



TaXavvy

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Tax deduction for COVID-19 related donations



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Individuals and corporations from all over Malaysia have made contributions and donations toward efforts to combat the COVID-19 pandemic. Generally, such donations may qualify for tax deduction under the Income Tax Act 1967 (“the Act”) subject to meeting conditions under the relevant provisions. These provisions include Section 44(6), Section 44(11C), Section 34(6)(h), and by way of a special deduction to be gazetted [Section 33(1)(d)].

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On 23 March 2020, the Minister of Finance announced that donations in cash and in-kind to the Tabung COVID-19 and Ministry of Health are approved for tax deduction.

The MOF’s announcement is available on their website www1.treasury.gov.my/ (Main > Press Release).



IRB's press release dated 26 March 2020

Following MOF's announcement on 23 March 2020, the IRB has issued a press release on tax deductions for donations to Tabung COVID-19. It sets out the types of documents required to substantiate the claim for tax deduction including the relevant procedures in respect of the following contributions:



Cash contributions to Tabung COVID-19 [Ministry of Health ("MOH")] and Tabung COVID-19 [Prime Minister's Office ("PMO")]

Documents to be kept:

- Official government receipt
- ATM transfer slip
- Cheque deposit slip via ATM
- Deposit slip via counters
- Online payments / IBG transfer slip
- Real Time Electronic Transfer Fund and Securities Systems (RENTAS)
- Telegraphic transfer receipt with advice of credit

Contributions in kind to Tabung COVID-19 (MOH)

For contributions in kind (equipment / goods), application for tax deduction must be made to the MOF. The application must be supported by acknowledgement receipt by the donee of the equipment / goods and stamped with the official stamp format that will be issued by MOF.

Documents to be kept:

- MOF's approval letter
- Official receipt or acknowledgement receipt from donee
- Letter from the relevant government agencies validating the cost of services or project cost.

Cash contributions to approved institutions / organizations under Section 44(6) ["Section 44(6) Status Organisation"]

Document to be kept:

- Official receipt of the institutions / organization as recognized by the IRB.

IRB's press release is available on their website www.hasil.gov.my (Media Releases)

Tax deduction for contributions to COVID-19 related community and charitable projects approved by MOF under Section 34(6)(h) of the Act

MOF has issued guidelines to outline the conditions and procedure for application for approval under Section 34(6)(h) for contributions made for community / charitable projects in relation to COVID-19. This guidelines apply only for relevant projects commencing from February 2020 until the pandemic is declared to be over by the Government. The MOF's special guidelines is available on their website www1.treasury.gov.my/ (Tax > Exemption Guidelines).



Qualifying persons (Donors)

- Companies, individuals, partnerships, trust bodies and cooperations with business income.

Qualifying projects

- Projects which assist the Government or non-governmental organisations (NGO) registered under any written law, to combat the COVID-19 pandemic.

Qualifying contributions

- Cash
- Equipments (e.g. ventilator, beds, air-conditioners)
- Consumables (e.g. mask, hand sanitizer, gloves, test kit, personal protection equipment)
- Cost of providing sanitisation services, portable toilets, transportation of supplies
- Sponsorship of infrastructure (e.g. marquee tent).

Qualifying recipients (Donees)

- Public or private hospitals
- Government departments or agencies
- Registered non-governmental agencies which are not profit oriented or politically affiliated.

Procedures and conditions

- Donor is to obtain an acknowledgement receipt (in format per attachment 1 of the guidelines) from the donee that is stamped with their official stamp, with which the donor will make their application to MOF for approval of tax deduction.
- The deduction is to be supported by MOF's approval letter and the acknowledgement receipt from donee.
- Where deduction is made under Section 34(6)(h), the same contribution cannot be claimed under Section 44(6).

Effective date

- The deduction can be made from year of assessment 2020.

Our observations

Leaving aside Section 33(1)(d), it appears that the deduction for COVID-19 related contributions (cash or in-kind) can potentially fall under more than one provision in the Act, i.e. Sections 44(6), 44(11C) and 34(6)(h). Section 44(6) is the default provision for cash contributions made directly to the Government [in this case, cash contribution to Tabung COVID-19 (PMO / MOH)]. In addition, tax deduction can also be granted (on a case-by-case basis) under Sections 44(11C) and 34(6)(h). Section 44(11C) covers contributions (cash and in-kind) to projects of national interest whereas Section 34(6)(h) covers contribution (also in cash and in-kind) to community and charitable projects pertaining to health. Therefore, in relation to contributions in-kind to Tabung COVID-19 (MOH), application for the tax deduction should ideally be made under the more specific provision of Section 34(6)(h). In addition to contributions in-kind, a claim for tax deduction can also be made under Section 34(6)(h) for cash contributions to Tabung COVID-19 (PMO / MOH). Please note that a claim under Section 34(6)(h) requires specific approval from MOF. The Government's consideration to approve claims under Section 34(6)(h) is welcomed as the tax treatment under Section 34(6)(h) is more favourable as compared to Section 44(6) and Section 44(11C). We summarize in the table below, the different categories of the contributions and the tax treatment under the respective provisions of the Act.

	Cash contribution to Tabung COVID-19 (PMO / MOH)	Contribution in-kind to Tabung COVID-19 (MOH)	Cash contribution to Section 44(6) Status Organisations	Contribution in cash and in kind to approved community and charitable projects
<i>Governing provision of the Act</i>	Section 44(6) or Section 34(6)(h)	Section 44(11C) or Section 34(6)(h) (Section 34(6)(h) is preferred)	Section 44(6)	Section 34(6)(h)
<i>Tax treatment</i>	<u>Section 44(6)</u> <ul style="list-style-type: none"> Deduction against aggregate income (no cap) Amount in excess of aggregate income is permanently lost <u>Section 34(6)(h)</u> <ul style="list-style-type: none"> Deduction against gross business income (no cap) Amount in excess of adjusted business income can be carried forward as part of adjusted loss (subject to prevailing 7-year rule) 	<u>Section 44(11C)</u> <ul style="list-style-type: none"> Deduction against aggregate income (capped at 10% of aggregate income*) Amount in excess of aggregate income is permanently lost <u>Section 34(6)(h)</u> <ul style="list-style-type: none"> Refer to cash contribution to Tabung COVID-19 	<ul style="list-style-type: none"> Deduction against aggregate income (capped at 10% of aggregate income*) Amount in excess of aggregate income is permanently lost 	<ul style="list-style-type: none"> Deduction against gross business income (no cap) Amount in excess of adjusted business income can be carried forward as part of adjusted loss (subject to prevailing 7-year rule)

*The 10% cap applies to total contributions made to Section 44(6) Status Organisations and projects of national interest under Section 44(11C).

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