



# Taxavvy

2 August 2019 | Issue 12-2019

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## Tax exemption on incremental amount of chargeable income - guideline

The Inland Revenue Board (IRB) has issued a guideline in relation to the tax exemption on incremental amount of chargeable income from business (“the guideline”). The tax exemption was introduced in Budget 2017 and provided in the Income Tax (Exemption) (No 2) Order 2017 (“the order”).

The guideline dated 9 April 2019 was uploaded on the IRB’s website on 5 July 2019.



The tax exemption provides resident companies with a reduced income tax rate on the incremental portion of chargeable income from business source (CIB), when compared to the immediate preceding year of assessment (YA). The tax exemption is applicable for YA 2017 and YA 2018.

The guideline provides clarification on the application of the order, and is available on IRB’s website [www.hasil.gov.my](http://www.hasil.gov.my) (Legislation > Technical guidelines).

The key clarifications are as follows:

### Determining the CIB for a YA, which is used to compute the incremental amount of chargeable income (IACI)

- the “chargeable income” used in the formula to compute CIB is after tax deduction for donations. [Para 3.3 and example 8]

CIB is determined using the formula:

$$\frac{\text{Statutory business income} \times \text{chargeable income}}{\text{Aggregate income}}$$

- where there is more than one source of business income, the CIB is the aggregate from all business sources, [Para 3.2 and examples 4 & 5]
- when computing IACI in YA 2018, the “chargeable income” used in the abovementioned formula to determine the CIB for YA 2017 is the “chargeable income” before exemption for IACI (if IACI was claimed in YA 2017). [Example 7 - YA 2018 (b)]

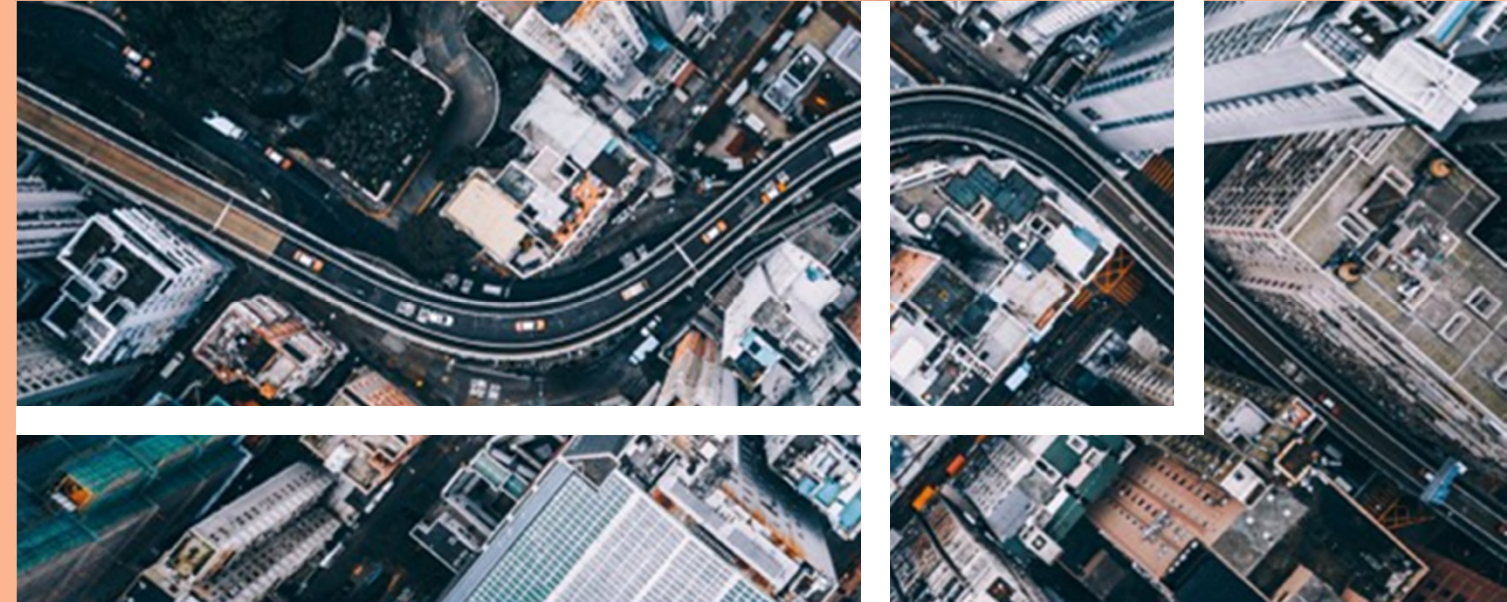
### No penalty imposed

No penalty will be imposed where subsequent tax audit adjustments made to the tax returns for YA 2016 or YA 2017 result in a reduction to the IACI for YA 2017 and YA 2018 respectively. [Para 6]

## Earnings Stripping Rules - FAQ

Further to the issuance of the legislation on Earnings Stripping Rules (“ESR Rules”) and its related guideline, the IRB has now issued a FAQ on ESR Rules.

Details of the ESR were covered in [TaXavvy 9/2019](#) and [TaXavvy 11/2019](#). The legislation, guidelines and FAQ are available on IRB’s website [www.hasil.gov.my](http://www.hasil.gov.my) (International > Restriction On Deductibility of Interest).



The FAQ dated 17 July 2019 provides the following additional clarification which is summarised as follows:

### Scope of transactions covered

Domestic financial assistance is excluded from the scope of the ESR Rules. The ESR Rules would apply to interest paid / payable arising from financial assistance from:

1. Associated person outside Malaysia.
2. Associated person outside Malaysia which operates through a permanent establishment in Malaysia.
3. Third party outside Malaysia where the financial assistance is guaranteed by its holding company or any entity under the same MNE group.

### Persons granted special exemptions

The ESR Rules exclude persons granted special exemption under a gazette order (section 127(3)(b) or granted by the Minister of Finance (section 127(3A)) in respect of adjusted income from the application of the Rules.

Although this is not mentioned in the ESR guideline, the IRB has clarified that the exclusion will apply as per the ESR Rules.

### ESR guideline is binding on the DGIR

Although the ESR guideline do not have the force of law, the guideline provides guidance on how section 140C of the Income Tax Act 1967 and the ESR Rules will be administered. The IRB has stated in Part D “Others” of the FAQ that the guideline will be binding on the IRB.

## Incentives for payment of education loan on behalf of employee and employment of disabled persons

Pursuant to Budget 2019, the gazette order allowing an employer a tax deduction for the amount of PTPTN educational loan paid on behalf of his employee has been issued. In addition, the government has now granted the employee an income tax exemption for the amount of PTPTN educational loan paid on behalf by his employer.

The gazette order extending the further deduction for remuneration of employee who is disabled due to accident or critical illness, as proposed in Budget 2018, has also been issued.

### Payment of PTPTN education loan on behalf of employee

	Employer [Budget 2019 proposal]	Employee
<b>Gazette order</b>	Income Tax (Deduction for Payment of Educational Loan of Perbadanan Tabung Pendidikan Tinggi Nasional By Employers on Behalf of Employees) Rules 2019	Income Tax (Exemption) (No. 8) Order 2019
<b>Incentive</b>	Deduction of amount of PTPTN educational loan paid on behalf of employee for the period 1 January 2019 to 31 December 2019.	Income tax exemption on amount of PTPTN educational loan paid on employees' behalf by employer for the period 1 January 2019 to 31 December 2019.
<b>Conditions</b>	<ul style="list-style-type: none"> <li>• Employer has sources of income consisting of a registered business</li> <li>• Employee need not make any payment to his employer for amount of PTPTN loan paid on his behalf by his employer</li> <li>• Employer and employee are not the same person.</li> <li>• Employee is a citizen, full time employee and not a relative of the employer.</li> </ul>	<ul style="list-style-type: none"> <li>• Employer has sources of income consisting of a registered business</li> <li>• The individual is a citizen, full time employee and not a relative of the employer.</li> </ul>
<b>Effective date</b>	YA 2019 and YA 2020	YA 2019

### Employment of disabled persons [Budget 2018 proposal]

The Income Tax (Deductions for the Employment of Disabled Persons) (Amendment) Rules 2019 extends the further deduction on the remuneration paid to an employee who is physically or mentally disabled, to include remuneration of employees who are disabled due to an accident or critical illness. The employer is required to obtain certification from the Social Security Organization certifying that the employee is able to work within his capabilities. The extended further deduction is effective from YA 2019 instead of YA 2018 as originally announced in Budget 2018.

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