


# Tax Treatment of Legal & Professional Expenses

*Public Ruling No.6/2006*





A photograph of the Petronas Towers in Kuala Lumpur, Malaysia, showing the two iconic towers with their spires, connected by a skybridge, against a cloudy sky. The surrounding cityscape and other buildings are visible at the base of the towers.

The related provisions for the deductibility and non-deductibility of legal and professional expenses are:

- *S33(1) and S39(1) of the Income Tax Act 1967 (ITA)*



# DEDUCTIBLE LEGAL & PROFESSIONAL EXPENSES

## 1) Debt Collection

Legal or other expenses incurred when collecting debt incurred from trading customer.



## 2) Loan Renewal

Legal expense incurred by finance company in renewing existing loan.



## 3) Preparation of account

- Expenses of book keeping record include charge for accounting work.
- Audit fees expenditure





# DEDUCTIBLE LEGAL & PROFESSIONAL EXPENSES

(con't)

## 4) Defending title to property

Legal connection incurred in connection with defending a person's title to ownership of a business. The title of ownership must remain the same with nothing added or taken away.



## 5) Legal expenses incurred by landlord

Legal expenses including litigation costs incurred for the renewal of a lease.



## 6) Defending an action connected with a trade or breach of trading contracts

- Expenditure incurred by a person unless the breach was deliberate and dishonest.
- Averting a threat against the goodwill of a business.



# DEDUCTIBLE LEGAL & PROFESSIONAL EXPENSES

(con't)

## 7) Legal cost incurred in disputes over trading contracts when incurred for:

- a. Enforcement of a contract for the supply to a litigant of goods which would be resold for profit.
- b. The establishment of an agreement between the litigant and another under which the litigant is entitled to render services for specific remuneration.
- c. Determination of fares fixed by a transport company for carrying passengers.
- d. Attempting to recover sums which would have been taxable if received.
- e. Claims for compensation for trading goods lost in transit.



## 8) Legal or professional expenses incurred by a developer or a dealer in property

- a. For obtaining financing facility for the benefit of house purchasers.
- b. For valuation of land.
- c. Legal fees paid for transfer of land titles, sub-division and conversion of land.
- d. Survey fees.



# DEDUCTIBLE LEGAL & PROFESSIONAL EXPENSES

*(con't)*

## 9) Other legal expenses

- a. Renewal of leases and licenses.
- b. Claim for compensation for trading goods destroyed, defective or lost in transit.
- c. Legal fees and agency fees incurred in connection with employment agreements as well as in connection with preparation of trading contracts or agreements.



# NON-DEDUCTIBLE LEGAL & PROFESSIONAL FEES

(con't)

## 1) Debt Collection

- a. Legal and other expenses incurred by a person in the collection of debts arising from non-trading customers.
- b. Debts and loans of a capital nature



## 2) Loan Renewal

- a. Legal fees incurred by a trading or commercial company.
- b. Legal expenses on renewal of a mortgage on premises.
- c. Cost of raising additional capital by means of a loan



## 3) Annual corporate filings and meeting expenses

- a. Secretarial fees
- b. Annual general meeting expenses



## NON-DEDUCTIBLE LEGAL & PROFESSIONAL FEES

(con't)

### 4) Income tax returns

- a. Cost of filing of tax returns and tax computations.
- b. Cost of appeal against income tax assessment.



### 5) Legal expense incurred by a landlord

When a property is let for the first time by the owner or lessor.



### 6) Cost of defense in a fraud case

The cost of defending criminal prosecution or in connection with unlawful acts in the operation of a business.





## NON-DEDUCTIBLE LEGAL & PROFESSIONAL FEES

(con't)

### 7) Legal expenses incurred to vary vehicle licenses

A variation of vehicle licenses from ordinary lorries to articulated vehicles



### 8) Legal expenses incurred in connection with:

- a. The formation, renewal, variation or dissolution of a partnership.
- b. The transfer of a mortgage on business premises.
- c. The grant of a lease of business premises unless in connection with the renewal of a lease.
- d. The acquisition of capital assets or the sale or transfer of capital assets.
- e. Securing an enduring advantage for a trade or business.
- f. Obtaining a trading license.
- g. Increasing or reducing share capital or altering the Memorandum and Articles of Association of a company.



## NON-DEDUCTIBLE LEGAL & PROFESSIONAL FEES

(con't)

### 8) Legal expenses incurred in connection with:

- h. Floatation, registration, winding up or liquidation of a company.
- i. Obtaining new leases, mortgages, loan or credit facilities.
- j. Valuation charges relating to probate, company reconstruction and change of ownership.
- k. Legal fees relating to income already earned eg. income tax appeals.
- l. Costs of legal proceedings incurred in pursuing a claim for unlawful or unjust dismissal by an employee.



### 9) Legal and professional fees incurred by a property developer

- a. For obtaining bank overdraft, term loan and bridging finance.
- b. Fees for revaluation of land.



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