

Economic Stimulus Package 3.0 Special Deduction On Rental Reduction Offered To Small And Medium Enterprises Tenants

Key Takeaway



- ❖ Eligibility criteria for the special deduction
- ❖ Mechanism of the special deduction

In the supplementary stimulus package announced on 6 April 2020 which was targeted to support small and medium enterprises (SMEs), the Prime Minister urged owners of private business premises to provide rental reduction or waiver to tenants that consist of SMEs.

Landlords of business premises that offer reduction or relief of rental payment to SMEs tenants of at least 30% of the existing rental rate from April 2020 to June 2020, are allowed to claim a special deduction equivalent to the rental reduction.

The Inland Revenue Board of Malaysia (IRBM) has issued a 'Frequently Asked Questions' (FAQ) on this matter on 25 April 2020 and the following is a summary of the mechanism of the special deduction.



1. Eligibility

Any taxpayers (corporate, individual, cooperative or other business and non-business entities) renting out their business premises to any qualified SMEs tenants.

2. Conditions of eligibility

- The rented premises must be used by the tenant for purpose of carrying out his business
- The landlord must be a taxpayer with rental income under subsection 4(a) and subsection 4(d) Income Tax Act (ITA) 1967
- The rental reduction should be at least 30% of the existing rental rate of the determined period, ie. from April 2020 to June 2020

3. Definition of SME

a) General

The definition of SME for this special deduction purpose follows SME Corporation Malaysia's Guideline, as follows:

Category	Micro	Small	Medium
Manufacturing	Sales turnover of less than RM300,000 OR employees of less than 5	Sales turnover from RM300,000 to less than RM15 million OR employees from 5 to less than 75	Sales turnover from RM15 mil to not exceeding RM50 million OR employees from 75 to not exceeding 200
Services and Other Sectors	Sales turnover of less than RM300,000 OR employees of less than 5	Sales turnover from RM300,000 to less than RM3 million OR employees from 5 to less than 30	Sales turnover from RM3 million to not exceeding RM20 million OR employees from 30 to not exceeding 75

A business just has to fulfil either one criterion across the different sizes of operation to qualify as a SME. For example, a company which have sales turnover of RM100 million is not considered as SME. However, if the same company have only 150 full-time employees, the company would still be considered as SME.

b) Exclusion

Companies which are excluded from National SME definition, hence not eligible for the special deduction, are:

- i. Entities that are public-listed on the main board; and
- ii. Subsidiaries of:
 - Publicly-listed companies on the main board;
 - Multinational corporations (MNCs);
 - Government-linked companies (GLCs);
 - Syarikat Menteri Kewangan Diperbadankan (MKDs); and
 - State-owned enterprises.

c) Related companies

A company (landlord) will still qualify for the special deduction even if the premises is rented to a related company (tenant), so long as the tenant fulfils the definition of SME as above.

d) Cut-off date used in determining the SME criteria of the tenant

SME Criteria	Period
Annual sales turnover	<p>Annual sales turnover at the end of basis period of preceding year of assessment.</p> <p>Note: If SME's basis period ended on 31 December 2019, sales turnover for that period must be used.</p>
Number of full-time employees	Number of full-time employees at the end of basis period of a year of assessment, before or on 1 April 2020.

4. Meaning of 'business premises'

- All premises used for carrying out a business, eg, office, workshop, warehouse, childcare and rented lot/bazaar/booth/stall.
- Rental of a residential house used for both residential and business activities, is excluded.
- Special deduction is not applicable to rental of other than 'premises' such as machines, motor vehicles, parking spaces, telecommunication towers, etc.



5. Quantum of special deduction

- Subject to fulfilling the conditions of eligibility and the definition of SME, a special deduction of equivalent to the amount of monthly rental reduction offered by the landlord to the eligible SME tenants.
- Even if the landlord reduces the rental amount at a different rate every month, the company is still eligible for the special deduction provided that reduction amount should not be less than 30% for each eligible month.
- If in any of these eligible months, the rental reduction is less than 30%, then the company is not eligible to claim the special deduction for that particular month/months.

6. Calculation of special deduction

Example:

A Sdn. Bhd rents a shop lot to B which is an eligible SME for RM5,000 a month (RM60,000 yearly). A Sdn. Bhd. has agreed to offer rental reduction to B for the month April, May and June 2020 of RM2,500 a month.

		Without special deduction (RM)	With special deduction (RM)
Monthly rental income		5,000	5,000
Annual rental income		60,000	60,000
Rental reduction of 50% for April, May and June 2020	RM5,000 x 50% x 3 months	(7,500)	(7,500)
Annual gross rental income		52,500	52,500
Special deduction ¹	RM2,500 x 3 months		(7,500)
Taxable income		52,500	45,000
Tax payable at 24% ²		12,600	10,800

¹ Assuming no other allowable expenses

² Current corporate tax rate

Total tax savings to be enjoyed by the landlord is as follows:

Tax savings = RM12,600 – RM10,800 = RM1,800.

For other taxpayers such as individuals, the tax savings is according to the taxpayer's income tax bracket.

7. Rental already received in full for the months of April 2020 to June 2020

The landlord who has received the rental payment for April, May and June 2020 in advance can still claim the special deduction, provided that the landlord offers a rental reduction according to the conditions above.

8. Supporting documents required

The supporting documents required to be kept by the taxpayers (landlords) who claim this special deduction are:

- i. Valid tenancy agreement;
- ii. Rental income statement;
- iii. Details of the tenant as SME such as number of business registration, tax file number etc.; and
- iv. Details of the rental reduction.

*Items (iii) & (iv) will have to be provided in Working Sheet (HK) of Company Return Form.

For the full FAQ, please visit:

http://lampiran1.hasil.gov.my/pdf/pdfam/FAQ_PRE3.0_RENTAL_REDUCTION_1.pdf

Our Comments

The rental reduction initiated by the taxpayer coupled with the special deduction, would probably result in a lower tax incidence in some taxpayers' case, while others instead may see an actual or tax rental loss.

This special deduction is favourable to taxpayers whose rental income qualifies as a business source under subsection 4(a) ITA 1967, as the taxpayer's current year business loss (if any) can be utilised to set off against income from all sources in the current year. Any unutilised losses can be carried forward for a consecutive period of 7 years of assessment (YA) to be utilised against income from any other business source.

However, taxpayers whose rental income is assessed under subsection 4(d) ITA 1967 will see lesser or no benefits, as rental loss can only be set off against the rental income of other properties and cannot be deducted against the aggregate income from other sources. Neither can the rental loss be carried forward to subsequent YAs.



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