



TaXavvy

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Special tax deduction on rental discount given to SME tenants



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In the PRIHATIN Tambahan which was announced on 6 April 2020, it was stated that owners of buildings or business premises will be given an additional tax deduction equivalent to the amount of reduction in rent that is given to tenants which are Small and Medium Enterprises (SMEs) for the months of April 2020 to June 2020.

The Ministry of Finance has published Frequently Asked Questions (FAQ) on this tax measure via its official Telegram channel on the 2020 Economic Stimulus Package. The FAQ are subject to tax rules to be gazetted.



Qualifying persons

Any taxpayers (companies and non-companies)

- Companies
- Individuals
- Cooperatives
- Other business and non-business entities

who rent business premise to any SMEs

Special tax deduction

- Amount given is equivalent to the amount of reduction in rental to be determined on a month-by-month basis
- Subject to rules to be gazetted

Conditions on deduction claims

- Minimum rental reduction of 30% of original monthly rental charged to the SME tenant
- Rental for April, May and June 2020

Supporting documents to be kept

- Official tenancy agreement
- Rental income statement
- Certification of SME status of tenant
- Certification of reduced rental (to be prescribed under rules that are to be gazetted)

Definition of SME

The definition of SME by SME Corporation Malaysia (SMECorp) is adopted. The FAQ sets out the following parts of the definition, i.e. a business is defined to be an SME if it meets the specified conditions of one of either two criteria comprising:

- Annual sales value, OR
- Number of full-time employees

Business category	Sector	Annual sales ¹ amount	Number of full time employees ²
<i>Micro</i>	All sectors	Less than RM300,000	Less than 5
<i>Small</i>	Manufacturing	RM300,000 to less than RM15 million	5 to less than 75
	Services and other sectors	RM300,000 to less than RM3 million	5 to less than 30
<i>Medium</i>	Manufacturing	RM15 million to not exceeding RM50 million	75 to not exceeding 200
	Services and other sectors	RM3 million to not exceeding RM20 million	30 to not exceeding 75

1. Annual sales based on total sales of the basis period of the prior year of assessment (YA).

2. Number of full time employees at the end of basis period of the prior YA or at 1 April 2020.

Illustration:

In the case of a manufacturing company, if the annual sales of business is RM60 million but the number of full time employees is 150, it will still be regarded as an SME as it satisfies the number of full-time employees criteria (not exceeding 200).

The FAQ provides a link to the SMECorp's guidelines on the definition of SME which can be obtained at SMECorp's website at www.smecorp.gov.my (Homepage > Policy > SME definition)

Tax benefit of the special deduction

The amount of tax benefit received from the special deduction will depend on the taxpayer's respective tax rate. The following illustrates the tax benefit for a company.

Monthly rental: RM5,000

Reduction in rent for each months of April to June 2020:
RM2,500

	No special deduction (RM)	With special deduction (RM)
Annual rent	60,000	60,000
Reduced rental (3 x RM2,500)	(7,500)	(7,500)
Gross annual rental income	52,500	52,500
Special deduction ¹	-	(7,500)
Chargeable income	52,500	45,000
Tax payable @ 24%	12,600	10,800

1. On basis there are no other allowable deductions.

Amount of tax benefit enjoyed: RM1,800 (RM12,600 - RM10,800)

Our observation

Exclusions in the definition of SMEs

Adoption of the SMECorp's definition is welcomed as that is the common definition for SMEs endorsed by the National SME Development Council for the nation's SME development initiatives. This is a departure from the share capital based definition which is generally adopted for income tax purposes (e.g. \leq RM2.5 million paid-up ordinary share capital and gross business income of \leq RM50 million).

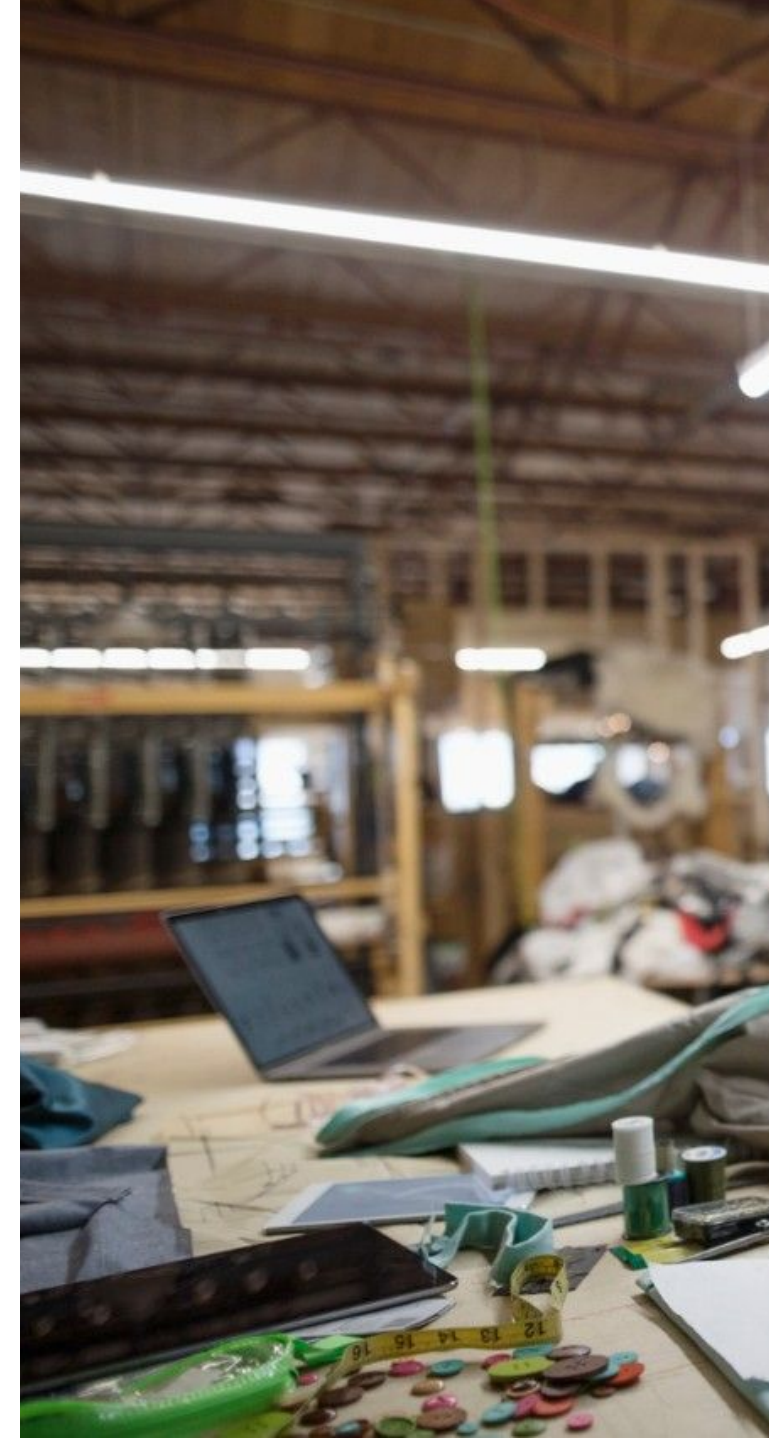
It is to be noted that there are exclusions under the SMECorp's definition. Subsidiaries of the following entities are excluded:

- Public-listed companies in the main board.
- Large firms, multinational corporations (MNCs), Government-linked companies (GLCs), *Syarikat Menteri Kewangan Diperbadankan* (MKDs) and State-owned enterprises.

This raises a question whether the Government intends to exclude the above subsidiaries as qualifying SME tenant. If this is not the case, it should be clearly addressed in the rules to be gazetted.

Certification of SME status of tenants

A practical issue to be addressed by the Government is the requirement to certify the SME status of tenants. The Prime Minister has announced that for the purpose of the Special PRIHATIN Grant for micro enterprises, the micro enterprise status will be determined based on information from the Companies Commission of Malaysia and Local Government. This approach reduces administrative burden for the applicants. The FAQ is silent on whether the SME Certification for the purposes of the special tax deduction on rental discount will follow a similar approach. This approach will work if the respective authorities/agencies have the required data (i.e. the sales and number of employees). It is hoped that the Government in deciding on the approach, will find a right balance between ease of administration and immediate certainty to landlords.



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