

Our ref: **Circular 11/2008**

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**To all our valuable clients & Associates**

## **PUBLIC RULING 3/2008 - ENTERTAINMENT EXPENSE**

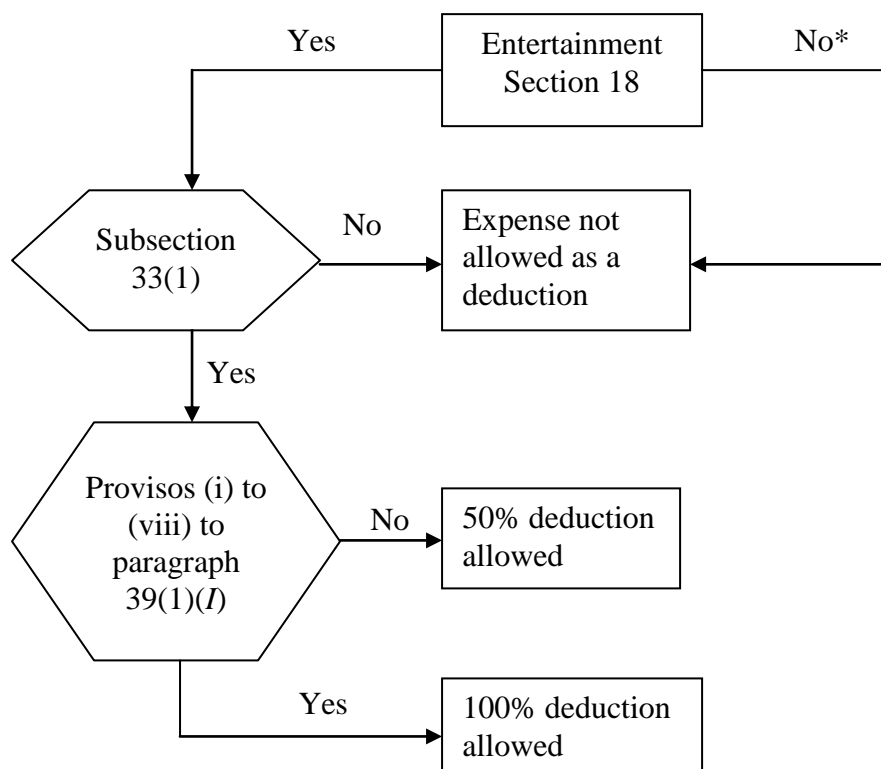
This Ruling supersedes Public Ruling No. 3/2004 issued on 8 November 2004 and its Addendum issued on 23 August 2007. This PR will effective from YA 2008 onwards.

Section 18 of the ITA has defined “Entertainment” as

- (a) the provision of food, drink, recreation or hospitality of any kind; or
- (b) the provision of accommodation or travel in connection with or for the purpose of facilitating entertainment of the kind mentioned in paragraph (a) above, by a person or an employee of his in connection with a trade or business carried on by that person.

General rule of thumb, entertainment expense that is wholly and exclusively incurred in the production of gross income will qualify for tax deduction under subsection 33(1). However, it **MUST** fall within Proviso (i) to (viii) of paragraph 39(1)(I) in order to qualifies for 100% deduction **OR ELSE** only 50% of entertainment expenses are qualify for deduction.

Diagram below illustrates steps to be taken in determining whether an expense qualifies for tax deduction:



\*Expense is not allowed a deduction as entertainment expense.

**ENTERTAINMENT EXPENSE** which qualifies for a 100% tax deduction – proviso (i) to (viii) to paragraph 39(1)(l) of the ITA are as follows:-

- (i) **Entertainment to employees.** i.e. food, drinks, refreshment, annual dinners, outings, family day or club membership for employees.
- (ii) **Payment in the ordinary course of business.** i.e. meals provided by airlines to its passengers.
- (iii) **Promotional gifts at trade fairs or trade exhibitions or industrial exhibitions outside Malaysia.** i.e. exhibitions of promoting exports from Malaysia or gifts to exhibition customer held outside Malaysia.
- (iv) **Promotional samples of products of the business.** i.e. samples of products for advertising or certain other functions.
- (v) **Entertainment for cultural or sporting events “open” to the public wholly to promote the business.** i.e. Cultural event - food or drinks for arts promotion, Sporting event – sport attire or equipment for badminton tournament.
- (vi) **Promotional gifts within Malaysia of articles incorporating the logo of the business.** i.e. gifts with business logo but does not include gifts to a person who do not have business relationship.
- (vii) **Entertainment related wholly to sales arising from the business.** i.e. entertainment directly related to sales provided to customers, dealers and distributors but excluding suppliers.
- (viii) **Leave passage benefit (yearly local event) provided by an employer to its employees.** i.e. family trip to sabah, expenses include cost of leave passage and cost of food, drink etc.

#### EXAMPLES OF ENTERTAINMENT EXPENSES:

No	Types of entertainment	Allowed a deduction of		Not allowed for deduction	ITA Provision
		100%	50%		
1.	Entertainment given to a potential customer in a closed transaction			√	Not wholly and exclusively incurred under subsection 33(1) of the ITA
2.	Entertainment given to potential or existing customers during the launching of company's new products	√			Proviso (vii) to paragraph 39(1)(l) of the ITA
3.	Wedding gifts to customer			√	Not wholly and exclusively incurred under subsection 33(1) of the ITA
4.	Entertainment to employees of related companies			√	Not wholly and exclusively incurred under subsection 33(1) of the ITA
5.	Entertainment for annual general meeting of company			√	Not wholly and exclusively incurred under subsection 33(1) of the ITA
6.	Cash contribution for customer's annual dinner			√	Not wholly and exclusively incurred under subsection 33(1) of the ITA

7.	Annual dinner to employees	√			Proviso (i) to paragraph 39(1)(I) of the ITA
8.	Gift with business logo for customer's annual dinner	√			Proviso (vi) to paragraph 39(1)(I) of the ITA
9.	Gift without business logo for customer's annual dinner		√		Not included under Proviso (i) to (viii) to paragraph 39(1)(I) of the ITA
10.	Free trip as an incentive to sales agent for achieving the sales target	√			Proviso (vii) to paragraph 39(1)(I) of the ITA
11.	Gifts of flower for customer's opening of new outlet		√		Not included under Proviso (i) to (viii) to paragraph 39(1)(I) of the ITA
12.	Entertainment to suppliers		√		Not included under Proviso (i) to (viii) to paragraph 39(1)(I) of the ITA
13.	Hamper for customers during festive seasons ie: Chinese New Year etc.		√		Not included under Proviso (i) to (viii) to paragraph 39(1)(I) of the ITA

If you have any query, please do not hesitate to contact us at 012-2130138 for further clarification.