

IRAS e-Tax Guide

Income Tax: Phasing Out Industrial Building Allowance



INLAND REVENUE
AUTHORITY
OF SINGAPORE

Published by
Inland Revenue Authority of Singapore

Published on 28 April 2010

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Phasing Out Industrial Building Allowance (“IBA”)

Introduction

1. In his Budget Statement 2010, the Minister for Finance announced that the industrial building allowance (“IBA”) will be phased out after 22 February 2010.
2. With the above tax change, IBA shall, subject to specified transitional rules, cease to apply to capital expenditure incurred after 22 February 2010 on the construction or purchase of an industrial building. An industrial building refers to a building or structure which is used or to be used for one of the trades or activities (“qualifying trade”) currently specified under section 18(1) of the Income Tax Act (“ITA”).
3. This e-tax guide explains the transitional rules applicable to a person who has incurred or committed to incur capital expenditure on the construction or purchase of an industrial building.

Existing Tax Treatment

4. Currently, IBA is granted to a person who has incurred capital expenditure to construct or purchase an industrial building.

New Tax Treatment

5. IBA shall no longer be available to a person who incurs capital expenditure after 22 February 2010 to construct or purchase an industrial building. In addition, where an existing building is not used by a person as an industrial building as of 22 February 2010 and is subsequently used as an industrial building, no further IBA shall be granted to him in respect of the building¹. The exceptions are provided in the transitional rules.
6. In gist, IBA shall continue to apply under current provisions in the ITA to a person who has incurred such expenditure on or before 22 February 2010, until such time the expenditure is fully written down, or the relevant building is disposed of, demolished or destroyed or otherwise ceases altogether to be used. In the latter mentioned situations, balancing adjustments² shall also apply accordingly.

¹ Where the industrial building has only fallen into temporary disuse as of 22 February 2010 in accordance with section 18(2), the industrial building can still qualify for annual allowance when it is subsequently used as an industrial building.

² This refers to the computation of balancing allowance (BA) or balancing charge (BC).

Transitional Rules

7. Some businesses may have committed to incur capital expenditure on the construction or purchase of an industrial building on or before 22 February 2010. In order not to unduly penalise such businesses, they may claim IBA on the capital expenditure incurred during a specified period after 22 February 2010 if they meet the transitional rules and the conditions for granting IBA under current tax provisions.

For existing building

8. The table below shows the transitional rules for capital expenditure incurred on an existing building or existing industrial building.

	Event	Criteria to be met for transitional rules to apply	Capital expenditure qualifying for IBA under transitional rules
1	Purchase of an existing industrial building	The option to purchase was granted on or before 22 February 2010 <u>or</u> The agreement to purchase was signed on or before 22 February 2010	Purchase cost (including legal fees, stamp duties relating to the title of the building) of the industrial building
2	Construct an adjoined or a separate extension to an existing industrial building	a) A Qualified Person (QP) ³ was engaged on or before 22 February 2010 And b) The development application (DA) is submitted to URA on or before 31 December 2010	Construction costs of the extension incurred up to the earlier of the following dates: a) date of issue of temporary occupation permit ("TOP") or b) last day of the basis period for Year of Assessment (YA) 2016

³ Qualified Person refers to a registered architect or registered professional engineer as defined in the First Schedule of the Planning Act

	Event	Criteria to be met for transitional rules to apply	Capital expenditure qualifying for IBA under transitional rules
3	Construct an extension to an existing building which is used as an industrial building upon completion of the construction of the extension	a) A QP was engaged on or before 22 February 2010 And b) The DA is submitted to URA on or before 31 December 2010	Construction costs of the extension incurred up to the earlier of the following dates: a) date of issue of TOP or b) last day of the basis period for YA 2016 And Construction or purchase costs or residue of expenditure ("ROE"), as the case may be, of the existing building which is converted to an industrial building upon completion of the construction of the extension
4	Renovate⁴ an existing industrial building	A renovation contractor was engaged on or before 22 February 2010	Renovation costs incurred up to the earlier of the following dates: a) end of renovation project or b) last day of the basis period for YA 2016
5	Renovate⁴ an existing building which is used as an industrial building upon completion of the renovation	A renovation contractor was engaged on or before 22 February 2010	Renovation costs incurred up to the earlier of the following dates: a) end of renovation project or b) last day of the basis period for YA 2016 And Construction or purchase costs or ROE, as the case may be, of the existing building which is converted to an industrial building upon completion of renovation works

⁴ For renovation works that do not require a development application to URA.

For new industrial building

9. The table below shows the transitional rules for capital expenditure incurred on the construction or purchase of a new industrial building.

	Event	Criteria to be met for transitional rules to apply	Capital expenditure qualifying for IBA under transitional rules
1	Construct a new industrial building	<p>a) Either one of the following:</p> <p>(i) the option to purchase the land (on which the industrial building is to be built) was granted by the private land owner on or before 22 February 2010 <u>or</u></p> <p>(ii) the agreement to purchase the land was signed with the private land owner on or before 22 February 2010 <u>or</u></p> <p>(iii) the lease agreement to lease the land from the private land owner was signed on or before 22 February 2010 <u>or</u></p> <p>(iv) an application to bid, buy or lease the land was submitted to the Government on or before 22 February 2010</p> <p>And</p> <p>b) The DA to build the industrial building is submitted to the URA on or before 31 December 2010</p>	<p>Construction costs of the industrial building incurred up to the earlier of the following dates:</p> <p>a) date of issue of TOP or</p> <p>b) last day of the basis period for YA 2016</p>
2	Purchase of new industrial building	<p>The option to purchase was granted on or before 22 February 2010 <u>or</u></p> <p>The agreement to purchase was signed on or before 22 February 2010</p>	<p>Purchase cost (including legal fees, stamp duties relating to the title of the building) of the industrial building</p>

10. The examples in Annex A illustrate the application of the transitional rules above.

Buildings to be approved under sections 18(1)(f), (i) or (j)

11. An application made after 22 February 2010 to the relevant government agencies⁵ for a building to be approved as an industrial building under section 18(1)(f)⁶, (i)⁷ or (j)⁸ may be considered only if one of the following conditions (in addition to existing conditions applicable in the relevant sections) is met:
- (a) the option to purchase the land (on which the approved industrial building is to be built) was granted by the private land owner on or before 22 February 2010; or
 - (b) the agreement to purchase the land (on which the approved industrial building is to be built) was signed on or before 22 February 2010; or
 - (c) the lease agreement to lease the land from the private land owner was signed on or before 22 February 2010; or
 - (d) an application to bid, buy or lease the land was submitted to the Government on or before 22 February 2010; or
 - (e) the option to purchase the approved industrial building was granted on or before 22 February 2010; or
 - (f) the agreement to purchase the approved industrial building was signed on or before 22 February 2010; or
 - (g) a qualified person was engaged on or before 22 February 2010 to carry out extension works; or
 - (h) a renovation contractor was engaged on or before 22 February 2010 to carry out renovation works.
12. IBA shall be available on a building under section 18(1)(f), (i) or (j) if the approval from the relevant government agencies is obtained on or before 22 May 2010. In such cases, IBA shall only be granted on the following capital expenditure incurred on the approved industrial building:
- (a) construction costs incurred on the approved industrial building up to the earlier of the date of issue of TOP or the end of the basis period for YA 2016; or
 - (b) purchase costs of the approved industrial building and any initial renovation costs incurred up to the earlier of the completion of the

⁵ These include the Agri-Food & Veterinary Authority of Singapore (AVA), Economic Development Board (EDB), Ministry of Information, Communications and the Arts (MICA) and Singapore Tourism Board (STB).

⁶ For a trade in intensive poultry production

⁷ For a project for the promotion of the tourist industry

⁸ For purposes prescribed and approved by the Minister or such person as he may appoint

renovation works which are carried out on the purchased building immediately after purchase or the end of the basis period for YA 2016.

Application of section 24 election

13. For a transfer of industrial building between related persons, the election under section 24 of the ITA shall no longer be available to the transferor and transferee where:
- (a) the option to purchase is granted after 22 February 2010; or
 - (b) the agreement for sale or transfer is signed after 22 February 2010.

Consequently, balancing adjustment shall be made on the transferor. The transferee shall not be entitled to claim IBA on the industrial building.

Application of section 34C

14. The tax treatment described in paragraph 13 does not apply in cases where an industrial building is transferred pursuant to a qualifying amalgamation under section 34C of the ITA. Under section 34C, where an industrial building is transferred from an amalgamating company to an amalgamated company on the date of amalgamation and for which IBA had been made to the amalgamating company, the amalgamating and amalgamated companies are deemed to have made an election under section 24 of the ITA. The deemed election shall continue to apply to such transfer of industrial building for amalgamations with the date of amalgamation after 22 February 2010. In such cases, balancing adjustment shall not be applied on the amalgamating company and the amalgamated company shall continue to be granted IBA based on current rules.

Administrative procedures

15. All other rules and procedures for claiming IBA remain unchanged. You may also refer to Annex B which provides answers to frequently asked questions relating to the transitional rules.
16. In addition to maintaining existing supporting documents in respect of their claims for IBA, businesses coming within the scope of the transitional rules are also required to keep relevant supporting documents to substantiate that they meet the qualifying criteria under the transitional rules for them to claim IBA on qualifying capital expenditure incurred after 22 February 2010 to construct, renovate or purchase an industrial building. They shall provide such documents to IRAS, only upon IRAS' request.

Section 14N deduction for upfront land premium

17. Currently, a tax deduction is given under section 14N of the ITA for upfront land premium paid by a lessee to HDB or JTC on a designated lease of industrial land if the building or structure on the land is used for any qualifying activity defined in section 14N(9) of the ITA, which corresponds to a number of qualifying activity which if carried on in a building shall qualify the building as an industrial building. The deduction under section 14N shall continue to be available under the existing rules unless changes are subsequently announced.

Enquiries

18. For any general enquiries or clarification on this Circular, please call:
 - (a) 1800-3568622 (Corporate);or
 - (b) 1800-3568300 (Individual).

Inland Revenue Authority of Singapore

Annex A - Working Examples

Example 1

Company A (with accounting year-end 31 December) was granted an option to purchase a new building for \$3 million on 14 February 2010. The sale and purchase agreement was entered into on 28 February 2010.

The company embarks on minor renovations costing \$500,000 which does not require any development application to be made to the URA. The renovation contractor was engaged on 20 February 2010. After completion of renovation works in May 2010, the company uses the building for a qualifying trade under section 18(1).

In 2014, the company engages another renovation contractor to carry out further renovation works on the building. The renovation costs incurred in 2014 is \$600,000.

The building is subsequently sold on 30 June 2020 for \$5 million.

Company A is entitled to claim IBA on the purchase price of the building and the cost of renovation incurred in 2010 since the purchase option was granted and the contractor was engaged prior to 22 February 2010. However, the renovation costs incurred in 2014 of \$600,000 will not qualify for IBA. IBA shall be available to Company A for the relevant YAs as follows:

	\$	\$
Qualifying costs – purchase price		3,000,000
Qualifying costs – renovation costs		500,000
Total qualifying costs		3,500,000
Non-qualifying costs	600,000	
Less:		
YA 2011 – initial allowance	[25% x 3,500,000]	875,000
YA 2011 – annual allowance	[3% x 3,500,000]	105,000
YAs 2012 to 2020 – annual allowance	[105,000 x 9 years]	945,000
Residue of Expenditure as at 31 Dec 2019		1,575,000
YA 2021 - Sale proceeds	[3.5m/(3.5m + 0.6m) x 5m]	4,268,293
Difference		2,693,293
Balancing charge in YA 2021 (restricted to allowances granted previously)		1,925,000

Annex A - Working Examples

Example 2

Company B (with accounting year-end 31 December) owns a building which is currently not used as an industrial building. The building was purchased on 31 July 2006 for \$1 million.

In 2010, the company embarks on a construction project to build an extension wing to its building with the intention to use the completed building as an industrial building. A registered architect was appointed on 31 January 2010 and the Development Application is submitted to URA on 15 August 2010. The construction project commences in February 2011 and ends in December 2012. TOP is issued on 31 December 2012. The construction costs incurred in each year are as follows:

	\$
Year ended 31 December 2011	1,500,000
Year ended 31 December 2012	<u>3,000,000</u>
Total construction costs	<u>4,500,000</u>

From January 2013, Company B uses the entire building (i.e. original building plus extension wing) for a qualifying trade under section 18(1).

The entire building is subsequently transferred to a related company on 31 October 2023 for \$5.6 million (which is reflective of the open market value of the building at that time).

Company B is entitled to claim IBA on the purchase price and construction costs of the entire building since the Qualified Person was appointed prior to 22 February 2010 and the DA was submitted to URA prior to 31 December 2010.

As Company B transfers the building to its related company after 22 February 2010, section 24 election is not available on transfer. Accordingly, balancing adjustment shall be made on Company B and the related company shall not be entitled to claim IBA. IBA shall be available to Company B for the relevant YAs as follows:

Annex A - Working Examples

Example 2 (continued)

	\$
Qualifying costs – purchase price	1,000,000
Qualifying costs – construction costs	<u>4,500,000</u>
Total qualifying costs	5,500,000
Less:	
YA 2007 to 2013 – notional allowance (3% x 1,000,000) x 7 years	210,000
YA 2012 – initial allowance (25% x 1,500,000)	375,000
YA 2013 – initial allowance (25% x 3,000,000)	750,000
YAs 2014 - 2023 – annual allowance (3% x 5,500,000) x 10 years	<u>1,650,000</u>
Residue of Expenditure as at 31 Dec 2022	2,515,000
YA 2024 - Sale proceeds	<u>5,600,000</u>
Difference	<u>3,085,000</u>
Balancing charge in YA 2024 (restricted to allowances granted previously)	<u>2,775,000</u>

Annex B - Frequently Asked Questions

1. Who is a Qualified Person?

A Qualified Person refers to a registered architect or registered professional engineer as defined in the First Schedule of the Planning Act.

2. How can I substantiate that I had appointed a Qualified Person (“QP) for his extension or construction project on an industrial building?

You may substantiate your claim with the letter of appointment of QP or the agreement signed with the QP. Although you do not need to submit the supporting documentary evidence when you file your Income Tax Return, you are required to provide such supporting documents to IRAS for verification, upon IRAS’ request.

3. What is a Development Application?

A development application is an application submitted to the Urban Redevelopment Authority (“URA”) to seek approval for the construction, extension or alteration to a building. After evaluation of the development application, the URA may issue either a “Provisional Permission” or a “Written Permission” depending on whether the application complies partially or fully with prevailing development control guidelines. You may refer to URA’s website for more details.

4. Must I obtain the development approval from URA on or before 31 December 2010?

No, you are only required to submit the Development Application to URA on or before 31 December 2010. URA’s approval on or before 31 December 2010 is not required. However, you should note that only costs incurred up to the earlier of the date of TOP or the end of the basis period for YA 2016 can qualify for IBA.

5. What is a temporary occupation permit (“TOP”)?

The TOP is a document issued by the Commissioner of Building Control when the building works are completed and the building is fit for occupation. You may refer to Building and Construction Authority’s website for more details on the issue of TOP.

6. How can I substantiate that I had engaged a renovation contractor for his renovation works?

You may substantiate your claim with the letter of engagement of renovation contractor or the agreement signed with the contractor. Although you do not need to submit the supporting documentary evidence when you file your Income Tax Return, you are required to provide such documents to IRAS for verification, upon IRAS’ request.

7. Must the renovation contractor be accredited or approved?

There is no requirement for the renovation contractor to be accredited or approved by any agency.

Annex B - Frequently Asked Questions

8. What types of costs will qualify for IBA?

There is no change in the types of costs that will qualify for IBA. For purchase of an industrial building, the qualifying costs include the purchase price of the building, stamp duties and legal fees relating to the building title. For construction of an industrial building, the qualifying costs include architect fees, design fees of building, cost of preparing plans for obtaining approval for building, demolition costs of existing building or structure on land (where existing building or structure does not qualify for IBA), piling, construction and other renovation costs. The land costs and any expenditure incurred in connection with the acquisition of land do not qualify.

9. With the phasing out of IBA, will balancing adjustments be applied if the building is disposed, demolished or destroyed after 22 Feb 2010?

Yes, the usual rules for calculating balancing charge or balancing allowance will apply.

10. What is the impact of phasing out IBA to taxpayers who are existing IBA claimants?

There is no impact as existing IBA claimants can continue to claim their IBA under current rules. However, if a taxpayer decides to renovate or build an extension to the industrial building after 22 Feb 2010, the claim would be subject to meeting the qualifying criteria under the transitional rules. And if the taxpayer decides to transfer his industrial building to a related party after 22 February 2010, he would not be allowed to make election under section 24 for the provisions to apply to the transfer.

11. How can I claim IBA on my industrial building under the transitional rules?

To claim for IBA under the transitional rules, you should declare in your tax computation that you meet the relevant qualifying criteria. There is no need to submit the supporting documentary evidence at the point of filing the Income Tax Return. However, you are required to provide such documents to IRAS for verification, upon IRAS' request.

12. Is there any change in the IBA rates of allowance?

There is no change in the rates of allowance. Existing rates will apply.