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WARTA KERAJAAN PERSEKUTUAN

*FEDERAL GOVERNMENT
GAZETTE*

KAEDAH-KAEDAH CUKAI PENDAPATAN (POTONGAN
BAGI PERBELANJAAN FI FRANCAIS) 2012

*INCOME TAX (DEDUCTION FOR EXPENDITURE ON
FRANCHISE FEE) RULES 2012*



DISIARKAN OLEH/
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JABATAN PEGUAM NEGARA/
ATTORNEY GENERAL'S CHAMBERS

AKTA CUKAI PENDAPATAN 1967

KAEDAH-KAEDAH CUKAI PENDAPATAN (POTONGAN BAGI PERBELANJAAN FI FRANCAIS) 2012

PADA menjalankan kuasa yang diberikan oleh perenggan 154(1)(b) Akta Cukai Pendapatan 1967 [*Akta 53*], Menteri membuat kaedah-kaedah yang berikut:

Nama dan permulaan kuat kuasa

1. (1) Kaedah-kaedah ini bolehlah dinamakan **Kaedah-Kaedah Cukai Pendapatan (Potongan bagi Perbelanjaan Fi Francais) 2012**.

(2) Kaedah-Kaedah ini hendaklah berkuat kuasa mulai tahun taksiran 2012.

Tafsiran

2. Dalam Kaedah-Kaedah ini—

“cap” mempunyai erti yang sama yang diberikan kepadanya di bawah seksyen 4 Akta Francais 1998 [*Akta 590*];

“fi francais” ertinya fi yang dibayar oleh orang yang layak kepada pemberi francais bagi hak untuk menggunakan cap, rahsia dagangan, maklumat sulit, harta intelektual atau sistem francais yang dimiliki oleh pemberi francais itu mengikut terma suatu perjanjian francais tetapi tidak termasuk bayaran royalti atau bayaran berkala yang lain;

“jenama francais tempatan” ertinya suatu cap dagangan atau cap perkhidmatan yang didaftarkan di bawah Akta Cap Dagangan 1976 [*Akta 175*] oleh seorang pemberi francais yang perniagaan francaisnya didaftarkan di bawah seksyen 6 Akta Francais 1998;

“orang yang layak” ertinya seseorang yang bermastautin di Malaysia yang merupakan pemegang francais dalam maksud seksyen 4 Akta Francais 1998;

“pemberi francais” ertinya pemberi francais dalam maksud seksyen 4 Akta Francais 1998 yang memiliki sepenuhnya jenama francais tempatan dan berhubungan dengan suatu syarikat yang diperbadankan di bawah Akta Syarikat 1965 [*Akta 125*], sekurang-kurangnya tujuh puluh peratus modal saham terbitan syarikat itu dimiliki oleh warganegara Malaysia;

“perniagaan francais” ertinya perniagaan yang dijalankan oleh orang yang layak menggunakan jenama francais tempatan;

“royalti” mempunyai erti yang sama yang diberikan kepadanya di bawah seksyen 2 Akta.

Potongan

3. (1) Bagi maksud menentukan pendapatan larasan orang yang layak daripada perniagaannya bagi tempoh asas bagi suatu tahun taksiran, suatu potongan hendaklah dibenarkan bagi perbelanjaan yang dilakukan ke atas fi francais yang dibayar kepada pemberi francais untuk perniagaan francaisnya sebelum permulaan perniagaan itu.

(2) Bagi maksud subkaedah (1), fi francais yang telah dibayar oleh orang yang layak itu kepada pemberi francais untuk perniagaan francaisnya tidak boleh dibayar balik.

(3) Perbelanjaan yang dilakukan di bawah subkaedah (1) hendaklah disifatkan dilakukan dalam tempoh asas bagi suatu tahun taksiran yang mana perniagaan francais itu bermula.

Dibuat 23 Februari 2012

[CR(8.09)294/6/4-9(SJ. 9); LHDN.01/35/(S)/42/51/231-7.13; PN(PU2)80/LXIII]

DATO' SERI AHMAD HUSNI MOHAMAD HANADZLAH
Menteri Kewangan Kedua

[*Akan dibentangkan di Dewan Rakyat menurut subseksyen 154(2) Akta Cukai Pendapatan 1967*]

INCOME TAX ACT 1967

INCOME TAX (DEDUCTION FOR EXPENDITURE ON FRANCHISE FEE) RULES 2012

IN exercise of the powers conferred by paragraph 154(1)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following rules:

Citation and commencement

1. (1) These rules may be cited as the **Income Tax (Deduction for Expenditure on Franchise Fee) Rules 2012**.

(2) These Rules shall have effect from the year of assessment 2012.

Interpretation

2. In these Rules—

“mark” has the same meaning assigned to it under section 4 of the Franchise Act 1998 [Act 590];

“franchise fee” means a fee paid by a qualified person to the franchisor for the right to use a mark, trade secret, confidential information, intellectual property or system of franchise owned by that franchisor in accordance with the terms of a franchise agreement but shall not include royalty payment or other periodical payments;

“local franchise brand” means a trade mark or service mark that is registered under the Trade Marks Act 1976 [Act 175] by a franchisor whose franchise business is registered under section 6 of the Franchise Act 1998;

“qualified person” means a person who is resident in Malaysia and is a franchisee within the meaning of section 4 of the Franchise Act 1998;

“franchisor” means a franchisor within the meaning of section 4 of the Franchise Act 1998 who wholly owns the local franchise brand and in relation to a company incorporated under the Companies Act 1965 [Act 125], at least seventy per centum of the issued share capital of the company is owned by Malaysian;

“franchise business” means a business carried out by a qualified person using a local franchise brand;

“royalty” has the same meaning assigned to it under section 2 of the Act.

Deduction

3. (1) For the purpose of ascertaining the adjusted income of a qualified person from his business for the basis period for a year of assessment, there shall be allowed as deduction the expenditure incurred on the franchise fee paid to the franchisor for his franchise business prior to the commencement of that business.

(2) For the purpose of subrule (1), the franchise fee paid by the qualified person to the franchisor for his franchise business shall not be refundable.

(3) The expenditure incurred under subrule (1) shall be deemed to be incurred in the basis period for a year of assessment in which the franchise business commences.

Made 23 February 2012
[CR(8.09)294/6/4-9(SJ. 9); LHDN.01/35/(S)/42/51/231-7.13; PN(PU2)80/LXIII]

DATO' SERI AHMAD HUSNI MOHAMAD HANADZLAH
Second Minister of Finance

[To be laid before the Dewan Rakyat pursuant to subsection 154(2) of the Income Tax Act 1967]