



Taxavvy

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Accelerated capital allowance for machinery & equipment including ICT equipment

The Income Tax (Accelerated Capital Allowance) (Machinery and Equipment including Information and Communication Technology Equipment) Rules 2021 (“2021 ACA Rules”) has been issued.



The accelerated capital allowance (ACA) for machinery and equipment including information and communication technology (ICT) equipment was first announced under the Economic Stimulus Package 2020 on 27 February 2020 for capital expenditure incurred from 1 March 2020 to 31 December 2020 (refer to [TaXavvy 7/2020](#)). The qualifying period for the incurrence of the capital expenditure was subsequently extended to 31 December 2021 under the PENJANA initiative announced on 5 June 2020 (refer to [TaXavvy 40/2020](#)).

Pursuant to the above announcements, the 2021 ACA Rules have been gazetted. Salient points of the 2021 ACA Rules are as follows:

ACA rate

- Initial allowance of 20%
- Annual allowance of 40%

Effective date / period

From year of assessment (YA) 2020 for qualifying plant expenditure (QPE) incurred during the period from 1 March 2020 to 31 December 2021.

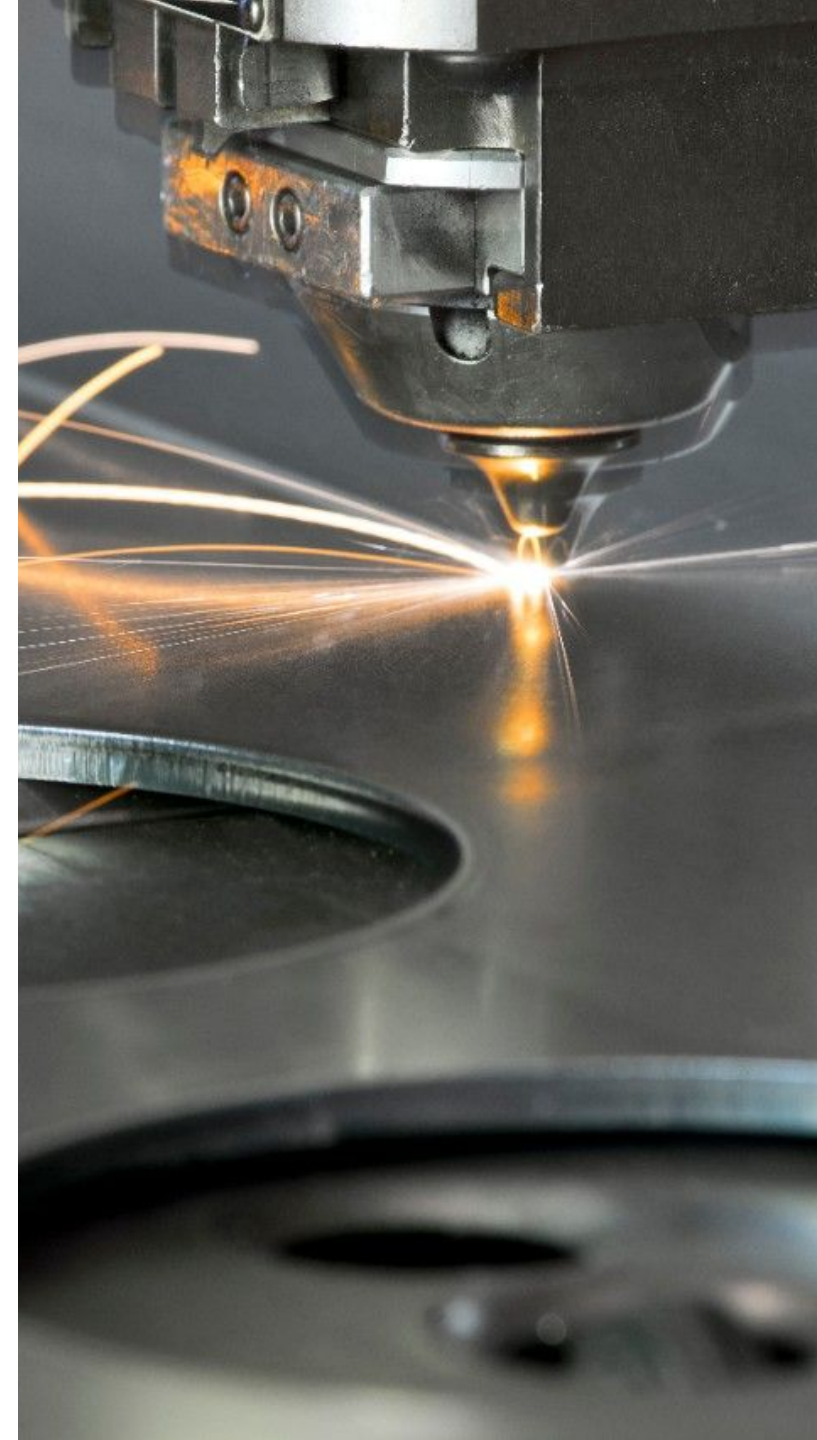
What is QPE

Capital expenditure incurred under paragraph 2 of Schedule 3 of Income Tax Act 1967 (“ITA 1967”) in relation to the provision of machinery or equipment including ICT equipment except motor vehicle. ICT equipments comprise the following:

- Access control system
 - Banking systems
 - Barcode equipment
 - Bursters / decollators
 - Cables and connectors
 - Computer Assisted Design (CAD)
 - Computer Assisted Manufacturing (CAM)
 - Computer Assisted Engineering (CAE)
 - Card readers
 - Computers and components
 - Central Processing Units (CPU)
 - Storages
 - Screens
 - Printers
 - Scanners /readers
 - Accessories
 - Communications and networks
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Non-application The 2021 ACA Rules does not apply if during the basis period, the person is eligible and has claimed Automation Capital Allowance in respect of the same QPE under the following Rules:

- Income Tax (Accelerated Capital Allowance) (Automation Equipment) Rules 2017 (Automation Capital Allowance)
 - Income Tax (Exemption) (No. 8) Order 2017 (Investment Tax Allowance on automation equipment)
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Deduction for cost of personal protective equipment

The Income Tax (Deduction for Expenses in relation to the Cost of Personal Protective Equipment) Rules 2021 (“2021 PPE Rules”) has been issued.

It was announced under the Economic Stimulus Package 2020 on 27 February 2020 (ESP) that tax deduction is given for disposable personal protective equipment (PPE) provided to employees (refer to [TaXavvy 7/2020](#)). The scope of the proposal was subsequently expanded to include expenditure for COVID-19 testing and purchase of thermal scanners under the PENJANA initiative announced on 5 June 2020 (refer to [TaXavvy 40/2020](#)).



The 2021 PPE Rules is summarised as follows:

Effective date / period From YA 2020 for the cost of PPE incurred from 1 March 2020.

Definition of PPE Expenditure incurred by the employer for the purpose of prevention and protection of its workers from COVID-19.

Comment

The definition of PPE is broad and could be interpreted to cover expenditure for COVID-19 testing and purchase of thermal scanners under the PENJANA initiative.

Deduction Single deduction of expenditure incurred.

Non-application The 2021 PPE Rules would no apply if during the basis period, the employer has claimed capital allowance on the cost of the PPE.

Notification from employers in relation to employees

The Inland Revenue Board (IRB) has issued a press release dated 4 June 2021 on the following in relation to notification to the IRB on employees:

- Implementation of prescribed notification forms following Budget 2021 amendments
- New due dates for submission of the forms of 30 days from or before the respective event
- Relaxation to use non-prescribed forms until 31 December 2021

The key points from the press release in relation to the format and methods of submission of the notifications, and the relaxation given are as follows:

Form	Due date (effective from 1 January 2021)	Method of submission using prescribed forms (effective from 1 January 2021)	Relaxation on method of submission given until 31 December 2021
CP 21 - Notification of employee leaving Malaysia	Not less than 30 days before expected date of departure	<ul style="list-style-type: none"> • Online via e-SPC • Hand delivery • Post 	The forms may be submitted in the prescribed format and other non-prescribed formats through the following methods until 31 December 2021: <ul style="list-style-type: none"> • Hand delivery • Post • Email
CP 22 - Notification of employee's commencement of employment	Within 30 days of commencement of employment	<ul style="list-style-type: none"> • Hand delivery • Post 	
CP 22A - Notification of employee's cessation of employment (including death of employee) for private sector	Not less than 30 days before cessation; or not more than 30 days after being informed of death of employee	<ul style="list-style-type: none"> • Online via e-SPC • Hand delivery • Post 	
CP 22B - Notification of employee's cessation of employment (including death of employee) for public sector			

The press release is available on IRB's website www.hasil.gov.my (Home > Media Release).



MIDA Guideline - Special tax incentive under PENJANA (update)

MIDA has issued an updated guideline on Special Tax Incentive under PENJANA (“the Guideline”) in relation to the incentive for relocation of business to Malaysia dated 8 June 2021 to incorporate the special income tax treatment for individuals that was announced under the Budget 2021.

The Guideline is available on MIDA’s website www.mida.gov.my (Forms and Guidelines > PENJANA Incentives and Grants > Special Tax Incentive under PENJANA).



Under Budget 2021, the Government has announced tax incentives for non-Malaysian citizen individuals holding key positions (C-Suite) in companies investing in new strategic investments where a flat rate of 15% will be given for a period of 5 consecutive years.

Salient points from the Guideline in relation to the incentives for non-Malaysian citizen individuals are as follows:

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- Eligibility criteria*
- Limited to 5 non-citizen individuals in each company that has been granted relocation tax incentive under PENJANA (refer to [TaXavvy 45/2020](#)).
 - The non-citizen individual must be a resident in Malaysia and holds a key position (C-Suite).

Note: Key position (C-Suite) refers to the position of top senior executives responsible in setting the business strategy, making decisions for the business operation and having the functional know-how or technical skills.

- The non-citizen individual receives a basic monthly salary of not less than RM25,000.
- The non-citizen individual must be a Malaysian tax resident for each YA throughout the flat rate tax treatment period.

Application period

Application should be submitted to MIDA from 7 November 2020 until 31 December 2021.

MIDA Guideline - Shipbuilding and Ship Repairing Incentive

Pursuant to the Budget 2021 proposal to extend the incentives for shipbuilding and repairs until 31 December 2022, MIDA has issued a Guideline for Shipbuilding and Ship Repairing (SBSR) Incentive dated 1 January 2021 (“the Guideline”).

The Guideline is available on MIDA’s website www.mida.gov.my (Forms and Guidelines > Services Sector > Shipbuilding and Ship Repairing).



Salient points of the Guideline which is applicable to applications made during the period from 1 January 2021 to 31 December 2022 are as follows:

Category	New entrants	Existing companies expanding or diversifying
Incentive	<ul style="list-style-type: none"> • Tax exemption of 70% of statutory income (SI) for 5 years, or • Investment tax allowance of 60% of qualifying capital expenditure (QCE) incurred within 5 years to be set off against 70% SI. 	<ul style="list-style-type: none"> • Only for companies which have not enjoyed the SBSR incentive. • Investment tax allowance of 60% of additional QCE incurred within 5 years to be set off against 70% SI.
Qualifying criteria	<ul style="list-style-type: none"> • Malaysian resident and incorporated under the Companies Act 2016 • At least 80% full-time employees to comprise of Malaysians • Managerial, technical and supervisory staff index (MTS index) must be at least 25% • At least 40% value add is achieved (for shipbuilding) • Incur adequate capital investment and business expenditure for the project • Has manufacturing license (ML) or exemption from ML 	
Qualifying activities	<p><u>Shipbuilding</u> Building of all types of ships including floating type vessels i.e. barges, landing crafts, tugs, etc.</p> <p><u>Ship Repair / Conversion / Upgrading / Maintenance, Repair and Overhaul (MRO)</u></p> <ul style="list-style-type: none"> • Covering yard that provides facilities, services, maintenance, repairing for ship structures. • Conversion / modification of oil & gas tankers and support vessels. <p><u>Services</u> Component maintenance, repair and overhaul of ship’s main and auxiliary equipment / component / system.</p>	

Guidelines on Dispute Resolution Proceedings (update)

IRB has issued an updated Guidelines on Dispute Resolution Proceeding (“Updated DRP guidelines”) dated 15 June 2021. The key updates to the DRP guidelines are inclusion of additional situations which taxpayers may request for a dispute resolution proceeding.

The Updated DRP guidelines is available on IRB’s website www.hasil.gov.my (Appeal > Dispute Resolution Proceedings)



Below are situations where taxpayers may request for a dispute resolution proceeding. (The additional situations which have been added into the Updated DRP guidelines are denoted in italicised fonts):

Appeal

Income Tax Act 1967

- Section 99 – appeal on an assessment made
- Section 97A – appeal on a notification of non-chargeability
- Section 109H – appeal on the non-applicability of withholding tax
- *Section 44A(9)(b) - appeal against penalty imposed on a surrendering company under group relief*
- *Section 68(3) - appeal against appointment as an agent*
- *Section 111(1) - dissatisfaction with refund of overpayment of tax*

Petroleum Income Tax Act 1967

- Section 43 – appeal on an assessment made

Real Property Gains Tax Act 1976

- Section 18 – appeal on an assessment made

Application for relief

Income Tax Act 1967

- Section 131 – relief in respect of error or mistake
- Section 131A – relief other than in respect of error or mistake
- *Section 97A(5) - relief in respect of non-chargeability cases*

Petroleum Income Tax Act 1967

- Section 66 – relief in respect of error or mistake
- *Section 66A - relief other than in respect of error or mistake*

Real Property Gains Tax Act 1976

- Section 19 – relief in respect of error or mistake

Increased transaction limit for tax payment through Financial Process Exchange (FPX)

The IRB has issued a press release dated 20 June 2021 to inform on the increased transaction limit for tax payment through FPX

Effective from 20 June 2021, the transaction limit for tax payments via ByrHASiL which is accessible from the IRB's official website and internet banking facility of banks which are appointed as IRB's collection agent has been increased as follows:

Transaction	Current transaction limit (RM)	New transaction limit (RM)
B2B: Companies	1,000,000	100,000,000
B2C: Other than companies	30,000	500,000

The press release is available on IRB's website www.hasil.gov.my (Home > Media Release).



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