



Grant Thornton

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Tax Alert 6/2016

# Tax Alert

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Welcome to Grant Thornton Malaysia Tax Alert. This newsletter provides information on the latest tax updates.

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# Public Ruling 1/2016: Agriculture Allowances updates

The Inland Revenue Board (“IRB”) has recently released Public Ruling 1/2016: Agriculture Allowances (“PR 1/2016”) dated 20 January 2016. PR 1/2016 explains the:

- Types of expenditure that qualify as agriculture expenditure;
- Computation of Agriculture Allowances (AA);
- Computation of Agriculture Charges (AC); and
- Tax treatment on receipt of a grant or subsidy.

Types of Qualifying Agriculture Expenditure and Rates of Agriculture Allowances	Agriculture Allowance
Clearing and preparation of land for the purposes of agriculture	50%
New planting (exclude replanting) of crops on land cleared for planting	50%
Construction of roads, bridge and drains 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 (eg. labour quarters, places of worship, and community hall)	20%
Construction of any other building (eg. estate office buildings, mills and godowns)	10%



For new planting, the expenditure incurred on:

- planting new crop of any product; or
- replacing old crop with a crop of different product relates to new planting and would be considered as qualifying agriculture expenditure.





### Qualifying agriculture expenditure excludes:

- (a) Cost of land;
- (b) Cost of plant and machinery used in the farm (but may qualify for capital allowances); and
- (c) Expenditure on a non-qualifying activity eg. operating a nursery for oil palm seedlings.

### Eligibility to claim

A person who has incurred qualifying agriculture expenditure in relation to an asset and a business of his for a year of assessment (YA) if:

- He is 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.

### Non-application

Mutually exclusive with any other allowances under the Income Tax Act (ITA) 1967 on the same expenditure.

### Apportionment of Agriculture Allowances Upon Sale or Transfer of an Asset

- Where a person (transmitter) transfer or transmit the right of use or liability of the asset to another person (recipient), apportionment of agriculture allowances (AA) will be done by using the following formula:

$$\frac{\text{Days owned before transfer}}{365 \text{ days}} \times \text{Agriculture Allowances}$$

- Transmitter - entitled to claim AA up to the date of disposal if asset was in use one month before its disposal.
- Recipient - entitled to claim the remaining AA irrespective of the purchase consideration but must be in respect of the same YA as the transmitter.
- Apportionment of AA is only applicable between the transmitter and recipient for the same YA. If the transfer or transmission of an asset takes place on a date that falls in the basis period of different YAs of both the transmitter and the recipient, only the transmitter will be entitled to the apportioned AA which is computed up to the date of transfer or sale of the asset. The remaining balance of AA is disregarded and cannot be claimed by anyone.

## Summary of tax treatment on disposal

Transmitter	Recipient
<ul style="list-style-type: none"> <li>Entitled to claim AA up to the date of disposal in YA of disposal if asset was in use 1 month before disposal</li> </ul>	<ul style="list-style-type: none"> <li>Entitled to claim the remaining AA that would have been made to the transmitter if the asset had not been transferred</li> </ul>
<ul style="list-style-type: none"> <li>Apportionment of AA using the formula:  <math display="block">\frac{\text{Days owned before transfer}}{365 \text{ days}} \times \text{AA}</math> </li> </ul>	<ul style="list-style-type: none"> <li>Claims for the remaining apportioned AA by the recipient must be in respect of the same YA as when the transmitter claims the apportioned AA</li> </ul>

## Agriculture Charges

### 1. Disposal of farm assets

- Agriculture charge (AC) arises when an asset on which AA has been claimed is disposed of within 5 years from the date the expenditure was incurred.
- AC is equal to the aggregate of all those AA that have been made to him for all the YAs.
- Proceeds from the disposal of the asset are not relevant in the computation of AC.

### 2. Grant or other payment by the Government, State Government or statutory authority

- Income Tax (Exemption) (No 22) Order 2006 [P.U.(A) 207/2006] which has effect from the YA 2006 exempts any person from the payment of income tax in respect of income relating to a grant or a 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 agriculture or plantation activities will be accorded the following tax treatment:
  - the grant received is not taxable; and
  - expenses financed from the grant are not eligible for any tax deduction or any allowances under Schedule 3 of the ITA 1967.

### 3. Disposal of asset after business cease

- If an asset is disposed of after the end of the basis period for a YA in which his business has ceased permanently, the disposal shall be deemed to have been made in the basis period the business ceased.

### 4. Demolition of building

- Demolition of building is not regarded as a disposal. Thus, no AC arises on such a demolition.

## 5. Control transfers

- Control transfer will apply if a person disposes of or transfers an asset in which AA have been made or would have been made.
- Controlled situations are listed under Para 38(1) of Schedule 3 of the ITA 1967.
- A disposal subject to control transfer is deemed to have taken place on the first day of the transferor's or transmitter's final period. The disposal value is the residual expenditure of the asset on the first day of the transferor's or transmitter's final period. The residual expenditure is the qualifying expenditure incurred by the transferor or transmitter after deducting any AA to him. The qualifying agriculture expenditure for the recipient would be equal to the residual expenditure of the asset.

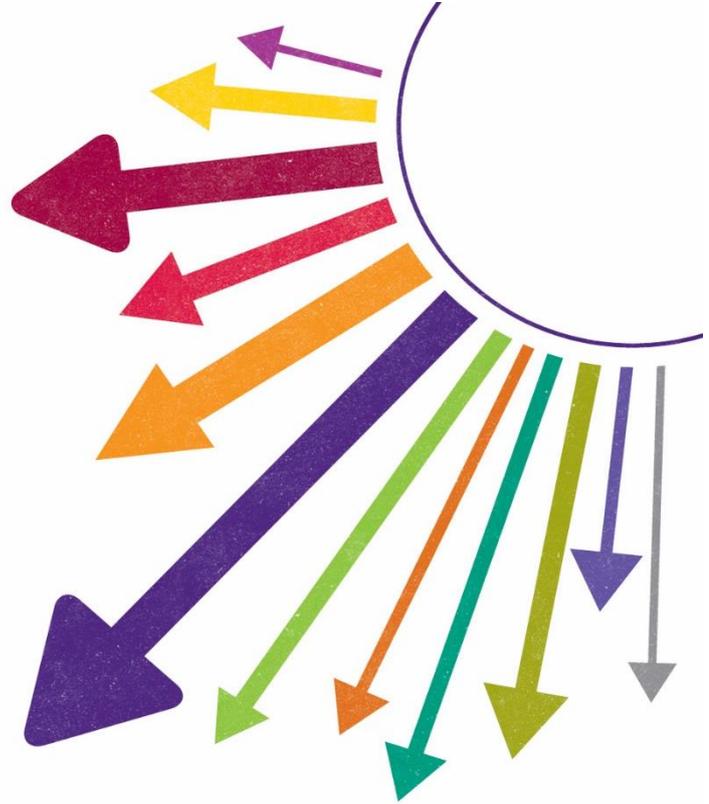
### **Election to Spread Agriculture Charges**

A person charged with an AC may elect to spread the AC equally over the number of YAs over which the AA has been made to him.

## Contact us

For further enquiries on any information included in this Tax Alert, please get in touch with your local Grant Thornton Malaysia team in our offices.





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