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MALAYSIA

INLAND REVENUE BOARD OF MALAYSIA

AGRICULTURE ALLOWANCES

PUBLIC RULING NO. 1/2016

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CONTENTS **PAGE**

DIRECTOR GENERAL'S PUBLIC RULING

Section 138A of the Income Tax Act 1967 [ITA] provides that the Director General is empowered to make a Public Ruling in relation to the application of any provisions of the ITA.

A Public Ruling is published as a guide for the public and officers of the Inland Revenue Board of Malaysia. It sets out the interpretation of the Director General in respect of the particular tax law and the policy as well as the procedure applicable to it.

The Director General may withdraw this Public Ruling either wholly or in part, by notice of withdrawal or by publication of a new Public Ruling.

Director General of Inland Revenue,
Inland Revenue Board of Malaysia.

1. Objective

The objective of this Public Ruling (PR) is to explain the –

(a) types of qualifying agriculture expenditure;

(b) computation of agriculture allowances;

(c) computation of agriculture charges; and

(d) tax treatment on receipt of a grant or subsidy.

2. Relevant Provisions of the Law

2.1 This PR takes into account laws which are in force as at the date this PR is published.

2.2 The provisions of the Income Tax Act 1967 (ITA) related to this PR are section 18 and paragraph 34(6)(*d*), paragraphs 7, 18, 20 to 25, 27, 33, 38, 39, 40, 49, 52, 55, 75 and 81, proviso to subparagraph 42(1), subparagraphs 42(2), 63(e) and 65(2), of Schedule 3.

2.3 Relevant subsidiary law referred to in this PR is Income Tax (Exemption) (No. 22) Order 2006 [P.U (A) 207/2006].

3. Interpretation

The words used in this PR have the following meaning:

3.1 “Control” has the same meaning as defined in subparagraph 38(2) of Schedule 3 to the ITA;

3.2 “Farm” means any land used for the purposes of agriculture;

3.3 "Relevant interest” means the interest in that building or structure to which the person who incurred the expenditure was entitled when he incurred it;

3.4 “Disposal of farm asset” means the occurrence of any of the following events:

(a) the relevant interest in the asset is sold;

(b) on the expiration of a lease where the relevant interest is a leasehold interest, and payment is made by the incoming lessee or the owner of the interest in immediate reversion makes any payment to the person that incurred the qualifying agriculture expenditure;

(c) the asset is transferred for valueable consideration; or

(d) the asset ceases to be used for the working of a farm;

3.5 “Replanting” means the replacement of the crop of any product on any area of land by taking such action as is calculated to produce on the same area a crop of the same product and includes reafforestation of timber;

3.6 “Agriculture” means any form of cultivation of crops, animal farming, aquaculture, inland fishing and any other agricultural or pastoral pursuit, including the reafforestation of timber;

3.7 “Crops" includes any form of vegetable produce.

4. Introduction

A person who has incurred qualifying agriculture expenditure for the purposes of a business of his will be entitled to claim agriculture allowance that can be deducted against the adjusted income from that business to arrive at the statutory income. Business in this PR refers to agriculture business.

5. Qualifying Agriculture Expenditure

5.1 Types of qualifying agriculture expenditure

Qualifying agriculture expenditure is capital expenditure incurred by a person on the –

(a) clearing and preparation of land for the purposes of agriculture. Where crops are planted on hilly ground and it is necessary to terrace the land to combat erosion and to provide easy access to estate workers, such expenditure is to be treated as qualifying agriculture expenditure;

(b) planting (but not replanting) of crops on land cleared for planting;

(c) construction on a farm of a road or bridge. Expenditure on the construction of drains would also qualify as qualifying agriculture expenditure;

(d) construction on a farm of a building used for the purposes of a business of that person which consists wholly or partly of the working of the farm. The types of buildings would include estate office buildings, mills and godowns; and

(e) construction on that farm of a building which is provided by that person for the welfare of persons or as living accommodation for a person, employed in or in connection with the working of that farm. If the farm ceases to be worked, that building is likely to be of little or no value to any person except in connection with the working of another farm. The types of buildings would include labour quarters, places of worship and community hall.

Note

A person may make an election under the proviso to subparagraph 42(1) of Schedule 3 to the ITA to treat a building as an industrial building. This election can be made if the building is provided for the welfare of persons or as living accomodation for a person, employed in or in connection with the working of a farm. If the farm ceases to be worked, the building is likely to be of little or of no value to any person except in connection with the working of another farm. The election to claim industrial building allowances (IBA) is to be made in the Income Tax Return Form for the basis period for a year of assessment in which the expenditure is incurred.

However, by virtue of subparagraph 42(2) of Schedule 3 to the ITA, such building would not qualify for IBA if it were provided for an employee who is a director, an individual having control of the business or an individual who is a member of the management, administration or clerical staff of that business.

Example 1

Golden Pine Sdn Bhd acquired a piece of land for planting of pineapples. The company incurred the following expenditure:

(a) clearing and preparation of land;

(b) planting of seedlings; and

(c) construction of workers quarters.

Golden Pine Sdn Bhd is eligible to claim agriculture allowances on the above expenditure.

Example 2

Sunny Plantation Bhd has two oil palm plantations. Plantation A is situated in Sibu and Plantation B is in Miri. The plantations are worked in phases as shown below:

(a) Plantation A (Sibu):

  (i) Phase 1 has been bearing fruits for three years;

  (ii) Phase 2 is in the initial stage of bearing fruits; and

  (iii) Phase 3 is in the later stage of planting.

(b) Plantation B (Miri):

  In the initial stage of planting.

The company has a factory in Sibu that processes fresh fruit bunches (FFB) into crude palm oil (CPO) and palm kernels (PK) before selling to third parties. As the plantations are not in full production yet, the company has over capacity in its factory. The company thus purchased about 50% of its FFB from other small holders and plantations for processing into CPO and PK. The main source of income reported in its account is from sale of CPO and PK. The company claimed agriculture allowances in respect of costs incurred on land development and construction of roads in Plantation B.

Though the company carries on the activities of working of oil palm plantations and processing of FFB, the two activities are deemed to be an **integrated agricultural activity** and constitute one business source. The company is therefore entitled to claim agriculture allowances against the adjusted income from sale of CPO and PK.

Example 3

Plantation workers are housed in a building constructed on a piece of land owned by Bestco Enterprise in a town near its oil palm plantation.

Since the building constructed is situated in town and would have considerable value if the plantation ceases to be worked, therefore Bestco Enterprise is not eligible for agriculture allowances in respect of the building as the expenditure incurred on the construction of the building does not qualify as qualifying agriculture expenditure.

5.2 New planting

The expenditure incurred on –

(a) planting new crop of any product; or

(b) replacing old crop with a crop of different product

relates to new planting and would be considered as qualifying agriculture expenditure.

Example 4

A company discontinued planting organic fruits and vegetables on its farm and replaced the crops with timber trees.

The expenditure incurred relates to new planting and the company qualifies for agricultural allowances.

Example 5

A plantation company replaced its old rubber trees with oil palm trees due to declining profits.

The expenditure incurred on the replacement of the rubber trees with oil palm trees relates to new planting and the company qualifies for agricultural allowances.

5.3 Non-qualifying agriculture expenditure

(a) Cost of land

Example 6

Same facts as in Example 1.

The cost of acquiring the land for plantation is not a qualifying agriculture expenditure.

(b) Cost of plant and machinery used in the farm. However, capital allowances would be applicable to plant and machinery.

Example 7

A company involved in aquaculture had set up a fish farm in a rural area where electricity was not available. The company invested a substantial sum for the setting up of its own wiring system and electrical poles before making an application to Tenaga Nasional Bhd for connection to the nearest existing electric power source. The electricity was used for the running of aerators for the pond and farm house consumption.

The company would not qualify for agriculture allowances as the expenses incurred for the setting up of the electrical system for electricity supply to the farm is not qualifying agriculture expenditure.

However, the expenditure would qualify for capital allowance if it fulfills the functional test of plant and machinery. PR No. 12/2014 titled "Qualifying Plant and Machinery for Claiming Capital Allowances" can be referred to for further information.

(c) Non-qualifying activity

Example 8

A company renowned for its good management and practices in producing high quality oil palm seedlings owns several oil palm nurseries in Malaysia. The company incurred expenditure on land development and claimed agriculture allowances.

The company would not qualify for agriculture allowances as a nursery is not considered a farm or plantation for the purpose of agriculture allowances.

Example 9

Madura Landscaping Company is engaged in horticulture in 2015 and has a farm that is planted with an assortment of flowering and ornamental plants. The company bought a container for the purpose of living accommodation for its workers who are employed to work on the farm. The company claimed agriculture allowances on planting and the container.

Madura Landscaping Company would not qualify for agriculture allowances as flowering and ornamental plants do not fall under the definition of **crops**. However, the company can claim cost of the flowering and ornamental plants as revenue expenditure (cost of stock) under subsection 33(1) of the ITA.

5.4 Date qualifying agriculture expenditure incurred

Qualifying expenditure is incurred on the day the expenditure becomes payable. However, expenditure on a constructed building is deemed to be incurred on the day on which the building is completed.

5.5 Qualifying agriculture expenditure determined by Minister

The Minister of Finance is empowered to prescribe any capital expenditure incurred to be qualifying agriculture expenditure and determine the rate of allowance in respect of such expenditure.

5.6 Eligibility to claim agriculture allowance

A person who has incurred qualifying agriculture expenditure in relation to an asset and a business of his is entitled to claim agriculture allowance for a year of assessment if he is the owner of the asset at the end of the basis period and the asset is in use in the business of a farm or plantation.

5.7 Non-application of allowances other than agriculture allowances

A person who is entitled to claim agriculture allowances in respect of qualifying agriculture expenditure will not be eligible for any other allowances under the ITA on the same expenditure.

5.8 Replanting expenditure

(a) A deduction may be allowed under paragraph 34(6)(*d*) of the ITA for replanting expenses incurred in relation to the replacement of a crop by a crop of the same product including:

(i) any expenses on the improvement work carried out on the farm in connection with such replanting (for example plastic rain-shelters and drip or trickle irrigation to boost crop yield and quality); and

(ii) expenditure incurred in relation to reafforestation of timber (for example construction of fences to keep out animals from eating stump sprouts and seedlings regenerating naturally).

Example 10

A rubber plantation was destroyed by fire and the rubber plantation company replanted new rubber trees as a replacement.

The rubber plantation company would qualify for a deduction under paragraph 34(6)(*d*) of the ITA as it has incurred replanting expenses in relation to the replanting of rubber trees.

(b) In the case of vegetables which have been replaced after one or more harvests and have a relatively short life span when compared to fruits or other crops, the replacement of a vegetable by a vegetable of a different kind may be regarded as replanting for purposes of paragraph 34(6)(*d*) of the ITA.

Example 11

A company involved in vegetable farming replaces cucumber plants after a harvest with that of brinjal plants.

The company qualifies for a deduction for the replanting of the vegetable.

6. Rates of Agriculture Allowances

The rate of agriculture allowances depends on the type of expenditure incurred.

The rate of agriculture allowance for construction on a farm of a building for the welfare of persons or as living accommodation for a person employed for the working of a farm, and construction of any other building is 20% and 10% respectively, as provided in subparagraph 22*(a)* and *(b)* of Schedule 3 to the ITA.

While the rate of agriculture allowances for other qualifying agriculture expenditure such as clearing and preparation of land for purposes of agriculture, planting of crops on land cleared for planting, and construction of roads or bridges on a farm is 50%, as provided in paragraph 23 of Schedule 3 to the ITA.

The rate of agriculture allowance is summarised in the following schedule:

Qualifying Agriculture Expenditure	Rate of Allowance
Clearing and preparation of land for purposes of agriculture	50%
Planting of crops on land cleared for planting	50%
Construction of roads or bridges on a farm	50%
Construction on a farm of a building for the welfare of persons or as living accommodation for a person employed for the working of a farm	20%
Construction of any other building	10%

Example 12

Bestco Enterprise's business activities comprised of trading in commodities and working of a rubber plantation. It had decided to replace the old rubber trees with oil palm trees due to the good demand for palm oil. The accounting year end of Bestco Enterprise was 31 December. The company incurred the following expenditure:

Date	Types of Expenditure	Cost Incurred (RM)
03.1.2015	Clearing of land	160,000
20.4.2015	Road	60,000
28.6.2015	Labour quarters	200,000
10.10.2015	Planting of oil palm trees	100,000
14.2.2016	Office building cum store	150,000

The computation of agriculture allowances for Bestco Enterprise are as shown below:

Year of Assesment	Clearing of Land (50%) RM 160,000	Road (50%) RM60,000	Labour Quarters (20%) RM200,000	Planting of Oil Palm Trees (50%) RM100,000	Office Building cum Store (10%) RM150,000
2015	80,000	30,000	40,000	50,000	NIL
2016	80,000	30,000	40,000	50,000	15,000
2017	NIL	NIL	40,000	NIL	15,000
2018	NIL	NIL	40,000	NIL	15,000
2019	NIL	NIL	40,000	NIL	15,000
2020	NIL	NIL	NIL	NIL	15,000
2021	NIL	NIL	NIL	NIL	15,000
2022	NIL	NIL	NIL	NIL	15,000
2023	NIL	NIL	NIL	NIL	15,000
2024	NIL	NIL	NIL	NIL	15,000
2025	NIL	NIL	NIL	NIL	15,000

7. Apportionment of Agriculture Allowances Upon Sale or Transfer of an Asset

A person (transmitter) who has incurred qualifying agriculture expenditure on an asset for the purpose of a business of his may transfer or transmit the asset by operation of law or otherwise to some other person (recipient). The phrase “by operation of law” means that a right or liability has been created for a party due to existing legal principles, irrespective of the intent of that party.

7.1 Transmitter

(a) A transmitter who has transferred or transmitted an asset of his to a recipient in the basis period for a year of assessment may be entitled to only part of the agriculture allowances. This is determined by apportioning the allowances on a time basis from the beginning of the basis period to the date of transfer or sale between the transmitter and recipient.

(b) The transmitter is not entitled to agriculture allowances if the asset is not in use for a business of his within one month (or such further period as the Director General may allow) before the transfer or transmission took place.

7.2 Recipient

The purchaser (recipient) is only entitled to the other part of the apportioned agriculture allowances for the year of assessment in the basis period in which the transfer or transmission took place and subsequent years of assessment if the asset is:

(a) a farm used by him for the purposes of a business of his which consists wholly or partly of the working of a farm; or

(b) a building which is used by the recipient for the purposes of that businesss and is adjacent to or closely in the vicinity of that farm or another farm.

The price paid by the recipient for the agriculture expenditure is disregarded for the determination of agriculture allowances.

The apportionment of agriculture allowances is only applicable between the transmitter and recipient for the same year of assessment. In other words, if the transfer or transmission of an asset takes place on a date that falls in the basis period of different years of assessment of both the transmitter and the recipient, only the transmitter will be entitled to the apportioned agriculture allowances which is computed up to the date of transfer or sale of the asset. The remaining balance of agriculture allowances is disregarded and cannot be claimed by anyone.

7.3 Summary of tax treatment on disposal

Transmitter →	Recipient
• Entitled to claim agriculture allowances up to the date of disposal in year of assessment of disposal if asset was in use one month before disposal • Apportionment of agriculture allowances using the formula $\dfrac{\text{Days owned before transfer}}{\text{365 days}} \times \text{Agriculture Allowance}$	• Entitled to claim the remaining agriculture allowances that would have been made to the transmitter if the asset had not been transferred • Claims for the remaining apportioned agriculture allowances by the recipient must be in respect of the same year of assessment as when the transmitter claims the apportioned agriculture allowances

Example 13

Same facts as in Example 12 and in the year 2018 the owner of Bestco Enterprise decides to sell the plantation to finance his children's education abroad. He gets a good offer from Ahamad Oil Palm Plantation Sdn Bhd which borders Bestco Enterprise plantation. The plantation is sold on 6.9.2018. Bestco Enterprise is entitled to claim a portion of the agriculture allowances in respect of the labour quarters and office building cum store as follows:

Year of Assessment	Labour Quarters	Office Building Cum Store
2018	$RM40,000 \times \frac{249 \text{ days}}{365 \text{ days}}$ = RM27,288	$RM15,000 \times \frac{249 \text{ days}}{365 \text{ days}}$ = RM10,232

The recipient, Ahamad Oil Palm Plantation Sdn Bhd (year ending 31 December) would be entitled to claim the balance of the agriculture allowances for the year of assessment 2018 as the transfer or transmission takes places within the same basis period.

However, the recipient is only entitled to the balance of the agriculture allowances if the plantation is used for the purposes of his business which consists wholly or partly of the working of the farm. It is entitled to claim agriculture allowances for subsequent years of assessment until the original expenditure is fully claimed.

Ahamad Oil Palm Plantation Sdn Bhd is entitled to claim the remaining agriculture allowances in respect of the labour quarters and office building cum store as follows:

Year of Assessment	Labour Quarters RM200,000	Office Building cum Store RM150,000
2018	12,712	4,768
2019	40,000	15,000
2020	NIL	15,000
2021	NIL	15,000
2022	NIL	15,000
2023	NIL	15,000

Year of Assessment	Labour Quarters RM200,000	Office Building cum Store RM150,000
2024	NIL	15,000
2025	NIL	15,000

Example 14

Same facts as in Example 13 except that the plantation under Bestco Enterprise has not been worked on since June 2018 due to the shortage of workers. Ahamad Oil Palm Plantation Sdn Bhd uses the plantation immediately upon purchase on 6.9.2018.

The labour quarters and office building cum store are not in use for Bestco Enterprise within one month before the sale of the plantation on 6.9.2018. Therefore Bestco Enterprise would not qualify for agriculture allowances for the year of assessment 2018.

Ahamad Oil Palm Plantation Sdn Bhd qualifies for agriculture allowances in respect of the labour quarters and office building cum store as follows:

Year of Assessment	Labour Quarters RM200,000	Office Building cum Store RM150,000
2018	40,000	15,000
2019	40,000	15,000
2020	NIL	15,000
2021	NIL	15,000
2022	NIL	15,000
2023	NIL	15,000
2024	NIL	15,000
2025	NIL	15,000

Example 15

Same facts as in Example 13 except that the accounting year end of Ahamad Oil Palm Plantation Sdn Bhd is 31 March.

Bestco Enterprise's claim for agriculture allowances is the same as explained in Example 13. However for Ahamad Oil Palm Plantation Sdn Bhd, the transfer on 6.9.2018 falls in the basis period for the year of assessment 2019. Therefore, Ahamad Oil Palm Plantation Sdn Bhd is eligible to claim agriculture allowances from the year of assessment 2019 and subsequent years of assessment as follows:

Year of Assessment	Labour Quarters RM200,000	Office Building cum Store RM150,000
2019	40,000	15,000
2020	NIL	15,000
2021	NIL	15,000
2022	NIL	15,000
2023	NIL	15,000
2024	NIL	15,000
2025	NIL	15,000

8. **Agriculture Charges**

8.1 Disposal of farm assets

An agriculture charge is made to a person who disposed of his farm asset within five years from the date of incurring the expenditure. The agriculture charge is equal to the aggregate of all those agriculture allowances that have been made to him for all the years of assessment.

The proceeds from the disposal of an asset are not relevant in the computation of agriculture charge.

Example 16

Same facts as in Example 13 and the plantation is disposed of to Ahamad Oil Palm Plantation Sdn Bhd on 6.9.2018 for RM800,000. An agriculture charge of RM507,520 is made to Bestco Enterprise and is computed as follows:

Year of Assess - ment	Clearing of land (50%) RM160,000		Road (50%) RM60,000		Labour quarters (20%) RM200,000		Planting of oil palm trees (50%) RM100,000		Office building cum store (10%) RM150,000	
	Allowance	Charge	Allowance	Charge	Allowance	Charge	Allowance	Charge	Allowance	Charge
2015	80,000	-	30,000	-	40,000	-	50,000	-	-	-
2016	80,000	-	30,000	-	40,000	-	50,000	-	15,000	
2017	-	-	-	-	40,000	-	-	-	15,000	
2018	-	160,000	-	60,000	27,288	147,288	-	100,000	10,232	40,232

As the date of disposal is within 5 years from the date the expenditure is incurred, an agriculture charge equal to the aggregate for all those allowances that have been made to him arises for the year of assessment 2018.

Example 17

Same facts as in Example 13 except that the plantation is disposed of to Ahamad Oil Palm Plantation Sdn Bhd for RM800,000 on 6.9.2021.

In this case, no agriculture charge will be made in respect of clearing of land, construction of road, labour quarters, planting of oil palm trees and office building cum store as the disposal of the assets takes place more than five years from the dates of expenditure.

8.2 Grant or other payment by the Government, State Government or statutory authority

Paragraph 26 of Schedule 3 to the ITA is deleted by Finance Act 2013, effective from 11.1.2013. Paragraph 26 previously provides *inter alia* that where the business of a person consists wholly or partly of the working of a farm and in a basis period for a year of assessment any sum first becomes payable to him in that period, being a grant or other payment by the Government, a State Government or statutory authority which is intended to relieve him of capital expenditure incurred by him on that farm, an agriculture charge equal to that sum shall be made on him in relation to the working of his farm.

However, the Income Tax (Exemption) (No.22) Order 2006 [P.U.(A) 207/2006] which has effect from the year of assessment 2006 exempts any person from the payment of income tax in respect of income relating to a grant or a subsidy.

With the deletion of paragraph 26 of Schedule 3 to the ITA, no agriculture charge shall be made on that person in respect of the grant or subsidy.

Subsidies or other payments in the form of capital or grants received from the Federal Government or State Government for the purpose of alleviating the burden of capital expenditure in carrying on agricultural or plantation activities will be accorded the following tax treatment:

(a) the grant received is not taxable; and

(b) expenses financed from the grant are not eligible for any tax deduction or any allowances under Schedule 3 to the ITA.

Further information can be obtained from Inland Revenue Board of Malaysia (IRBM) website under Technical Guidelines titled **Garispanduan Berkaitan Pengecualian Cukai Ke Atas Pemberian Atau Subsidi (Grant) Dan Pendapatan Pihak Berkuasa Berkanun** dated 26.1.2010.

8.3 Disposal of asset after business ceases

Where an asset is disposed of by a person after the end of the basis period for a year of assessment in which his business has ceased permanently, the disposal shall be deemed to have been made in the basis period the business ceased.

Example 18

Same facts as in Example 13 except that Bestco Enterprise ceases working of the farm in November 2020 before the disposal on 6.9.2021. The agriculture allowances and charges are computed as follows:

Year of Assessment	**Office building cum store (10%) RM150,000**	
	Allowance	**Charge**
2015	NIL	NIL
2016	15,000	NIL
2017	15,000	NIL
2018	15,000	NIL
2019	15,000	NIL
2020	NIL	60,000

Since Bestco Enterprise ceases permanently to work on the farm in November 2020 before the date of disposal on 6.9.2021, the disposal of the farm would be deemed to have been made in the basis period the business ceased. Agriculture charge will be made for the year of assessment 2020 in respect of the office building cum store as this asset was disposed of within five years from the date the qualifying expenditure on this asset was incurred.

8.4 Demolition of building

Demolition of building is not a disposal. As such, no agriculture charge arises on such a demolition.

8.5 Control transfers

(a) Control transfers provision will apply if -

(i) a person disposes of or transfers an asset in which agriculture allowances have been made or would have been made. The transferor or transmitter must be carrying on a business;

(ii) one of the following controlled situations in paragraph 38(1) of Schedule 3 of the ITA exists at the time of disposal or transfer:

(A) the transferor or transmitter of the asset is a person over which the recipient of the asset has control;

(B) the recipient of the asset is a person over which the transferor or transmitter of the asset has control;

(C) some other person has control over the transferor or transmitter and the recipient of the assets (common control);

(D) the disposal is effected in consequence of a scheme of reconstruction or amalgamation of companies; or

(E) the disposal is effected by way of a settlement or gift by devolution of the property which is the asset on death.

(iii) the recipient uses the asset in a business and is eligible for agriculture allowance.

(b) A disposal subject to control transfers is deemed to have taken place on the first day of the transferor or transmitter’s final period. The value of the asset at the date of its disposal i.e. its disposal value, is the residual expenditure of the asset on the first day of the transferor’s or transmitter’s final period.

The transferor's or transmitter's final period is the basis period (in respect of the business in which the asset is being used and on which qualifying expenditure was incurred) for the year of assessment which is the first year of assessment for which the recipient could obtain agriculture allowances if the asset was used for the purposes of a business of the recipient.

(c) For control transfers where agriculture allowances are involved, the residual expenditure is the qualifying expenditure incurred by the transferor or transmitter less any agriculture allowances made to him. The qualifying agriculture expenditure for the recipient would be equal to the residual expenditure of the asset.

Example 19

Company A (year ending 31 December) is in the business of chicken rearing and on 1.12.2010 acquired a piece of land at a cost of RM1.5 million. The company constructed 10 coops, roads, living accommodation for workers, a store, a bridge and fenced the land in 2011 and 2012 at a cost of RM1.2 million.The company claimed agriculture allowances for the year of assessment 2011 for qualifying agriculture expenditure on the cost of construction of roads, bridge, store and living quarters. Capital allowances were claimed on the cost of the coops and fences for the year of assessment 2012. On 1.6.2014 the above assets (excluding land) were disposed to Company B (year ending 31 December) which has a 60% shareholding in Company A. Company A and B were both involved in the business of chicken rearing. Company A ceased its business after the disposal of its assets.

The disposal of assets between Company A and B is considered a control sale as the recipient, Company B had control over the transferor or transmitter, Company A. As such, agriculture charge under paragraph 27 of Schedule 3 of the ITA is not applicable to Company A. The date of disposal or transfer of the assets would be the first day of the transferor or transmitter's final period. The final period for Company A is 1.1.2014 to 31.12.2014. Therefore the date of disposal or transfer is deemed to have taken place on 1.1.2014.

The agriculture allowances claimed by Company A are as follows:

Year of Assess -ment	**Roads and Bridges (50%) RM160,000**		**Labour Quarters (20%) RM100,000**		**Store (10%) RM200,000**	
	Allowance	Charge	Allowance	Charge	Allowance	Charge
2011	80,000	-	20,000	-	20,000	-
2012	80,000	-	20,000	-	20,000	-
2013	-	-	20,000	-	20,000	-
2014	-	-	-	-	-	-

No agriculture charges arise to Company A under the control sale.

The remaining agriculture allowances that can be claimed by Company B are as follows:

Year of Assessment	**Roads and Bridges (50%) RM160,000**	**Labour Quarters (20%) RM100,000**	**Store (20%) RM100,000**
	Allowance	Allowance	Allowance
2014	-	20,000	20,000
2015	-	20,000	20,000
2016	-	-	20,000
2017	-	-	20,000
2018	-	-	20,000
2019	-	-	20,000
2020	-	-	20,000

9. Election to Spread Agriculture Charges

A person who has disposed of a farm may elect that the amount of agriculture charges be divided equally by the number of years of assessment for which allowances are made.

Example 20

Same facts as in Example 16 except that Bestco Enterprise elects to have the agriculture charges divided by the number of years of assessment for which the agriculture allowances are made. The computation of agriculture allowances and charges would be as follows:

Year of Assess-ment	Clearing of Land (50%) RM160,000		Road (50%) RM60,000		Labour Quarters (20%) RM200,000		Planting of Oil Palm Trees (50%) RM100,000		Office Building cum Store (10%) RM150,000	
	Allowance	Charge	Allowance	Charge	Allowance	Charge	Allowance	Charge	Allowance	Charge
2015	80,000	80,000	30,000	30,000	40,000	36,822	50,000	50,000	-	-
2016	80,000	80,000	30,000	30,000	40,000	36,822	50,000	50,000	15,000	13,411
2017	-	-	-	-	40,000	36,822	-	-	15,000	13,411
2018	-	-	-	-	27,288	36,822	-	-	10,232	13,410

Bestco Enterprise is required to inform the IRBM that it has made the election and it has to submit revised tax computations (additional assessments for years of assessment 2015 to 2017) to the IRBM branch office that handles its tax file.

Director General of Inland Revenue,
Inland Revenue Board of Malaysia.

Appendix 1

Summary of Qualifying Agriculture Expenditure