

# **RESEARCH AND DEVELOPMENT (R&D) EXPENDITURE**

- **INCOME TAX ACT (ITA) 1967**
- **PROMOTION OF INVESTMENTS ACT (PIA) 1986**

## ***Outlines:***

- 1. An Overview of R&D**
- 2. R&D Expenditure: ITA 1967 and PLA 1986**  
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- 3. R&D Expenditure: Double Deduction & Single Deduction**

## Interpretation in Public Ruling No. 6/2020

**“Approved Research Institute”** and **“Approved Research Company”** means an institute, including a company licensed under section 45 of the Companies Act 2016, approved by the Minister to mainly carry on research in an industry specified in the approval and to commercially exploit the benefit of such research.

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**“Research and Development Company”** and **“Contract Research and Development Company”** has the same meaning assigned to it under section 2 of the PIA and fulfils the conditions specified by the relevant Ministry.

## Interpretation in Public Ruling No. 6/2020

**“In-house R&D”** means R&D activity carried out in Malaysia by a person within his business for the purpose of using the results of the R&D activity for furthering his own business.

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# At a Glance

| Types of R&D Company | Promotion Investment Act (PIA) 1986  |   | Income Tax Act (ITA) 1967  |  |
|----------------------|--|---|--|--|
|                      | Pioneer Status (PS)  | Investment Tax Allowance (ITA)  | Subsec.34(7)/<br>Sec.34A/<br>Sec.34B   | Sec.33   |
| In-house R&D         |   |   |   |   |
| R&D Company          |   |   |   |   |
| Contract R&D Company |  |  |  |  |

# **R&D EXPENDITURE (INCOME TAX ACT 1967)**

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## At a Glance

Section 33

Section 34

**R&D  
Expenditure  
(Income Tax Act  
1967)**

Section 39

Schedule 3



## Subsection 33(1) of ITA

Subject to this Act, the adjusted income of a person from a source for the basis period for a year of assessment shall be an amount ascertained by deducting from the gross income of that person from that source for that period all outgoings and expenses wholly and exclusively incurred during that period by that person in the production of gross income from that source..



## **Subsection 33(1) of ITA**

Generally, in ascertaining the adjusted income of a person from a business for the basis period for a year of assessment, deductions are allowed from the gross income for expenditure incurred in the production of income under subsection 33(1) of the ITA subject to any specific prohibitions under subsection 39(1) of the ITA.

## **Building used for R&D (Paragraph 37B, Schedule 3 of the ITA)**

A building constructed or purchased is used for research purpose as follows –

- (i) approved research by the Minister of Finance as provided under subsections 34A(1) and 34B(4) of the ITA; or
- (ii) research undertaken by a research and development company or a contract research and development company as defined in section 2 of the PIA

***Machinery or plant used for R&D***  
**(Paragraph 37D, Schedule 3 of the ITA)**

The provisions of this Schedule relating to qualifying plant expenditure shall apply to any capital expenditure incurred on the provision of machinery or plant used for the purposes of research and development approved by the Minister within the meaning of section 34A

## ***Documentation of R&D (Highlighted)***

- 1) It is important for companies to maintain a proper records of the processes and outcome of each activity as it develops. Each action or activity should be well documented showing clearly that every element is relevant (comply) with the **new definition of R&D** and R&D project as a whole.

## ***Documentation of R&D (Highlighted)***

- 2) Documentation for outsourcing R&D activities:
- i. Details of the R&D criteria;
  - ii. Details of the R&D projects and activities undertaken;
  - iii. Contracts (agreement) with the service provider;
  - iv. Proof of payment made for the service.

To summarise, the following conditions must be satisfied:

- ✓ It must be in nature of a revenue expenditure and not in the nature of capital expenditure;
- ✓ It must be laid out wholly and exclusively in the production of gross income;
- ✓ It must not be of the nature described in Section 39;
- ✓ Managing a proper records and documentation of R&D.



# **Qualifying R&D Expenditure- Section 34A, Section 34B and Subsection 34(7) of ITA 1967**

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## Public Ruling and Technical Guideline on R&D

- **Public Ruling No. 5/2020 –**  
Tax Treatment of R&D Expenditure Part I – Qualifying R&D Activity
- **Public Ruling No. 6/2020 –**  
Tax Treatment of R&D Expenditure Part II – Special Deductions

## Public Ruling and Technical Guideline on R&D

- **Technical Guidelines –**  
Guidelines on the Application Procedure for a Special Deduction in respect of a Qualifying R&D Activity

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A qualifying R&D activity has to jointly fulfil the following **three criteria** i.e. –

(a) have an objective to –

- (i) Acquire new knowledge;
- (ii) Create new products or processes; or
- (iii) Improvement of existing products or processes

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A qualifying R&D activity has to jointly fulfil the following **three criteria** i.e. –

Cont.

(b) involved in something new (novelty) or technical risk; and

(c) is a systematic, investigative and experimental (SIE) study in a field of science or technology.

# **Qualifying R&D Expenditure- Section 34A and Subsection 34(7) of ITA 1967**

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## **Qualifying Research and Development Expenditure**

The following expenditure qualifies for a double deduction (Sec.34A ITA) or a single deduction [Subsec.34(7) of ITA]:

- i. Raw Material
- ii. Man Power
- iii. Technical Services
- iv. Travelling Cost
- v. Transportation Cost
- vi. Maintenance Cost
- vii. Rental
- viii. Other Expenditure



## 1. Raw Material

- i. Raw materials used directly in R&D activity excludes the purchase of fixed assets used in R&D. For each R&D activity, the details of each raw material used must be kept together with information about its relevance to the R&D activity.
- ii. If the raw materials used for R&D are taken from the business stock, the cost attributable to the said raw material must be separately identified and measured reliably.



## 2. Man Power

- i. Basic salary of an employee directly involved in the R&D activity (research employee)
- ii. Expenditure such as EPF, SOCSO, bonus, medical fees and benefits-in-kind would not qualify for the double deduction or a single deduction

## 2. Man Power

- iii. If an employee is not involved in an R&D activity on a full time basis, expenditure claimed should be apportioned according to the actual time spent by that employee on that R&D activity.

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### 3. Technical Services

a) Technical services payment includes:

(i) Consultancy fees paid to a particular R&D organisation or individual for obtaining information/ advice pertaining to the R&D activity being undertaken.

(ii) Payment to particular organisations for the use of testing equipment such as those available in SIRIM, FRIM and the universities.

**Qualifying Research and  
Development Expenditure**

### 3. Technical Services

(iii) Payment to a particular organisation or individual for analytical services and data evaluation processing.

b) If the payment for R&D expenditure **undertaken outside Malaysia is more than 30%** of the total allowable R&D expenditure, the payment will **not qualify for a double deduction – 2021 Budget Amendment**

## 4. Travelling Cost

### i. Visiting R&D stations

- ✓ Travelling costs incurred by R&D employees who visit R&D stations solely for the purpose of conducting an R&D activity;

### ii. Attending courses / seminars

- ✓ These courses / seminars must be solely for the purpose of obtaining the latest scientific and technological advances, which is directly relevant to the R&D activity.

**Qualifying Research and  
Development Expenditure**

## 5. Transportation Cost

Cost of transporting raw materials used directly in R&D activity qualifies for a double deduction or a single deduction. However, expenditure such as cost of transporting fixed assets, end-products, postage for administrative purposes or other purposes not related to the R&D activity would not qualify for a double deduction or a single deduction.



## 6. Maintenance cost

Some examples of expenditure which are not related directly to R&D are maintenance costs on motorcars used by R&D employees / consultants, capital expenditure incurred on plant and machinery (including installation costs), fixtures, land, premises, buildings, structure or works of a permanent nature and alterations, additions or extensions to the said items



## 7. Rental

Rental of motor vehicles, buildings, equipment and machinery used directly in an R&D activity qualifies for a double deduction or a single deduction. However, expenditure not related directly to R&D do not qualify for the double deduction or a single deduction.

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**Qualifying Research and  
Development Expenditure**

## 8. Other Expenditure

(a) Claims for a double deduction or a single deduction can also be made on other revenue expenditure incurred directly for R&D such as water, electricity, telephone, fax, courier, stationery, photocopies of R&D reports or schematic design, ink / toner used to print reports, lab coats and slides or photographs.

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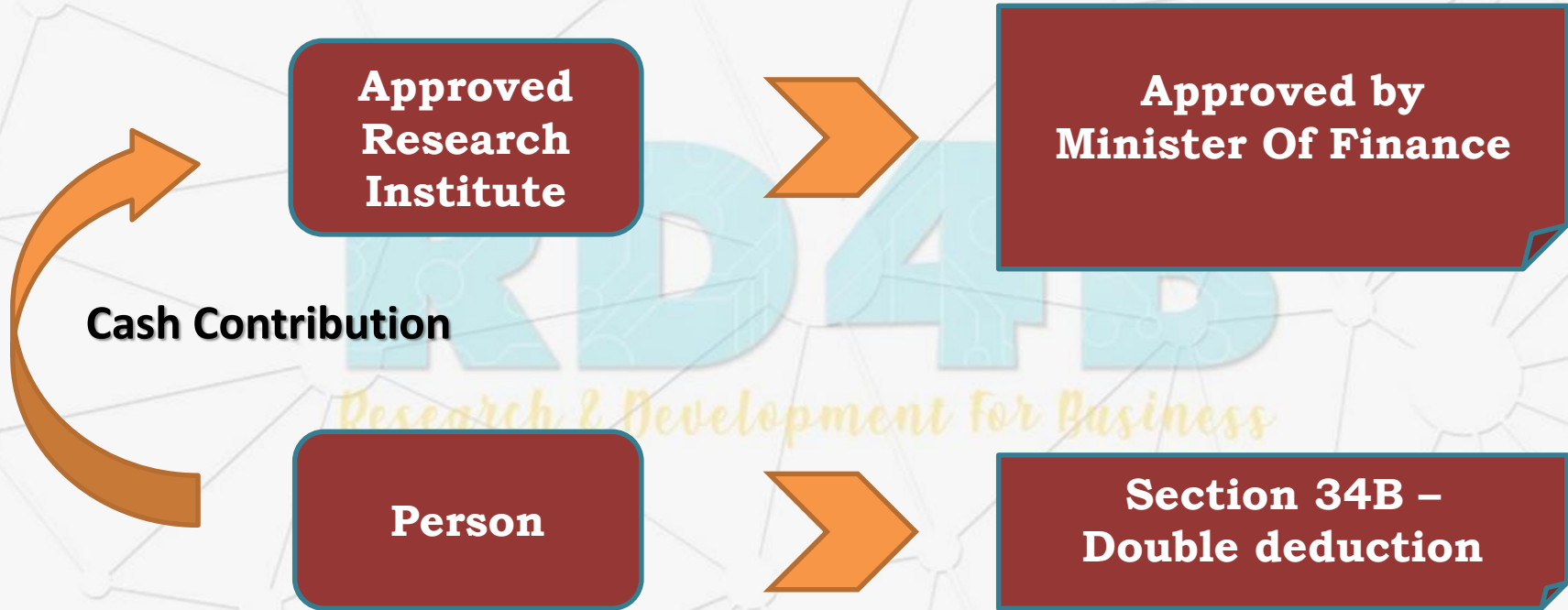
(b) Other expenditure such as books or magazines, insurance and all taxes such as service or road tax do not qualify for a double deduction or a single deduction.

**Qualifying Research and  
Development Expenditure**

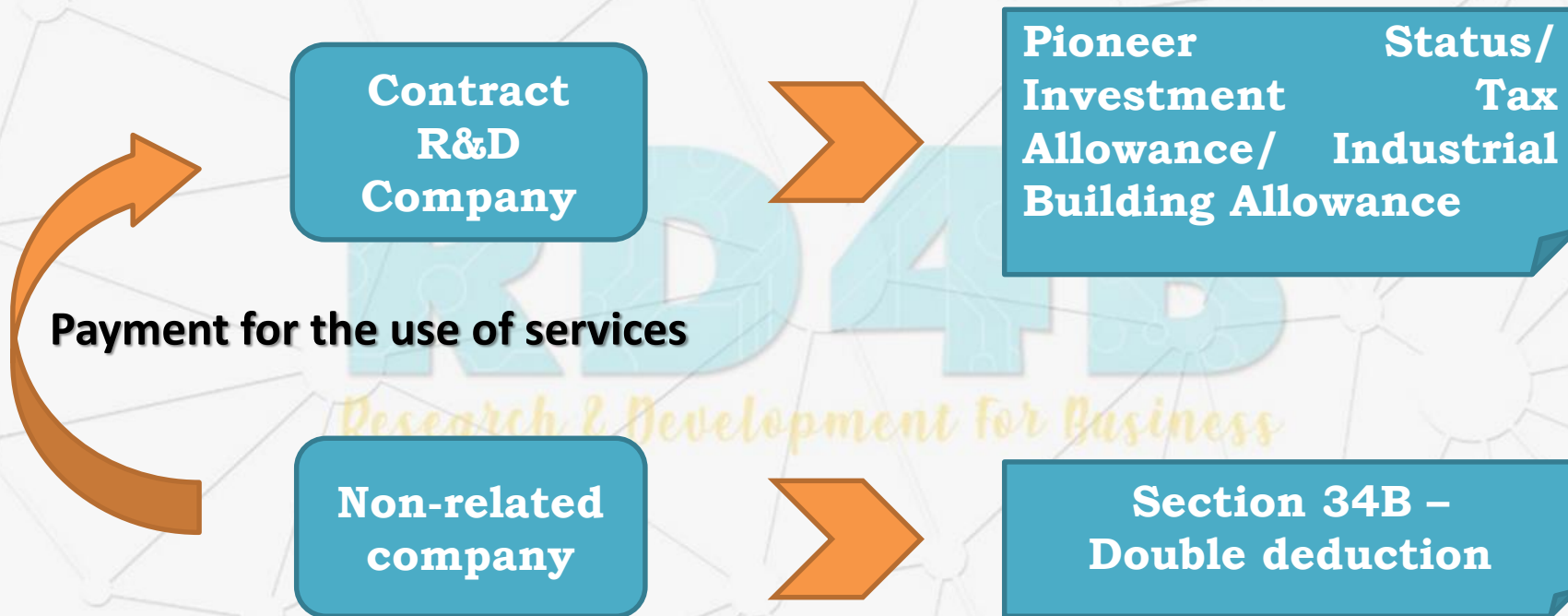
# **Qualifying R&D Expenditure- Section 34B of ITA 1967**

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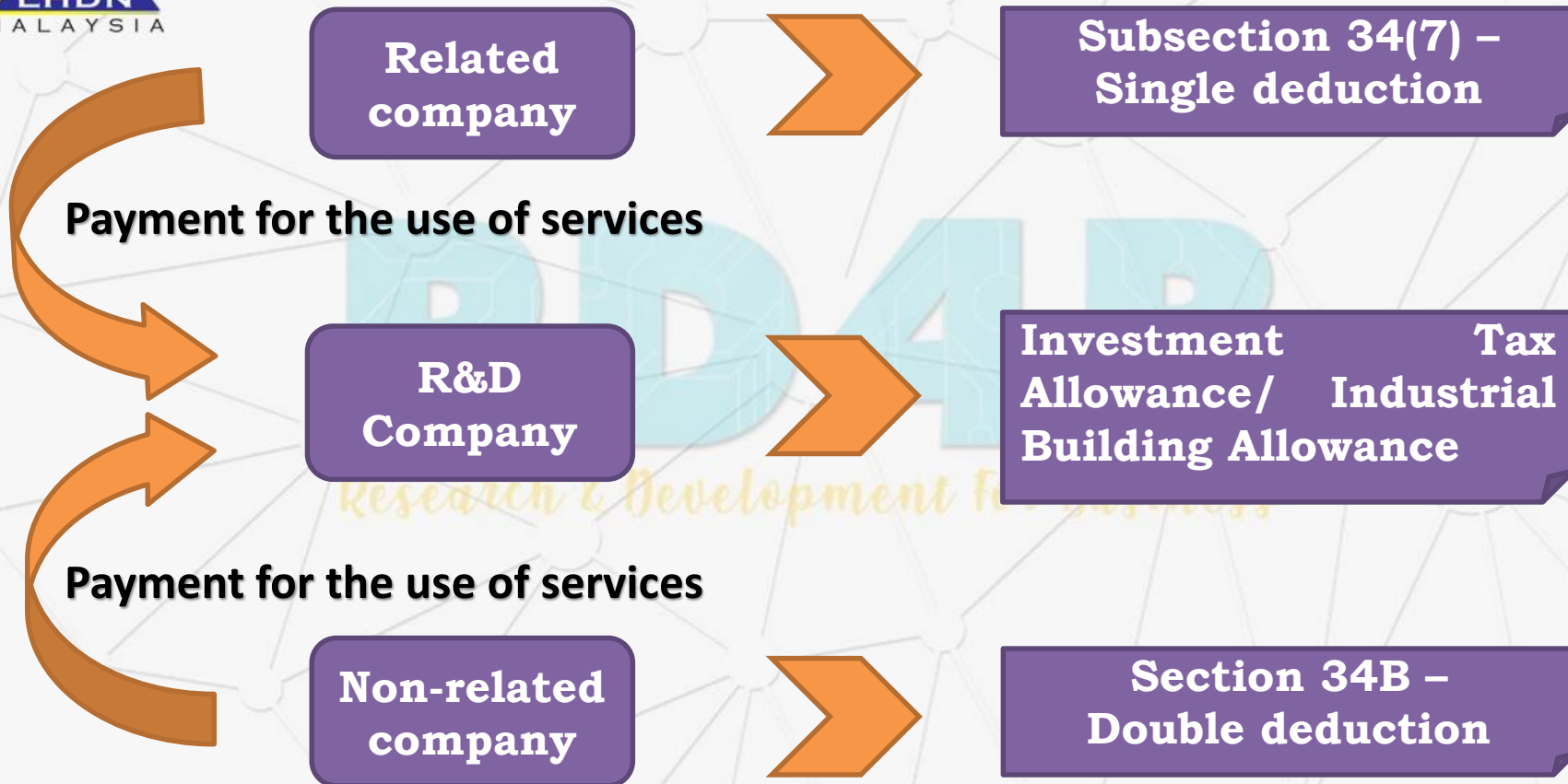
# Qualifying R&D Expenditure Under Sec 34B of ITA



# Qualifying R&D Expenditure Under Sec 34B of ITA



# Qualifying R&D Expenditure Under Sec 34B of ITA





## Conclusion

- To qualify for a double deduction under section 34A and section 34B of the ITA, revenue expenditure must be incurred for **an approved qualifying R&D activity** in the basis period;
- To qualify for a single deduction under subsection 34(7) of the ITA, revenue expenditure must be incurred for **qualifying R&D activity** in the basis period;
- The accounts for the expenditure incurred for each R&D activity must be kept separately regardless whether the said activity has been approved or not.



# THANK YOU

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