

**SCHEDULE 3 OF THE INCOME TAX ACT 1967  
("ITA 1967")**

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**HORIZON HILLS RESORT BERHAD  
V.  
DIRECTOR GENERAL OF INLAND REVENUE  
WA-14-51-10/2020**

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 KUALA LUMPUR HIGH COURT

 Y.A DATO' AMARJEET SINGH A/L SERJIT

 SINGH  
23 JUN 2023

The Taxpayer runs a business as a “proprietor of a club and management of golf course”. The Taxpayer earns its revenue from membership fees, subscription fees and from

other club operations from members utilizing the facilities provided by the Taxpayer.

The Taxpayer claimed capital expenditure incurred on (a) golf course (which includes the drainage system, grass and turfing, land cost, maintenance workshop, buggy charging station, golf bag station, caddies station and other incidental costs), (b) swimming pool, (c) kid’s fun pool, (d) gymnasium, (e) two tennis courts, (f) table tennis room, (g) children playing area, (h) changing rooms, towel stations and toilets, (i) multipurpose rooms, (j) food & beverage outlets, (k) reading room, (l) health centre, (m) pro shop and (n) sports shop (“Disputed Items”).

The Taxpayer claimed that they are qualified to claim capital allowance for the Disputed Items as it fulfils the function of ‘plant’, as the Taxpayer being a proprietor of golf and recreational club. The Taxpayer further contends that the Disputed Items are used solely to generate income. Without the Disputed Items, the Taxpayer would not be able to operate its recreational club and generate income for its business.

The DGIR disallowed all of the Disputed Items as the Taxpayer failed to meet the mandatory eligibility requirements of Schedule 3 ITA 1967. Capital allowance is available provided the capital expenditure incurred falls within the ambit of ‘plant’. The DGIR submitted that the Disputed Items are places where the Taxpayer’s business is being conducted and not an apparatus or tool with which the Taxpayer’s business is being conducted.

The DGIR further submitted that as a proprietor of a club and management of golf course, all of the Disputed Items claimed by the Taxpayer are facilities that needs to be provided by the Taxpayer. The Disputed Items are not integral in running the Taxpayer’s business as the business can still run and generate income without the said items. The Disputed Items are the premises where the Taxpayer’s business is being conducted and are within the premises where the Taxpayer’s business is being conducted. As such, the Disputed Items cannot be construed as plants.

On 23.06.2023, the High Court found in favour of the DGIR. The High Court dismissed the Taxpayer’s appeal with costs.

*Editorial Notes: The Taxpayer has a right to appeal to the Court of Appeal within 30 days from the date of the decision.*