ITA (**single deduction**); or
- (b) a special deduction under section 34A of the ITA (**double deduction**) which have to be approved by the Minister; or

- (c) a special deduction under section 34B of the ITA (**double deduction**) which have to be approved by the Minister.

2.3 Qualifying R&D activity

An R&D activity must jointly fulfil the following criteria to qualify as a qualifying R&D activity –

- (a) have an objective to –
 - (i) acquire new knowledge;
 - (ii) create new products or processes; or
 - (iii) improve existing products or processes.
- (b) be involved in something new (novelty) or technical risk; and
- (c) be a systematic, investigative and experimental (SIE) study in a field of science or technology.

For further information on the above qualifying criteria and special deductions, please refer to:

- (i) Public Ruling No. 5/2020 titled Tax Treatment of Research and Development Expenditure, Part I – Qualifying Research and Development Activity; and
- (ii) Public Ruling No. 10/2021 titled Tax Treatment of Research and Development Expenditure, Part II – Special Deductions.

which can be obtained from the official portal of the Inland Revenue Board of Malaysia (IRBM) at www.hasil.gov.my.

3. QUALIFYING RESEARCH AND DEVELOPMENT EXPENDITURE

An R&D project or activity that is carried out by a company may be approved if the R&D definition and its qualifying criteria as explained in paragraph 2 of this guideline are fulfilled. The expenditure allowed as a special deduction is summarized as follows:

Relevant Provisions of the ITA	R&D Expenditure Allowed as a Special Deduction
<p>Section 34A (double deduction)</p>	<p>(a) Company itself carries out an in-house R&D activity within its business. The approving authority for an approved qualifying R&D activity is the Director General of the Inland Revenue Board of Malaysia (DGIR).</p> <p>(b) Pursuant to section 5 of the Delegation of Powers Act 1956, the Minister of Finance has delegated powers under section 34A of the ITA to the DGIR and the Deputy DGIR.</p> <p>(c) An allowable deduction of twice the amount of expenditure incurred on an approved R&D activity (not being capital expenditure) can be made against the gross business income.</p>
<p>Section 34B (double deduction)</p>	<p>The amount of allowable deductions is deducted from the business gross income is twice the amount of expenditure (not being capital expenditure) incurred on an approved qualifying R&D activity.</p> <p>(i) Contribution in cash to research institute approved by Minister;</p> <p>(ii) Payment for the use of services of an approved research institute or research company approved by Minister;</p>

Relevant Provisions of the ITA	R&D Expenditure Allowed as a Special Deduction
	(iii) Payment for the use of services of a research and development company or a contract research and development company.
Subsection 34(7) (single deduction)	A company that carries out an in-house R&D activity within its business, or uses the services of a service provider but does not claim a special double deduction under sections 34A or 34B of the ITA may claim a single deduction for the qualifying revenue expenditure incurred for a qualifying R&D activity.

The flowchart for special deduction application is as shown in Appendix 1.

4. APPLICATION FOR A SPECIAL DEDUCTION

4.1 A company has to comply with the necessary application procedure including the completion and submission of the following relevant forms before it is allowed to make a claim for a special deduction.

Form	Application Criteria
Borang 1 (Pin.1/2021) - Application for an Approved Research and Development Activity under Section 34A of ITA	(a) A company that carries out an in-house R&D activity within its business. (b) Each completed Borang 1 is to be submitted together with the relevant supporting documents. Borang 1 is also applicable to a pioneer company resident in Malaysia which chooses to make a claim under subsection 34A(4A) ITA. (c) The due date for submission of the completed Borang 1 is as follows:

Form	Application Criteria
	<p><u>New Project</u></p> <p>(i) Not less than six (6) months before the end of the financial accounting year of the business, if the R&D activity commenced in the first half of the first financial accounting period of the business; and/or</p> <p>(ii) Not later than one (1) month after the end of the financial accounting period of the business, if the R&D activity commenced in the second half of the financial accounting period of the business.</p> <p><u>Extension project</u></p> <p>(i) Project duration is expected more than twelve (12) months.</p> <p>(ii) Not less than six (6) months before the end of the financial accounting period of the business.</p>
<p>Borang 2 (Pin.1/2021) - Claim for Double Deduction on Research and Development Expenditure under Section 34A of ITA</p>	<p>(a) This form is to be completed after the certificate of approval has been issued by the DGIR.</p> <p>(b) The due date for submission of the completed Borang 2 is as follows:</p> <p>(i) Certificate of approval issued before the due date of submission of Income Tax Return Form (ITRF).</p> <p>Borang 2 is submitted on the same date of submission of the relevant ITRF</p>

Form	Application Criteria
	<p>(ii) Certificate of approval issued after the due date of submission of ITRF</p> <p>Borang 2 is submitted not more than three (3) months from the date the certificate of approval is issued by the DGIR.</p>
<p>Borang 3 (Pin.1/2020) – Claim for Double Deduction under Section 34B of ITA</p> <p>Note: Borang 3 has replaced Borang DD2/1995 (Pin.2)</p>	<p>(a) The completed form, Borang 3 is to be completed by a company that –</p> <p>(i) Contributes cash to an approved research institute;</p> <p>(ii) Makes a payment for the use of services of an approved research company or approved research institute; and</p> <p>(iii) Makes a payment for the use of services of an R&D company or a contract R&D company.</p> <p>(b) The original copy of the Borang 3 (together with supporting documents) must be kept by the company and should be furnished upon an audit by IRBM.</p>

Form	Application Criteria
<p>Borang 4 (Pin.1/2021)- Claim for a single deduction under subsection 34(7) of ITA</p>	<p>(a) The completed Borang 4 is to be submitted by a company that carries out in-house R&D activities or uses the services of R&D service providers (including outside Malaysia) and does not claim a double deduction under sections 34A or 34B of the ITA, but intends to claim a single deduction under subsection 34(7) of ITA.</p> <p>(b) The submission of the completed form (Borang 4) is within 30 days after the due date for submission of the relevant ITRF.</p>

4.2 The application form (Borang 1) and the forms to claim a special deduction (Borang 2 and Borang 4) are to be submitted to the:

Ketua Pengarah Hasil Dalam Negeri
Lembaga Hasil Dalam Negeri Malaysia
Jabatan Dasar Percukaian
Aras 17, Menara Hasil
Persiaran Rimba Permai, Cyber 8
63000 Cyberjaya Selangor.

[For the attention of: Pengarah Jabatan Dasar Percukaian]

4.3 Illustrations of the due date for submission of the relevant forms

Example 1 - Due Date of Submission of Borang 1

KOSASS (Malaysia) Sdn Bhd, a manufacturer of car radios in Selangor commences two (2) new R&D projects from 1.3.2020. These 2 R&D projects fulfill the definition of R&D and its qualifying criteria. The company intends to claim a double deduction under section 34A of the ITA. The company also

has an additional R&D project (new project) which commences in September 2020. The company closes its financial accounts on 31 December annually. The company is required to submit a copy of the form, Borang 1 for each R&D project –

- (a) not less than 6 months before the end of the financial accounting year of the business (31.12.2020) i.e. not less than 30.6.2020 in respect of the two (2) new R&D projects that commences on 1.3.2020; and
- (b) not later than one month after the end of the financial accounting period of the business i.e not later than 31.1.2021 in respect of the additional R&D project (new project) that commences in the month of September 2020.

Example 2 – Due Date of Submission of Borang 1

Cyberzone Sdn Bhd is a manufacturer of electronic components. The company has a project that fulfills the definition of R&D and its qualifying criteria which commences from the month of August 2020. The company intends to claim a double deduction in the form of a double deduction under section 34A of the ITA. The company closes its financial accounts on 31 December annually.

The company is required to submit a copy of the form, Borang 1 for the R&D project not later than one month (31.1.2021) after the close of the financial accounting period (31.12.2020) in respect of the R&D project that commences in August 2020.

Example 3 – Due Date of Submission of Borang 1

Syarikat Asta Impiana Sdn Bhd undertakes a R&D project (develop a new product) and activity commences on 01.04.2020 and completed on 15.11.2021. The company closes its financial accounts on 31 December annually.

The company is required to submit a copy of the form, Borang 1 for the R&D project not less than 6 months before the end of the financial accounting year

of the business (31.12.2020) i.e. not later than 30.6.2020 (first year project) and 30.06.2021 (second year for an extension project).

Example 4 – Due Date of Submission of Borang 2

Same facts as in Example 1 except that the DGIR approves all the 3 R&D activities carried out by the company vide certificates of approval dated 1.3.2021. KOSASS (Malaysia) Sdn Bhd had submitted the ITRF for the year of assessment 2020 on 31.7.2021.

The company has to submit Borang 2 to IRBM on the date of submission of the ITRF for the year of assessment 2020 i.e on 31.7.2021. Therefore, the company would be allowed a double deduction under section 34A of the ITA for the year of assessment 2020.

Example 5 – Due Date of Submission of Borang 2

Same facts as in Example 2 except that the DGIR approves all the 3 R&D activities carried out by the company vide certificates of approval dated 1.8.2021. The company filed its ITRF for the year of assessment 2020 on 31.7.2021.

The company is required to complete and submit the form, Borang 2 to the IRBM not later than 31.10.2021 (i.e not more than 3 months from the certificate of approval dated 1.8.2021). As the certificate of approval for the R&D project was issued only after the lodgement of the relevant ITRF, the company would be allowed to submit an application to amend the assessment for the year of assessment 2020.

The company is not allowed to claim a special deduction in the form of a double deduction under section 34A of the ITA before the certificate of approval is issued by the DGIR. Failure to adhere to this condition may result in an imposition of penalty under section 113 of the ITA for making a false claim of an expense that has not been approved.

Example 6 – Computation of Adjusted Income and Due Date of Submission of Borang 3

Napuh Hypertune Sdn Bhd (NHSB) appoints Syarikat Seven Diamond Sdn Bhd (SDSB - an R&D service provider, which has been approved as an R&D company by MIDA) to carry out an R&D activity in respect of software engineering. On 1.2.2020, NHSB made a payment of RM250,000 to SDSB for the services rendered in February 2020. NHSB closes its financial accounts on 31 March annually.

For the year of assessment 2020, NHSB would be allowed a special deduction in the form of a double deduction under section 34B of the ITA if the R&D activity that is carried out by SPSB fulfils the definition of R&D and its qualifying criteria. The completed Borang 3 (together with supporting documents) must be kept and should be furnished by NHSB when an audit is conducted by IRBM.

Computation of Adjusted Income – Year of Assessment 2020

	<u>RM</u>	<u>RM</u>
Net profit		8,000,000
Add: Non-allowable expenses:		
i. Depreciation	500,000	
ii. Qualifying R&D expenses	<u>250,000</u>	<u>750,000</u>
		8,750,000
Less: Allowable expenses:		
Double deduction under section 34B of the ITA (RM250,000 X 2)		<u>500,000</u>
Adjusted income		<u>8,250,000</u>

Example 7 – Due Date of Submission of Borang 4

K7 Biotech Sdn Bhd, a biotechnology company undertakes an R&D activity (in-house) on 1.4.2020 and the company does not intend to claim a double deduction under section 34A of the ITA. The R&D activities undertaken by the company fulfils the definition of R&D and its qualifying criteria. The company decided to make a claim under subsection 34(7) of the ITA. The company closes its financial accounts on 31 December annually.

The company is required to submit the completed form, Borang 4 to the IRBM within 30 days after the due date for submission of the relevant ITRF i.e before 30.08.2021.

- 4.4 Effective 1.1.2021, if the payment for R&D expenditure **undertaken outside Malaysia (outsourced)** is **more than 30%** of the total allowable R&D expenditure, the total expenses incurred will **not qualify for a double deduction**. However the whole of expenses on R&D incurred shall be allowed as a single deduction under subsection 34A(4) of ITA.

Example 8

Nilai Hi-Chem Sdn Bhd is a petrochemical company and its activities fulfils the definition of R&D and its qualifying criteria. The expenditure incurred and claimed by the company on an approved qualifying R&D activity is as follow

–

Qualifying R&D Expenditure	RM
(i) Attend relevant training on R&D activity (travelling cost to Dubai)	200,000
(ii) Raw materials	550,000
(iii) Manpower	350,000
(iv) Technical services (outsourced to R&D co. in India)	700,000
(v) Maintenance	100,000
(vi) Transportation cost	100,000
Total allowable expenditure	2,000,000

The payment for technical services undertaken in India (outsourced)	RM700,000
Qualifying expenditure for double deduction is restricted to RM600,000	$RM2,000,000 \times 30\%$ $= RM600,000$

The whole claim does not qualify for a double deduction as the payment for the technical service (outsourced to R&D co. in India) is more than 30% (RM600,000) of the total allowable expenditure. Meanwhile as the company has fulfilled the definition of R&D under section 2 of ITA, therefore the company is qualifies for a single deduction for the whole of the qualifying R&D expenditure under subsection 34A(4) of ITA.

- 4.5 All claims for a special deduction for a qualifying R&D activity should be in accordance to –
- (a) Sections 34A, 34B or subsection 34(7) of the ITA, whichever is applicable;

- (b) Public Ruling No. 5/2020 titled Tax Treatment of Research and Development Expenditure, Part I – Qualifying Research and Development Activity;
- (c) Public Ruling No. 10/2021 titled Tax Treatment of Research and Development Expenditure, Part II – Special Deductions; and
- (d) this Guideline.

- 4.6 Should IRBM require any further explanation, the company claiming a special deduction for its R&D project activity may be required (where necessary) to be present at the IRBM office to deliver a presentation in respect of the R&D project / activity that has been undertaken.
- 4.7 IRBM reserves the right to examine the qualifying R&D expenses claimed by a company during an audit, notwithstanding that the said expenses have already been claimed in the tax computation for the relevant year concerned. The actual amount of qualifying R&D expenses would be determined by the IRBM when an audit is conducted.
- 4.8 An applicant can only claim R&D expenditure incurred during the period from the commencement to the completion of the approved R&D project. Commencement of a project means the date the specific research activity commences. Completion of a research project means the date whereby testing of a prototype product has been completed or the principles of a new production process has been established.
- 4.9 If a qualifying R&D activity/project that has been granted an approval is postponed/abandoned or terminated within the approval period, the company concerned is required to officially inform the DGIR. The approval granted would be deemed withdrawn effective from the date of termination or abandonment of the R&D activity/project.

4.10 Written appeals in respect of rejected applications for an approved R&D activity/project must be made to the DGIR within 30 days from the date of the rejection letter.

INLAND REVENUE BOARD OF MALAYSIA

Date : 29.12.2021

LHDN.AG.600-12/1/5

FLOW CHART ON THE PROCEDURE TO CLAIM A DOUBLE DEDUCTION UNDER SECTION 34A OF THE ITA OR 34B OF THE ITA, OR A SINGLE DEDUCTION UNDER SUBSECTION 34(7) OF THE ITA FOR A QUALIFYING R & D ACTIVITY

Company

Carries on **in-house** R & D activity in relation to the business or makes a **contribution** to an approved research institute or **outsources** the R & D activity in relation to its business to an approved service provider

R & D activity **fulfills the definition of R & D** and all the following **qualifying R & D criteria** –
(a) have an objective to –
 (i) acquire new knowledge;
 (ii) create new products or processes; or
 (iii) improvement of existing products or processes.
(b) Involved in something new (novelty) or technical risk;
(c) Systematic, investigative and experimental (SIE) study in a field of science or technology.

Does the company intend to claim for a special double deduction for the R & D activity?

Yes

Section 34A of the ITA

No

No

Section 34B of the ITA

Yes

Submit application form **Borang 1** to the Tax Policy Department, IRBM to seek approval for the R&D activity by the due date of submission

Form **Borang 3** has to be completed when a claim for the deduction is made. For purposes of audit by the IRBM, the Borang 3 would have to be furnished upon an audit by IRBM

Borang 2 has to be completed and submitted on the same date of submission of the relevant ITRF or not more than three (3) months from the date the certificate of approval is issued by the DGIR.

Company may choose to claim a single deduction under **subsection 34(7) of the ITA**. The due date for submission of the completed form (**Borang 4**) within 30 days after the due date for submission of the relevant ITRF.