

IRAS e-Tax Guide

Machinery and plant : Section 19/19A of the Income Tax Act



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- Inserted information to clarify when a dormitory can be treated as plant at Item 3 of Annex C.

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E-TAX GUIDE

MACHINERY AND PLANT UNDER SECTION 19/19A OF THE INCOME TAX ACT

1 INTRODUCTION

1.1 This Guide provides guidance on what constitutes plant for the purposes of claiming capital allowances under section 19 or 19A of the Singapore Income Tax Act (ITA). It is intended to provide greater clarity and certainty on what Comptroller would accept as plant for purposes of claiming capital allowances.

1.2 Under the ITA, where a person carrying on a trade, profession or business incurs capital expenditure on the provision of machinery or plant for the purposes of that trade, profession or business, he will be given on due claim, capital allowance under section 19 or 19A. Section 22 extends the meaning of expenditure on the provision of machinery or plant to include capital expenditure on alterations to an existing building incidental to the installation of that machinery or plant for the purposes of the trade, profession or business.

1.3 ITA does not provide a definition of 'machinery or plant' and as such, the words must be given their ordinary meaning. What qualifies as 'machinery' does not seem to present much difficulty in practice as the basic characteristic of machinery is that it has moving parts. Things like motor vehicles, computers, and fax machines would qualify as machinery. The interpretation of what would constitute 'plant' however, has presented some difficulties in practice. The scope of what 'plant' would cover has been much disputed, as what constitutes a plant in one business may not be so in another business.

1.4 The definition of plant remains a determination of the fact and degree and will be subjected to the tests for plant. Thus disputes and issues on the validity of claims could still arise.

2 WHAT IS PLANT?

2.1 The Sixth Schedule of the ITA only specifies the number of years of working life accorded to certain assets for the purpose of computing annual allowances for such assets if they are plant or machinery. An asset must first qualify as plant and machinery before reference is made to the Sixth Schedule for the computation of capital allowances.

2.2 Numerous decided cases have provided guidance on the meaning of 'plant'. Broadly, 'plant' is the apparatus with which a person carries on a trade, business or profession, as opposed to the premises from which the trade, business or profession is carried on.

2.3 It is established, from case law, that there are three tests (all of which require an examination of the function performed by an item) to be considered in deciding whether an item is plant. These tests are:

- a) Is the item stock-in-trade?
- b) Is the item used for carrying on the business ("business use" test)? and
- c) Is the item the business premises or part of the business premises (the "premises" test)?

2.4 Test (a) merely states that an item which forms part of the stock-in-trade, i.e. purchased for resale, cannot be considered to be plant. The "business use" test and the "premises" test are discussed in the paragraphs below.

3 "BUSINESS USE" TEST

3.1 The "business use" test (alternatively known as "functional" test) attempts to determine whether the asset functions as an apparatus used by the taxpayer in carrying on the activities of the business¹. An item used in carrying on the business is however not plant if its use is as stock-in-trade or the premises or place upon which the business is conducted.

3.2 Whether an item constitutes plant for a business is a question of fact and degree. Besides the nature of taxpayer's business, what is crucial is also the purpose or function the item serves in the taxpayer's business. For example, in *Dixon v Fitch's Garage Ltd (1975) 50 TC 509*, a canopy erected over petrol pumps at a service station was held not to be plant because it served no function in the supply of petrol to motorists. The canopy only made the process of supplying petrol more comfortable for customers and staff. The commercial desirability of an asset alone is insufficient for it to satisfy the "business use" test.

4 "PREMISES" TEST

4.1 An item used for the purposes of carrying on the business activities of the taxpayer does not qualify as plant if the business uses it as the premises (or part of the premises) or place where the business is conducted. This is known as the "premises" test.

4.2 **Purpose-built structures**

4.2.1 Purpose-built structures need to pass the premises test for them to be qualifying as plant. In *St John's School (Mountford and Knibbs) v Ward 49 TC 524*, the prefabricated laboratory and gymnasium were held not to be plant as they were buildings and their functions were simply to shelter those who gave and received education inside it. Similarly, in *Benson v Yard Arm Club Ltd (1979) 2 All ER 336*, the ship used as a floating restaurant was held not to be plant as it merely served to attract customers and it played no part in the conduct of taxpayer's business.

¹ Subject to the provisions in sections 19 and 19A

4.3 **Plant-like structures**

4.3.1 Some premises may qualify as plant if such premises perform active operational functions such as the dry dock and grain silos in *IRC v Barclay Curie & Co Ltd (1968) 45 TC 221* and *Schofield v R & H Hall Ltd (1974) 49 TC 538* respectively.

4.4 **Setting**

4.4.1 Assets that are not part of the business premises but merely form part of the setting in which business is conducted will not qualify as plant. In *J Lyons and Co Ltd v Attorney General (1944) Ch 281*, lamps were held not to be plant because they were part of the setting in which the taxpayer's business was carried on and not apparatus with which the business was carried out.

4.4.2 However, items which are part of the setting but not part of the premises may be held to be plant if they were also part of the apparatus with which the trade was carried on. In deciding whether an item in dispute is 'plant' or 'setting', it is necessary to ascertain the functions it performs in the context of the trade in question. For example, the movable partitions in *Jarrold v John Good & Sons Ltd (1962) 40 TC 681* were held to be plant as taxpayer needed to possess mobility and flexibility for the day to day running of the business as a matter of commercial necessity. Decorative screens used for window displays in *Leeds Permanent Building Society v Proctor (1982) STC 821* were held to be plant as they were part of the shop furniture with which the trade of the society was carried on.

4.4.3 In *CIR v Scottish & Newcastle Breweries Ltd (1982) STC 296*, it was held that a hotel business involved not only the provision of accommodation but also the provision of right atmosphere/ambience to make the interior attractive to customers. The light fittings, tapestries, sculptures and murals were held as 'plant' as they were specifically chosen to create the atmosphere which they were trying to sell and therefore fulfilled an important function as apparatus in that particular trade.

4.4.4 Hence, the determination of what would constitute 'plant' or 'setting' would very much depend on the nature of taxpayer's business. Decided cases such as the movable partitions in *John Good case*, the window screens in the *Leeds Permanent case* and decor items in *Scottish and Newcastle case* had illustrated that an item, which could be properly described as being part of the setting, could also be plant depending on the functions performed by the items in question and the nature of taxpayers' business.

5 **BUSINESS USE AND PREMISES TESTS MUST BE MET TO QUALIFY ITEM AS PLANT**

5.1 In *Wimpy International Ltd v Warland* and *Associated Restaurants Ltd v Warland (1989) STC 273*, where improvements and modernisation work were carried out on restaurants, it was emphasised in the judgment that "even if an embellishment for the purpose of trade passes the "business use" test, it still has to pass the "premises" test. Hence, if the item becomes part of the premises, it will fail the "premises test" unless the premises are themselves plant. To decide whether an item is part of the premises, the following

factors are to be considered:

- a) Does an item appear visually to retain a separate identity?
- b) The degree of permanence with which it has been attached to the building?
- c) To what extent is the structure complete without it?
- d) To what extent is it intended to be permanent or is it likely to be replaced within a short period?

5.2 Whether an item passes the business use and premises tests is a question of fact and degree. For purpose of illustration, an item which is affixed onto the structure of the premises, does not appear visually to retain a separate identity and is intended to be permanent and not replaced within a short period, will be considered as part of the premises and not plant.

5.3 Flow chart at Annex A provides a step-by-step application of the three tests in determining whether an item qualifies as "plant". When making a claim for capital allowance, businesses should first ensure that the item claimed is not their stock-in-trade. Thereafter, they have to ascertain whether the item passes the "business use" test. If it does, the next step is to see whether it passes the "premises" test. If the item is used for carrying on the business and is not the premises or part of the premises in which the business is conducted, it shall qualify as plant.

6 QUALIFYING EXPENDITURE

6.1 Generally, the expenditure qualifying for capital allowances will also include delivery charges and cost of erection or installation of the plant or machinery. Incidental expenses relating to installation, for example professional fees, which are incurred as part of the expenditure on plant and machinery could also be considered as qualifying cost if the fees incurred have a direct nexus with the installation or erection of that plant or machinery.

6.2 Comptroller understands the practical difficulty in obtaining the direct cost of the professional fees relating to the plant and machinery (example where there is no breakdown of the fees charged for each type of job done but the scope of works includes job done on qualifying assets). If the taxpayer can prove that these expenses have a direct nexus with the installation or erection of the plant and machinery except that direct attribution to the capital expenditure is not practical, the Comptroller is prepared to allow apportionment based on a reasonable basis, for example based on the total project cost incurred.

7 EXAMPLES

7.1 The Comptroller of Income Tax has drawn up a list of items commonly claimed by most taxpayers. The lists of items which may and may not be considered as plant in most circumstances are shown in Annexes B and C respectively. They represent Comptroller's views on claims by taxpayers over time, based on the provisions in the

ITA and principles and case laws highlighted above. The lists are intended to be extensive to assist taxpayers in determining if an item would qualify as plant under most circumstances. The lists are by no means exhaustive.

8 SUMMARY OF APPLICABLE PRINCIPLES

8.1 The principles for considering whether assets qualify as plant can be summarised as follows:

- a) The words "machinery and plant" must be given their ordinary meaning.
- b) Equipment used in a business will generally qualify as 'plant' provided it has some degree of durability.
- c) Plant does not include the place or setting in which the business is carried on.
- d) Whether an item is 'plant' or 'setting', it is necessary to ascertain the functions it performs in the context of the trade in question.
- e) Building or structure may be considered as plant if it performs an operational function in the business.
- f) Items of decoration may be plant if the facts show that they create an atmosphere which is an important function for the particular trade to provide.
- g) An electrical installation may be plant if it is not for general purposes and is designed to meet the requirements of the specific trade.

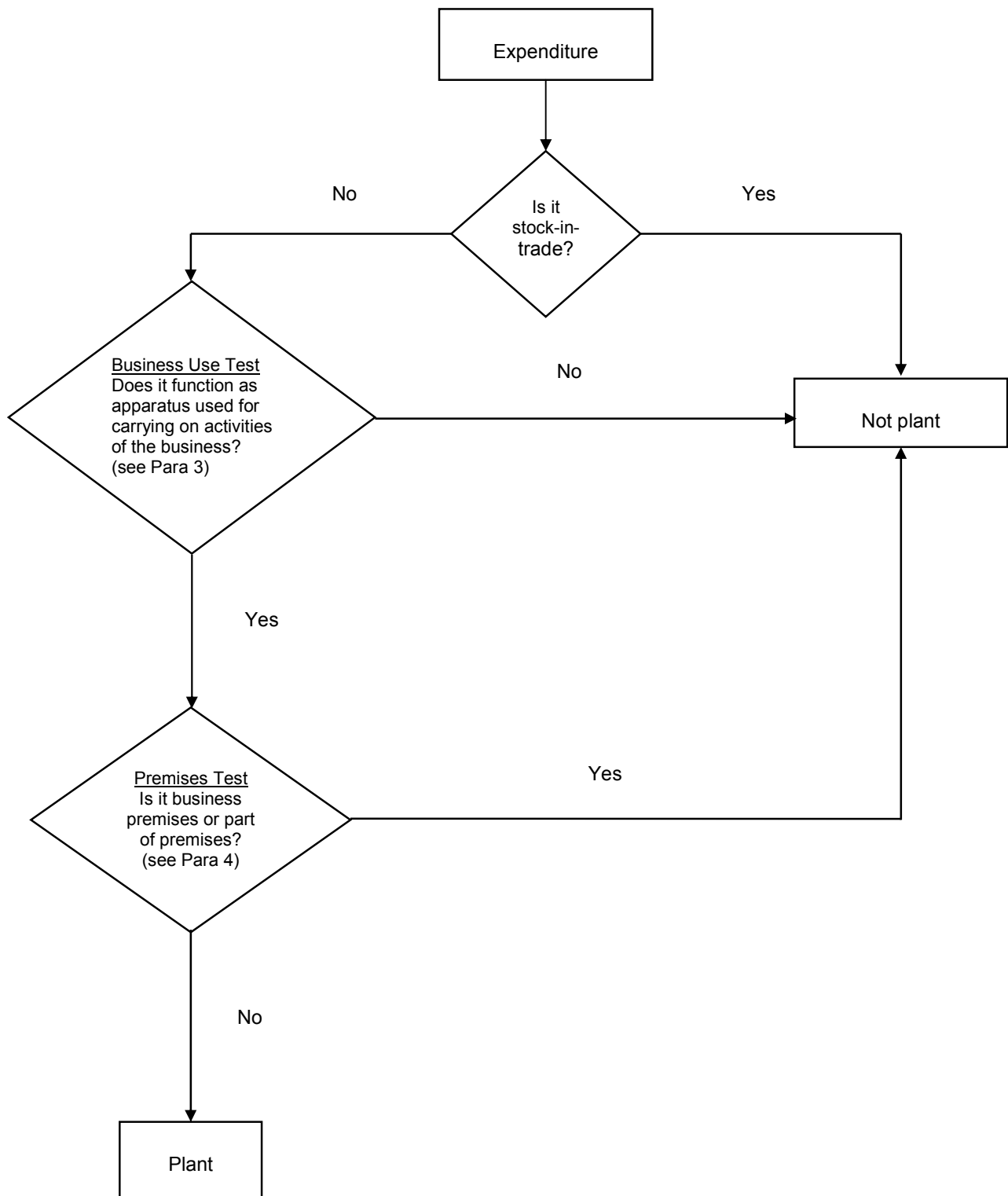
8.2 This guide provides the approach to be adopted in applying the various tests in dealing with claims for capital allowances on expenditure incurred on the provision of machinery or plant. Ultimately, whether an item constitutes 'plant' or is part of the premises remains a determination of fact and degree.

9 ENQUIRIES

If you wish to seek clarification on the contents of this circular, please contact IRAS at 1800-3568622.

Inland Revenue Authority of Singapore

FLOWCHART ON WHETHER AN EXPENDITURE QUALIFIES AS PLANT



EXAMPLES OF ITEMS THAT CAN BE CONSIDERED AS PLANT

- 1 Air conditioning and other mechanical installation
- 2 Artwork and tapestries, posters, paintings, picture frames, demountable décor pillar, demountable décor column and ornamental features, including decorative finishes and murals. These stand-alone objects are generally found to serve a business function in hospitality-related businesses, example clubs, restaurants and hotels. For items that are quasi-structural, i.e. demountable with separate identity, e.g. mirrors, décor, a functional analysis is adopted if a legitimate function is served, and the item would be treated as plant even if there are doubts as to whether the premises test is satisfied. In other non-hospitality related businesses, taxpayer need to demonstrate that these are plant and machinery of the trade.
- 3 Books that are tools of the trade and used in the day-to-day operation of the profession
- 4 Blinds and curtains
- 5 Building automation and control systems
- 6 Built-in-storage units and dispensers
- 7 Carpets and carpet tiles
- 8 Central grease removal system that performs a special function in the business
- 9 Cold water storage tanks that do not form part of a general water supply
- 10 Containers used for carriage of goods by any mode of transportation
- 11 Data and telecommunication cables and wiring
- 12 Electrical and electronic equipment and wiring (e.g. air-conditioning system, security/alarm system, sprinkler system and electrical appliances)
- 13 Electrical door operating systems, mechanical parts of doors and gates (but not the doors and gates themselves)
- 14 Exit/emergency lights as part of the fire safety device
- 15 Escalator and travellator
- 16 Fire alarm and fire fighting installation
- 17 Furniture and fixtures which are not structural component of a building
- 18 Generator
- 19 Hot water heaters and the heating system for hot water
- 20 Industrial plant and machinery
- 21 Lifts, excluding lift shaft (lift shaft can only be included if it falls within section 22 of the ITA)
- 22 Lightning protection system
- 23 Mirrors used in hair salons/retail stores for fitting of clothes, shoes and other accessories
- 24 Motor vehicles (goods/commercial vehicles such as pick up, van, truck, lorry, bus,

motorcycle, bicycle)

- 25 Mechanical parts for fountains and water features
- 26 Office equipment (e.g. computer, printer, photocopier, fax machine and telecommunication equipment)
- 27 Partitions – Movable/demountable exclude those functioning as walls/ceilings
- 28 Playground equipment for children used by clubs and resorts, playschool or businesses that provide children's education
- 29 Public address and intercom systems
- 30 Pumps for swimming pools
- 31 Ramps that are moveable and not permanently fixed to the building
- 32 Security installation
- 33 Showcase or display lighting or lighting with special function
- 34 Signboard and other signage
- 35 Stand alone lamps (ornamental in nature) may be plant if there is another source of illumination
- 36 Switchboard, switchgear, distribution board, transformers, control mechanism and cabling for identifiable plant
- 37 Vehicle control equipment
- 38 Window cleaning equipment

EXAMPLES OF ITEMS THAT ARE NOT CONSIDERED TO BE PLANT

The items below are not plant as they are commonly identified as being integral and ordinary parts of the building or structure.

- 1 Awning
- 2 Doors/door handles/door stopper/mechanical door closer/automatic sliding door
- 3 Dormitory used as temporary labour quarters and erected using pre-fabricated structure which are demountable even if connected by bolts and nuts. However, a dormitory can qualify as plant if it is erected on a site on short-term lease by a dormitory operator. The dormitory must be constructed with temporary and ephemeral materials to facilitate the intention to temporarily locate and move it from place to place.
- 4 Floor tiling/raised floors, false ceiling, ceiling boards and other ceiling work
- 5 Fountain and water features
 - Fountains and water features are treated as structural and not plant. However, the mechanical parts may be considered as machinery.
- 6 Garbage and waste disposal system, where it is not a statutory requirement
- 7 Gates
- 8 Installation of gas system for general gas supply
- 9 Landscaping
- 10 General lightings and electrical works to provide general illumination or general supply of electricity, except those meant to provide for the specific requirements of the trade. For example, floodlight to illuminate sports pitches may qualify but not the general lighting in changing rooms and areas available to the general public.
- 11 Portable items that form part of the setting – examples include container office, portable toilet, demountable canopies for car wash
- 12 Ramps that are permanently fixed to the building
- 13 Refuse chutes annexed to building
- 14 Renovation/refurbishment works as stated in the e-Tax Guide dated 18.6.08
- 15 Roller shutters
- 16 Sanitary fittings
- 17 Sewers in relation to a restaurant
- 18 Stairs
- 19 Sports surfaces and structures
 - All sport structures and surfaces will not be allowed as plant, whether indoors or outdoors. Examples include swimming pools (excluding the pumps), tennis courts, squash courts, basketball courts, football fields, spectator stands, etc.
- 20 Wall tiling/wall finishes

21 Water reticulation system and waste pipe works

- The entire system would not be plant being integral to all buildings. Water tanks are considered to be part of the system. Water pumps are however treated as machinery. Heating systems for hot water will be treated as plant.