

Deduction for Doubtful Debts – Clearing the Myths

By Liza Ooi, Corporate Tax Compliance Director



Deduction for Doubtful Debts – Clearing the Myths

Time and again, taxpayers were shocked when they were told that they could not claim tax deduction on the bad debts written off or the provision for doubtful debts in their tax returns. The law on deduction of irrecoverable debt and the [Public Ruling \(PR\) 1/2002 on Deduction For Bad & Doubtful Debts And Treatment of Recoveries](#) are not new and yet many have failed to get their rightful deduction on their bad and doubtful debts.

Let us look at what the law says.

Section 34(2) of the ITA provides deduction for a debt which is reasonably estimated in all the circumstances of the case to be irrecoverable. The words “reasonably estimated” connote that a debt does not have to turn completely bad before a deduction can be taken, for as long as the irrecoverability can be estimated justifiably.

First of all, the debt mentioned in the above legislation is of the kind where the amount of such debt has been included in the gross income of the person for the basis period for the relevant YA or for a prior YA, i.e. trade debts. No deduction can be given to non-trade debts, such as staff advances.

Provision for Doubtful Debts

A general provision is not tax deductible because it is, more than often, just an amount based on a certain percentage of the total outstanding debts. It is unlike a specific provision whereby each debt is evaluated separately. Even if there is a legal requirement or accounting convention for a particular trade or industry to make such a provision, a general provision is not deductible.

A specific provision, on the other hand, may be deductible. The making of a specific provision for doubtful debts requires determining the likelihood of the recovery of each debt. When evaluating a debt as doubtful, one should look at the period over which the debt has been outstanding, the current financial status of the debtor and the credit record of the debtor.



Bad Debts Written Off

In the PR 1/2002, it is stated that a debt can be considered bad on the occurrence of any one of the following:

- The debtor has died without leaving any assets from which the debt can be recovered;
- The debtor is a bankrupt or in liquidation and there are no assets from which the debt can be recovered;
- The debt is statute-barred;
- The debtor cannot be traced despite various attempts and there are no known assets from which the debt can be recovered;
- Attempts at negotiation or arbitration of a disputed debt have failed and the anticipated cost of litigation is prohibitive; and
- Any other circumstances where there is no likelihood of cost effective recovery.

In the tax case of *Sasteps Sdn Bhd v Ketua Pengarah Hasil Dalam Negeri (2017) MSTC*, the High Court decided against the appellant on the grounds that the reason to write off the debt was not bona fide because the appellant was able to recover the debt which was owed by a related party but did not do so. The decision to write off the debt was not done based on prudent commercial consideration. As for the legal action taken against the debtor, it was only filed after the debt was already time barred and only for the purpose of the tax appeal. Prior to that, the only action taken to recover the debt was sending a series of notices of demand to the debtor and there were prolonged periods between the demands.

“Things only get difficult when any one of these is not fulfilled. In practice, taxpayers usually fail to get tax deduction because they did not take sufficient steps to recover the debts and/ or there is insufficient documentary evidence.”

Ensuring Tax Deductions

As you can see, it is not difficult to claim tax deduction on bad debts written off and specific provision for doubtful debts provided, of course, the debts are bona fide, the reasons are valid, reasonable steps have been taken to recover the debts, and all the relevant supporting evidences are available. Things only get difficult when any one of these is not fulfilled. In practice, taxpayers usually fail to get tax deduction because they did not take sufficient steps to recover the debts and/ or there is insufficient documentary evidence.

However, these failures can be easily overcome. One just needs to have a healthy debt monitoring system to ensure that reasonable steps are taken to recover the debts and good practices are kept in place to archive the documentary evidence along the way. It is good to have an annual exercise at the end of the financial year to review each debt and determine what has become bad and doubtful. One should bear in mind that tax deduction on bad and doubtful debts is rightfully yours since you have already paid tax on your revenue.





Contact Us

Crowe KL Tax Sdn Bhd
C15-5 Level 15, Tower C
Megan Avenue 2
12, Jalan Yap Kwan Seng
50450 Kuala Lumpur
Malaysia

Director, Corporate Tax
Compliance
Liza Ooi
liza.ooi@crowe.my
Tel: + 603 2788 9898 ext: 2557

About Us

About Crowe Malaysia PLT

Crowe Malaysia PLT is the 5th largest accounting firm in Malaysia and an independent member of Crowe Global. The firm in Malaysia has 13 offices, employs over 1,200 staff, serves mid-to-large companies that are privately-owned, publicly-listed and multinational entities, and is registered with the Audit Oversight Board in Malaysia and the Public Company Accounting Oversight Board in the US.

About Crowe Global

Ranked 8th largest accounting network in the world, Crowe Global has over 250 independent accounting and advisory firms in 130 countries. For almost 100 years, Crowe has made smart decisions for multinational clients working across borders. Our leaders work with governments, regulatory bodies and industry groups to shape the future of the profession worldwide. Their exceptional knowledge of business, local laws and customs provide lasting value to clients undertaking international projects.

www.crowe.my