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# *TaXavvy*

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## ***Finance Act (No.2) 2014***

The Finance Act (No.2) 2014 [Act 764] has been gazetted on 30 December 2014. There are no significant changes from the Finance Bill (No. 2) 2014.

### ***Tax filing for companies with financial year ended 30 June 2014***

As the due date for the filing of the Form C for a company with financial year ended 30 June 2014, is on 31 January 2015, the professional bodies have sought clarification from the Inland Revenue Board (IRB) on whether the 2014 Income Tax Return Form (ITRF) filing programme will continue to apply as in past practice for such cases.

The IRB has confirmed that the requirements of the 2014 ITRF filing programme will continue to apply for filing cases where the due date for submission of the ITRF falls within the calendar year 2015 until the 2015 ITRF filing programme is issued. The 2015 ITRF filing programme is expected to be issued in January 2015.

### ***Special deduction for secretarial and tax filing fees***

The *Income Tax (Deduction for Expenses in Relation to Secretarial Fee and Tax Filing Fee) Rules 2014* has been gazetted on 17 December 2014. The rules allow deduction for secretarial fee and tax filing fee to a person resident in Malaysia as follows:

	Effective date	Maximum total amount deductible (RM)
Secretarial fee for secretarial services provided by a company secretary registered under the Companies Act 1965, which is incurred and paid in the basis period for a year of assessment (YA)	YA 2015	5,000
Tax filing fees for preparation and submission of forms under section 107C of the Income Tax Act 1967 (ITA 1967) for tax estimates for companies, limited liability partnership, trust body or co-operative society and a return filed under the Goods and Services Tax Act 2014 (GST Act 2014), which is incurred and paid in the basis period for that YA.	YA 2015	10,000 (for the aggregate fees)
Tax filing fees for preparation and submission of income tax returns under section 77 and 77A, amended returns under section 77B, return by an employer under section 83 and return by a partnership under section 86 of the ITA 1967, which is incurred and paid in the basis period for the immediately preceding YA.	YA 2016	

The tax filing fee must be charged by a tax agent approved under the ITA 1967 or GST Act 2014.

### ***Further deduction for cost of training in relation to implementation of GST***

The *Income Tax (Deduction for Cost Relating to Training for Employees for the Implementation of Goods and Services Tax) Rules 2014* has been gazetted on 17 December 2014. The salient points of the rules are as follows:

- A further deduction is given on training cost incurred by a Malaysian resident and a registered person or a taxable person as defined in the GST Act 2014, in training its employees under an accounting or information and communication technology training programme.
- The further deduction is given for YA 2014 and 2015 only.
- The employee trained must be a Malaysian citizen and full-time employee of the qualifying person.
- The training programme must be verified by the Director General of Customs and Excise.
- These rules shall not apply where the qualifying person has claimed:
  - a) a deduction for approved training under the *Income Tax (Deductions for Approved Training) Rules 1992*, or
  - b) the cost of training programme from the Human Resources Development Fund.

### ***Public Rulings***

The IRB has issued the following public rulings in December 2014 and January 2015:

- PR 9/2014 : Private Retirement Scheme
- PR 10/2014 : Special Allowance for Small Value Assets
- PR 11/2014 : Forest Allowances and Expenses Relating to Timber Extraction
- PR 12/2014 : Qualifying Plant and Machinery for Claiming Capital Allowance

The salient points are:

#### **Public Ruling 9/2014 – Private Retirement Scheme**

The PR explains the tax treatment of contributions made by an individual and employer to a private retirement scheme (“PRS”), as well as for the income of the PRS.

Salient point	Reference in PR
The maximum tax deduction of RM3,000 for contributions to PRS and premium for deferred annuity by an individual resident will be given for a period of 10 years (i.e. from YA 2012 until YA 2021).	Paragraph 5.1.1

Salient point	Reference in PR
The deduction for contribution made by an employer to an approved scheme which is subject to maximum deduction of 19% is calculated based on total contribution made for each employee regardless of the number of approved scheme contributed under the employee's name.	Examples 7 and 8
If an employer becomes entitled to surplus from a PRS fund due to an employee not meeting the pre-determined vesting period, such surplus is subject to tax in the hands of the employer.	Paragraph 5.2.3
Withholding tax of 8% will be imposed on early withdrawals from the PRS except for withdrawals due to permanent total disablement, serious disease, mental disability, death or permanently leaving Malaysia.	Paragraph 5.3
Any distribution of profits by the PRS fund in the form of additional units credited into the investor's accounts will not be taxable in the hands of the investor.	Paragraph 5.6

### **Public Ruling 10/2014 – Special Allowance for Small Value Assets**

This PR replaces *PR 1/2008 – Special Allowance for Small Value Assets* and has taken into account the amendment made to paragraph 19A, Schedule 3 of the ITA 1967 in 2009, which renders the restriction of total qualifying plant expenditure (QPE) under this paragraph not applicable to small and medium companies.

The PR has also taken into consideration the recent 2015 Budget proposal on the quantum of QPE which has been increased from RM1,000 to RM1,300 for each individual asset and from RM10,000 to RM13,000 for the total QPE claimable. This proposal came to effect from the year of assessment 2015 with the gazetting of Finance (No.2) Act 2014.

### **Public Ruling 11/2014 – Forest Allowances and Expenses Relating to Timber Extraction**

This new PR explains the tax treatment for computing forest allowances and charges including the spread back mechanism of forest charges in the case of disposal of a forest.

## **Public Ruling 12/2014 – Qualifying Plant and Machinery for Claiming Capital Allowance**

This PR replaces *PR2/2001 - Computation of Initial and Annual Allowances in respect of Plant and Machinery*. The new PR explains what constitutes “setting”, “plant”, “machinery”, “heavy machinery” and “motor vehicles”, as well as outlines the various examples on what capital expenditure would qualify or not qualify for capital allowances (CA), some of which are:

- The claim of capital allowance on computer software seems to be restricted to the list of software in the schedules to PU(A) 358/2008 and PU(A) 217/2014, both in respect of accelerated capital allowance on information and communication technology equipment (Para 8.1 (iii)).
- Payments for developing software such as consulting fees, licence fee and other incidental charges are not part of the cost of provision of software and hence do not qualify for CA (Para 8.2 (ii)).
- Databases which do not contain intellectual property such as customer databases are not eligible for CA (Para 8.2 (iv)).
- Golf course turfing and grass, artificial grass on football and hockey fields, and cement / parquet flooring of tennis and badminton courts, and training grounds of a driving school do not qualify for CA (Examples 9, 10 and 11).

The PRs are available on IRB’s website at [www.hasil.gov.my](http://www.hasil.gov.my) (Laws and Regulations > Public Rulings).

## ***Stamp duty remission for purchase of residential properties of RM500,000 or less***

The following stamp duty orders have been gazetted on 31 December 2014, providing remission of 50% of the stamp duty on loan agreement and instrument of transfer executed on or after 1 January 2015 but not later than 31 December 2016, for purchase of one unit of residential property costing RM500,000 or less.

- Stamp Duty (Remission) Order 2014 [PU(A) 360/2014]
- Stamp Duty (Remission) (No. 2) Order 2014 [PU(A) 361/2014], and

The purchaser or co-purchasers must not have owned any residential property including a residential property obtained by way of inheritance or gift. “Residential property” means a house, a condominium unit, an apartment or a flat purchased or obtained solely to be used as a dwelling house.

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