

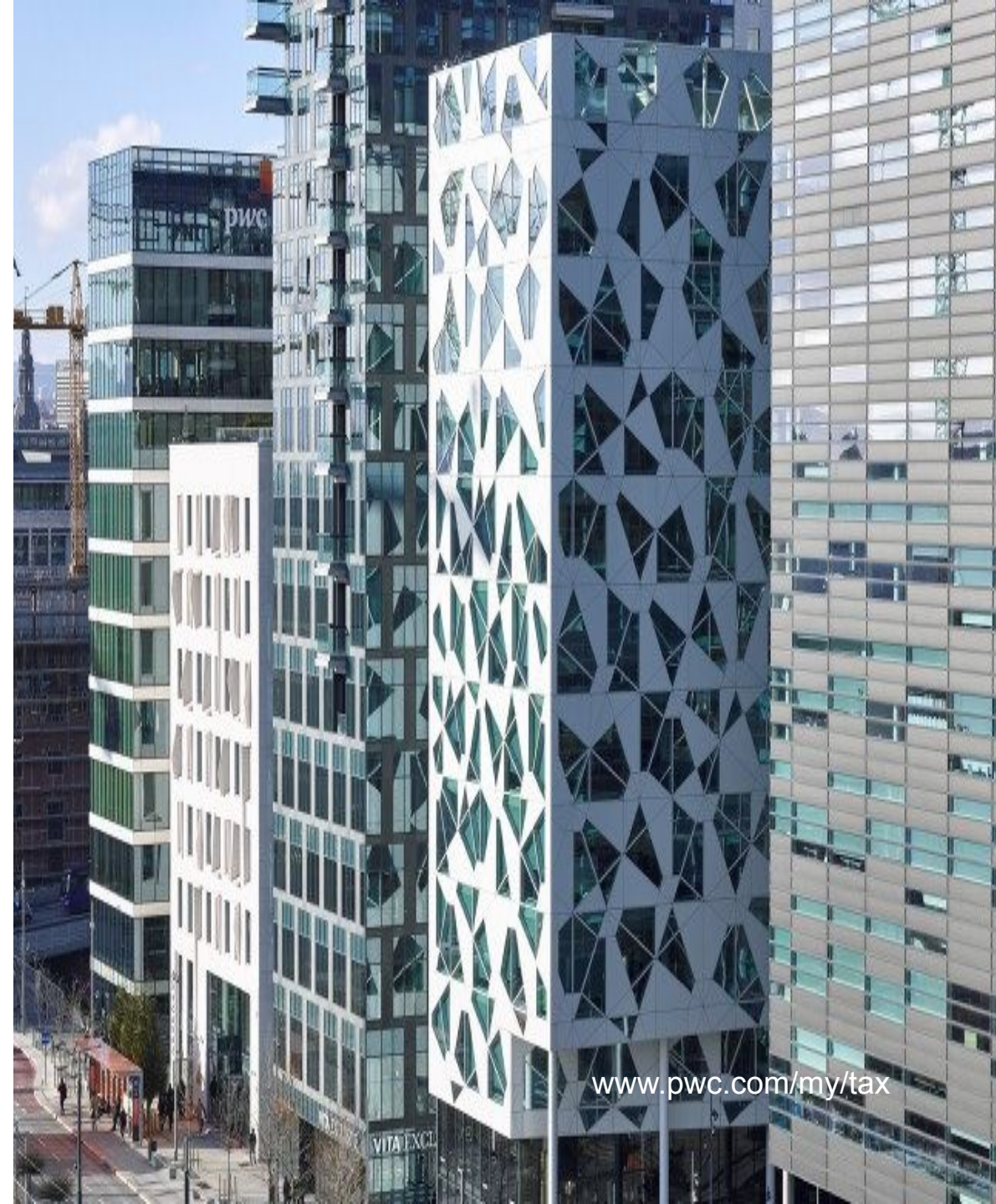


TaXavvy

4 October 2019 | Issue 14-2019

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Income Tax (Capital Allowance) (Development Cost for Customised Computer Software) Rules 2019 (“CA on Customised Software Rules”)

Pursuant to the 2018 Budget proposal, the CA on Customised Software Rules has been gazetted to grant capital allowance (CA) on development cost for customised computer software. The Software Rules is available on the Attorney General Chamber’s website.

Qualifying person

- Malaysian resident

Qualifying expenditure (QE)

- Consultancy fee
- Payment for rights of software ownership
- Incidental fee relating to the development of customised computer software

CA Rates

- Initial allowance of 20%
- Annual allowance of 20%

Effective period

- From the year of assessment (YA) 2018

When QE is treated as incurred

- Similar to the treatment for plant and machinery in general, QE is deemed incurred in the basis period for a YA in which the customised software is capable of being used for the purpose of the business.

Mutual exclusion rules

QE incurred in a YA does not qualify for CA under the CA on Customised Software Rules if the following are also claimed in respect of the same QE:

1. incentive under the Promotion of Investments Act 1986
2. deduction under section 33 of the Income Tax Act 1967 (“ITA 1967”)
3. deduction under section 34A of the ITA 1967
4. reinvestment allowance (Schedule 7A, ITA 1967)
5. investment allowance for service sector (Schedule 7B, ITA 1967)
6. accelerated capital allowance under any rules made under section 154 of the ITA 1967
7. tax exemption under para 127(3)(b) or subsection 127(3A) of the ITA 1967



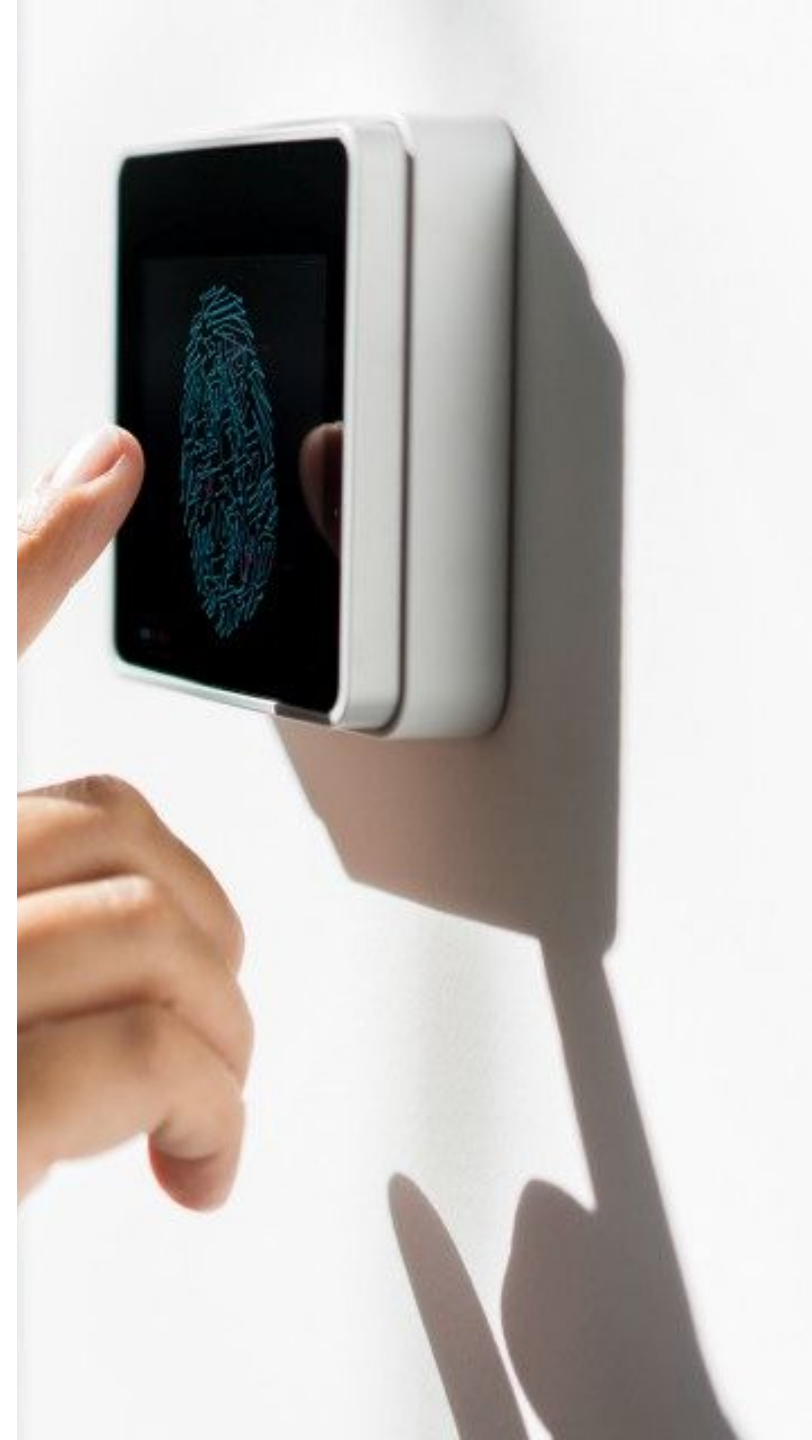
Our comments

Given that taxpayers would have already submitted their YA 2018 tax returns at the time of publishing of the CA on Customised Software Rules, taxpayers which incurred QE in YA 2018 and wish to enjoy the CA claim will have to submit application to revise their YA 2018 tax returns to the Inland Revenue Board (IRB).

Under the law, taxpayers have a period of up to 5 years from the end of 2019, i.e. by 31 December 2024 to submit the application to the IRB under Section 131A or Section 97A of the ITA 1967.

Generally, the IRB is expected to perform an audit before approving applications for revised tax returns.

Although there is a period of 5 years, taxpayers should aim to submit and secure the IRB's approval before the submission of their tax returns for YA 2019 is due. This is to ensure that the tax written down value and annual allowance arising from QE incurred in YA 2018 can be properly reflected in their tax returns going forward.



Public Ruling 4/2019 - Tax treatment of wholly & partly irrecoverable debts and debt recoveries

The IRB has issued Public Ruling 4/2019 - Tax Treatment of Wholly & Partly Irrecoverable Debts and Debt Recoveries (“PR 4/2019”) on 24 September 2019. PR 4/2019 replaces Public Ruling 1/2002 - Deduction for Bad & Doubtful Debts and Treatment of Recoveries (“PR 1/2002”).



There are no material changes between PR 1/2002 and PR 4/2019 except for certain interpretations of key terms that were updated to be in line with the ITA 1967, as follows:

- **Bad debt**

“Bad debt” is a debt arising from trade in which the debt has been included in the gross income of a business of a person for the basis period for a YA prior to the relevant YA that is reasonably estimated to be irrecoverable after reasonable steps have been taken to recover it.

The definition of “bad debt” is in line with the provisions of sections 34(1) to 34(3) of the ITA 1967.

- **Person**

A limited liability partnership is now included, in addition to a company, a body of persons and a corporation sole.

In relation to debts due from related or connected persons:

- **Associate**

Definition now includes the trustee of a settlement and a person which is interested in any shares or obligations of a company or trustee of the estate of a deceased person, in addition to a husband or wife, parent or remoter forebear, child or remoter issue, brother, sister and partner.

- **Relative**

Definition now includes an ancestor; or a lineal descendant, in addition to a parent, a child (including a stepchild and a child adopted in accordance with any law), a brother, a sister, an uncle, an aunt, a nephew, a niece, a cousin.

- **Director** (in relation to a company)

In addition to being concerned with the management of the company’s business and remunerated out of a business’ funds, the person must have beneficial ownership of 20% or more of the company’s share capital.

PR 4/2019 is available on IRB’s website www.hasil.gov.my (Legislation > Public Rulings).

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Kuala Lumpur

21 October 2019

Mandarin Oriental
Kuala Lumpur

8.30am - 5.00pm

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Johor Bahru

23 October 2019

DoubleTree by Hilton
Johor Bahru

8.30am - 5.00pm

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Kuching

24 October 2019

Hilton
Kuching

8.15am - 12.30pm

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Penang

30 October 2019

Eastern & Oriental Hotel
Penang

8.30am - 5.00pm

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Melaka

31 October 2019

Ramada Plaza
Melaka

8.30am - 5.00pm

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