Folks

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2003 Budget Proposals Highlights

- Review of individual tax residence status
- Increase in exemption for compensation for loss of employment
- Deletion of deemed rental income from occupation of premises for non-business purposes
- Remission of stamp duty on transfer of property
- Review of corporate tax for small and medium scale companies
- Review of withholding tax on services and withholding tax rate on non-resident contractors
- Introduction of new Section 108(1A)
- Review of director's liability on companies' unpaid taxes

Tax Incentives

- Option for pioneer companies to qualify for reinvestment allowance
- Incentive to companies acquiring foreign owned company
- Review of incentives for the conservation of energy
- Incentives for regional distribution center
- Incentives to consolidate the management of smallholdings & idle land
- Incentives for various industries e.g. agriculture, food production, knowledge based economy, automotive component modules, etc

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FOREWORD

With the rapid transformation and globalisation of the world economy, businesses are constantly facing increasing competition and challenges.

The 2003 Budget announced on 20 September 2002 has set out the following strategies to meet these challenges.

(a) Increasing domestic investment in all sectors with growth potential;
(b) Identifying and venturing into niche areas in the services, agriculture and manufacturing sectors;
(c) Strengthening public sector finance and enhancing efficiency of the civil service; and
(d) Nurturing a progressive and harmonious society with high moral values and ensuring the well being of the "rakyat", especially in the rural area.

Towards these ends, the budget has proposed various strategic fiscal allocations and incentives to stimulate growth as well as offering packages to enhance competitiveness to reduce the cost of doing business in Malaysia.

The Government has also identified certain sectors that play a vital role in the growth of the economy and introduced various incentives to increase their efficiency to compete in the global environment.

The self-assessment system for companies has been in place since year of assessment 2001. The introduction of the Income Tax (Amendment) Act 2002 has set out several changes on tax administration for the self assessment system for individuals and businesses. It is therefore vital that all taxpayers are aware of the developments in taxation.

1.1 REVIEW OF TAX RESIDENCE STATUS

Present
An individual taxpayer is required to be in Malaysia for a period or periods of 182 days or more in any calendar year in order to qualify for tax resident status. An individual who is in Malaysia for less than 182 days, will still qualify for tax residence status for that year if the said period of less than 182 days is linked to another period of consecutive stay of 182 days in a preceding year or succeeding year. However, for those periods to be linked, the individual must be in Malaysia on 31 December of that year and 1 January of the following year.

Proposed
The requirement for an individual to be in Malaysia on 31 December of the current year and 1 January of the following year is to be abolished. The absence during the 2 days is to be deemed as part of temporary absence, which is currently allowed.

Effective
Year of assessment 2002

1.2 REVIEW OF EXEMPTION FOR COMPENSATION ON LOSS OF EMPLOYMENT

Present
Compensation for loss of employment due to retrenchment or Voluntary Separation System (VSS) is exempted from income tax up to RM4,000 for each completed year of service.

Proposed
The exemption be increased from RM4,000 to RM6,000 for each completed year of service.

Effective
Year of assessment 2003

1.3 DELETION OF DEEMED RENTAL INCOME FROM OCCUPATION OF PREMISES FOR NON-BUSINESS PURPOSES

Present
Where an individual occupies premises in Malaysia otherwise than solely for business purposes, such occupation shall be deemed to constitute a source of income under Section 11 of the Income Tax Act (ITA) 1967.

An individual who owns a house and lives in it in the basis year will be exempted from tax on the annual value of such property if the individual has made a claim for exemption in the return form under *Section 128* of the ITA 1967. Such exemption can apply to one property only.

Proposed
It is proposed that *Section 11* and *Section 128* of the ITA 1967 be deleted.

Effective
Year of assessment 2003

1.4 REVIEW OF INCOME TAX EXEMPTION ON PRIVATE DEBT SECURITIES

Present
Interest income derived from the investments in the following private debt securities by an individual, unit trust and listed closed-end fund is exempted from income tax pursuant to Schedule 6, Paragraph 35 of the Income Tax Act 1967: -

(a) Securities or bonds issued by the Government; or
(b) Bonds, other than convertible loan stock, issued by public companies listed on the Kuala Lumpur Stock Exchange; or
(c) Bonds, other than convertible loan stock, issued by a company rated by Rating Agency Malaysia Berhad or Malaysia Rating Corporation Berhad; or
(d) Bon Simpanan Malaysia issued by Bank Negara Malaysia.

Proposed
Income tax exemption on interest income from selected private debt securities be extended to the following instruments: -

(a) Securities or bonds guaranteed by the Government; and
(b) Debentures, other than convertible loan stock, approved by the Securities Commission.

Effective
Year of assessment 2003

1.5 ADDITIONAL RELIEF FOR DISABLED PERSON AND HUSBAND IN THE TRANSITIONAL PERIOD UNDER THE SELF ASSESSMENT SYSTEM

Present
Under transitional provisions of the Income Tax (Amendment) Act 2002 which was gazetted on 23 May 2002 (self assessment system for individual), the basis period for year of assessment 2003 (transitional period) is from the first day of the last financial year ended in year 2002 to 31 December 2003. If the transitional period is more than 12 months, it will be divided into two periods. The first period will consist of the first 12 months and the second period will consist of the remaining months.

Currently, an individual is given the following reliefs in the remaining months in arriving at the chargeable income: -

(a) Personal relief of RM8,000;
(b) Wife or former wife of RM3,000; and
(c) RM800 for each child

Proposed
(a) A further relief of RM5,000 be given if the individual is a disabled person; and
(b) A deduction of RM5,000 be given to the wife if the husband elects to be assessed in the wife's name.

Effective
Year of assessment 2003 only

1.6 TAX REBATE IN THE TRANSITIONAL PERIOD UNDER THE SELF ASSESSMENT SYSTEM

Present
An individual having a chargeable income in the remaining months of the transitional period for year of assessment 2003 is given a rebate determined in accordance with the following formula: -

$$\frac{A}{12} \quad X \quad B$$

Where
A : Is the remaining months as referred to in paragraph 30(1)(b) of the Income Tax (Amendment) Act 2002, or in the case of two or more businesses, whichever of those businesses that has the longer remaining months;
B : Is the amount of rebate provided under subsection 6A(2) of the Income Tax Act 1967

Proposed
The above rebate is to be given to an individual whose chargeable income does not exceed RM35,000, of which such threshold was omitted previously.

Effective
Year of assessment 2003 only

1.7 TAX TREATMENT FOR EXPATRIATES IN OPERATIONAL HEADQUARTERS (OHQ) AND REGIONAL OFFICES (RO)

Present
Expatriates working in Operational Headquarters (OHQ) and Regional Offices (RO) may frequently travel out of Malaysia in the course of their duties but nevertheless they are being taxed on their entire income.

Proposed
The expatriates who are working in the OHQ and RO will only be taxed on that portion of chargeable income attributable to the number of days they are in the country.

Effective
Year of assessment 2003

1.8 EXTENSION OF REINVESTMENT ALLOWANCE TO INDIVIDUALS

Present

Reinvestment allowance (RA) is only given to resident companies and selected agro based resident co-operative societies and associations, which incurred qualifying expenditure on qualifying projects.

Proposed

RA on qualifying agricultural projects to be extended to individual tax payers, provided that the individual is a citizen of Malaysia in the basis year for that year of assessment (pursuant to the provisions under Schedule 7A of the Income Tax Act 1967).

Effective

Year of assessment 2003.

2.1 CORPORATE TAX FOR SMALL AND MEDIUM SCALE (SMI) COMPANIES

Present

All companies resident in Malaysia are subject to corporate tax of 28% on the chargeable income.

Proposed

Small and medium scale companies with paid-up capital in respect of ordinary shares of less than RM2.5 million at the beginning of the basis period for a year of assessment will be subject to a corporate tax of 20% on chargeable income of up to RM100,000. The corporate tax rate on the remaining chargeable income is maintained at 28%,

Chargeable income	RM	Rate of income tax
For every ringgit of the first	100,000	20%
For every ringgit exceeding	100,000	28%

Effective

Year of assessment 2003

2.2 REVIEW OF WITHHOLDING TAX ON SERVICES

Present

Payments for services rendered by non-residents in connection with: -

(a) The use of property or rights belonging to, or the installation or operation of any plant, machinery or other apparatus purchased from, such person;

(b) Technical management or administration of any scientific, industrial or commercial undertaking, venture, project or scheme, will be subject to withholding tax of 10% under Section 109B of the Income Tax Act (ITA) 1967 if such income is deemed derived from Malaysia under Section 15A of the ITA 1967 regardless of whether the services are performed within or outside Malaysia.

Section 15A of the ITA 1967 would deem the above income to be derived in Malaysia if either one of the following is satisfied : -

(a) The responsibility of payment of the above lies with the Government or a State Government; or
(b) The responsibility of payment of the above lies with a person who is a resident for that basis year; or
(c) The payment of the above is charged as an outgoing or expense in the accounts of a business carried on in Malaysia.

Proposed
Only payments to non-residents for services which are performed in Malaysia will be subject to 10% withholding tax.

Effective
From 21 September 2002

2.3 REVIEW OF WITHHOLDING TAX RATE ON NON-RESIDENT CONTRACTORS

Present
Payments to a non-resident contractor for services rendered under a contract in Malaysia are subject to withholding tax of 15% (for income tax payable by the non-resident contractor) and 5% (for income tax payable by its non-resident employees). This withholding tax serves as an advance payment of the actual amount of tax payable by the non-resident contractor and its employees upon completion of the contract.

Proposed
The rate of withholding tax be reduced as follows: -

(a) from 15% to 10% for the non-resident contractor; and
(b) from 5% to 3% for its employees respectively.

Effective
From 21 September 2002

2.4 REVIEW OF INCOME TAX EXEMPTION ON PRIVATE DEBT SECURITIES

[Refer to Taxation on Individual, under heading no. 1.4]

2.5 ACCELERATED CAPITAL ALLOWANCE ON ENERGY CONSERVING EQUIPMENT

Present
Companies that have incurred qualifying plant expenditure for the conservation of energy for own consumption are eligible for accelerated capital allowance on the equipment, which will be fully written off within a period of 3 years.

Proposed
The write-off period on the qualifying plant expenditure incurred for energy conservation be accelerated from 3 years to 1 year. (claim of 100% of the capital expenditure incurred in the year of acquisition)

Effective
Year of assessment 2003

2.6 ACCELERATED AGRICULTURE ALLOWANCE ON THE PLANTING OF RUBBERWOOD TREES

Present
No "Accelerated Agriculture Allowance" is given to a non-rubber plantation company for planting of rubberwood trees.

Proposed
Qualifying capital expenditure incurred by a non-rubber plantation company in the preparation of land, planting and maintenance of rubberwood cultivation be given Accelerated Agriculture Allowance.

The write off period on the said expenditure will be accelerated from 2 years to 1 year on the condition that the company plants at least 10% of its plantation with rubberwood trees. This will enable the company to enjoy 100% deduction of the expenditure incurred in that year.

Effective
For applications received by the Ministry of Primary Industries from 21 September 2002.

2.7 DEDUCTION FOR EXPENSES INCURRED ON ISSUANCE OF ISLAMIC PRIVATE DEBT SECURITIES

Present
Expenses incurred in the issuance of private debt securities (PDS), either conventional or Islamic, are treated as capital expenditure and not allowed as a deduction in the computation of income tax.

Proposed
Expenses incurred in the issuance of Islamic PDS which are based on the principles of *mudharabah, musyarakah* and *ijarah*, be allowed for tax deduction for a period of 5 years.

Effective
Year of assessment 2003

2.8 EXCLUSION OF OFFSHORE BANKING ACTIVITIES	**Present** Banks are taxed on the "world income" scope, whereby the gross income from a resident carries on a business of banking in Malaysia and elsewhere shall be ascertained by reference to his income therefrom wherever accruing or derived. **Proposed** The gross income attributable to an offshore business activity of a licensed Malaysian offshore bank be exempted from tax under the Income Tax Act (ITA) 1967. This proposal specifically excludes a Labuan branch of a Malaysian bank from Malaysian income tax under the ITA 1967, whereby the income of such branch will be subject to tax under the LOBATA 1990. **Effective** Year of assessment 2003
2.9 ELECTION TO CLAIM QUALIFYING PROSPECTING EXPENDITURE	**Present** A person who has incurred qualifying prospecting expenditure may elect to claim for a deduction within 3 months after the beginning of a year of assessment in the basis period in which the business commenced or within such further period in that year of assessment as allowed by the Director General. **Proposed** The person may elect to claim for such deduction in the tax return for that year of assessment. **Effective** Deemed effective from year of assessment 2000 (current year basis)
2.10 ELECTION TO CLAIM QUALIFYING FARM EXPENDITURE	**Present** A person who has incurred qualifying farm expenditure may elect to claim for a deduction within 3 months after the beginning of a year of assessment in the basis period in which the business commenced or within such further period in that year of assessment as allowed by the Director General. **Proposed** The person may elect to claim for such deduction in the tax return for that year of assessment. **Effective** Deemed effective from year of assessment 2000 (current year basis)

2.11 DEDUCTION FOR EXPENSES INCURRED BY A COMPANY FOR SPONSORING FAMILY DAY

Present
Costs incurred by a company in the sponsor of Family Days are not allowed for tax deduction as these expenses are viewed as not wholly and exclusively incurred in the production of gross income.

Proposed
Expenses incurred by a company in sponsoring Family Days be allowed for tax deduction.

Effective
Not indicated in the Budget Speech.

2.12 INTRODUCTION OF NEW SUBSECTION 108 (1A)

Present
Dividends paid or credited by companies, which are taxed at the corporate tax rate of 28%, are subject to tax at 28% of the gross dividend with the result that the net dividend received by the shareholder is equal to 72% of the gross dividend. The shareholder in turn be taxed on the gross dividend received but is allowed a Section 110 tax credit of 28% against its tax chargeable.

(a) For corporate shareholders, no additional tax will arise because the tax on the dividend income at 28% is offset by the Section 110 relief of 28%;
(b) In the case of shareholders, who are individuals, the shareholder may receive a refund of tax if the said dividend is taxed at rate lower than 28% whereas the Section 110 relief available is at 28% on the gross dividend.

Proposed
A new subsection 108 (1A) will be introduced to deduct tax at 20% on dividend paid or credited by a small and medium scale company. These companies are defined as those with a paid-up capital of RM2.5 million and below at the beginning of the basis period for a year of assessment.

Effective
Year of assessment 2003

2.13 INTRODUCTION OF NEW SUBSECTION 108 (16)

Present
The Director General may impose an amount for shortfall of tax or as a penalty, where appropriate, as a result of: -

(a) Over franking of dividend;
(b) Failure to render a prescribed statement on dividend distribution; or
(c) Issuing a certificate, which purports to show tax deducted at source of which the company is not entitled to deduct.

Proposed
The Director General may in his discretion, for any good cause shown, remit the whole or any part of that amount of debt due under subsection (7), (9) or (10) of Section 108 and, where the amount remitted has been paid, the Director General shall repay the same.

Effective
Year of assessment 2001

2.14 AMENDMENTS TO THE LABUAN OFFSHORE BUSINESS ACTIVITY TAX ACT 1990 AND SECTION 60C OF THE INCOME TAX ACT 1967

Present

(a) Presently, Labuan offshore companies conducting offshore business activities are subject to tax under the Labuan Offshore Business Activity Tax Act 1990 ("LOBATA"). Under the LOBATA, an offshore company has been defined to include an offshore company, a foreign company registered in Labuan and an offshore trust company;

(b) A licensed Malaysian offshore bank, which is an office of a Malaysian bank and an offshore limited partnership will not fall within the definition of an offshore company and will not be subject to tax under the LOBATA. Instead, the Income Tax Act 1967 ("ITA") will govern the taxation of a licensed Malaysian offshore bank and an offshore limited partnership;

(c) Since a partnership is not a taxable entity under the ITA, the partners will be subject to tax on their share of Malaysian source income derived by the partnership although the offshore limited partnership is required to submit a Malaysian partnership return under the ITA;

(d) There is presently no Ministerial exemption available to exempt any offshore company from all or any provisions of the LOBATA.

Proposed
It is proposed that:

(a) The definition of an offshore company be amended to include a licensed Malaysian offshore bank and an offshore limited partnership. The proposed amendment also provides for definition of an offshore limited partnership, which has the meaning assigned to it in the Labuan Offshore Limited Partnership Act 1997;

(b) The responsibility of the officers for compliance under the LOBATA be extended to include partner or partners of a partnership;

(c) A new Section 26 be introduced to empower the Minister to exempt any offshore company from all or any provisions of the LOBATA by order published in the *Gazette*;

(d) Section 60C of the ITA be amended to exclude the income or loss attributable to an offshore business activity of a licensed Malaysian offshore bank from the ITA.

Effective
Notes (a) to (c) :
Year of assessment 2004 and subsequent years of assessment (basis periods ending in 2003 and subsequent years).

Note (d) :
Year of assessment 2003 and subsequent years of assessment (basis periods ending in 2003 and subsequent years).

3.1 OPTION FOR PIONEER COMPANIES TO QUALIFY FOR REINVESTMENT ALLOWANCE

Present
A pioneer status company which :

(a) has been granted pioneer status in principle; or
(b) has been granted pioneer certificate upon which the tax relief period has not expired ; or
(c) is applying for pioneer certificate ;

and which intends to undertake reinvestment, is not eligible to claim reinvestment allowance.

Proposed
A pioneer status company, which intends to undertake reinvestment before the expiry of its pioneer status, is eligible to claim reinvestment allowance on the condition that its pioneer status is surrendered for cancellation.

Effective
21 September 2002

3.2 INCENTIVE TO ACQUIRE A FOREIGN COMPANY

Present
No tax incentives are granted to a company that acquires a foreign owned company abroad in pursuit of obtaining high technology or export market network.

Proposed
Annual allowance of 20% on acquisition cost will be granted (for 5 years) to locally owned company that acquires foreign owned company aboard, where such acquisition is for the purpose of:

(a) acquiring high technology for production within the country ; or

(b) gaining new export markets for local products.

Effective
For application received by the Malaysian Industrial Development Authority (MIDA) with effect from 21 September 2002.

3.3 REVIEW OF INCENTIVES FOR THE CONSERVATION OF ENERGY

Present

(A) Companies providing energy conservation services

Incentives available are as follows:

(a) Pioneer status with tax exemption of 70% of statutory income for 5 years, or Investment Tax Allowance (ITA) of 60% on qualifying capital expenditure incurred for 5 years with the ITA being restricted to a maximum of 70% of statutory income for each year of assessment; and

(b) Exemption on import duty and sales tax for equipment purchased for use in the related projects, which are not manufactured locally. Equipment purchased from local manufacturers is exempted from sales tax.

Condition
For applications received from 28 October 2000 to 31 December 2002, and the company is required to implement the project within 1 year from the date of approval of the incentive.

(B) Companies which incur capital expenditure for conserving their own energy consumption

Incentives available are as follows :

(a) Capital allowance on related equipment to be fully written off within 3 years ; and

(b) Exemption on import duty and sales tax for equipment purchased for use in energy conservation, which are not manufactured locally. Equipment purchased from local manufacturers is exempted from sales tax.

Proposed

(a) Companies providing energy conservation services

The existing incentive is extended for another 3 years until 31 December 2005, and the company is required to implement the project within 1 year from the date of approval of the incentive.

(b) Companies which incur capital expenditure for conserving their own energy consumption

Accelerated capital allowance on related equipment use in energy conservation to be fully written off in 1 year (100% on the expenditure incurred).

Effective

For proposal (a)
Upon application received by MIDA, between 28 October 2000 to 31 December 2005.

For proposal (b)
Year of assessment 2003

3.4 SPECIAL INCENTIVES TO INCREASE EXPORT

Present

(a) Tax exemption on statutory income equivalent to 10% of increased export value for export of agricultural products ;
(b) Tax exemption on statutory income equivalent to 50% of increased export value for a company in selected services sector ;
(c) Double deduction on insurance premium for export credit facilities ;
(d) Deduction on expenses incurred prior to commencement of operation for approved overseas investment ;
(e) Exemption of import duty and sales tax on raw materials, components, machines and equipment used in the production of goods for export market;
(f) Double deduction on overseas promotion expenses ;
(g) Double deduction on expenses for promotion of exports ;
(h) Tax exemption (for 5 years) of 70% on statutory income earned by international trading company from its increased export sales ;
(i) Tax exemption on statutory income equivalent to 10% of increased export value for products, on the condition that the goods exported attain at least 30% value added ; and

(j) Tax exemption on statutory income equivalent to 15% of increased export value, on the condition that the goods exported attain at least 50% value added.

Proposed
Locally owned manufacturing company be given more incentives as follows :

(a) Tax exemption on statutory income equivalent to 30% of increased export value, on the condition that the company achieves a significant increase in exports ;
(b) Tax exemption on statutory income equivalent to 50% of increased export value, on the condition that the company succeeds in penetrating new markets ; and

(c) Full tax exemption on increased export value, for the company who achieves the highest increase in exports in a specific category.

Effective
Year of assessment 2003.

3.5 INCENTIVES FOR REGIONAL DISTRIBUTION CENTRE

Present
A Regional Distribution Centre (RDC) is a collection and consolidation centre for finished goods, components and spare parts from overseas or within the country, to be distributed to dealer, importer, its subsidiary / associated company within or outside the country.

The activities involve bulk breaking, repackaging and labeling.

An International Procurement Centre (IPC), which carries out similar activities, is also considered as a RDC.

Proposed
An approved RDC will be granted the following incentives :

(a) Income tax exemption of 100% on statutory income for 10 years. This exemption also applies to an IPC ;
(b) Dividends paid from the exempt income account to be exempted from tax in the hands of the shareholders. This exemption also applies to the shareholders of an IPC ;
(c) Exemption of import duty and sales tax on goods for the purpose of distribution ; and

(d) Expatriate posts to be approved according to their requirements.

The proposal is subject to the following conditions :

(a) The RDC is incorporated in Malaysia under the Companies Act 1965 ;
(b) The total annual turnover of the RDC should not be less than RM100,000,000 ;
(c) The RDC must be located in the
  - free zones (free industrial / commercial zone) , or
  - licensed warehouse (public or private) , or
  - licensed manufacturing warehouse ;
(d) The RDC is not permitted to sell more than 20% of its products to the local market.

Effective
For application received by the Ministry of International Trade and Industry (MITI) with effect from 21 September 2002.

3.6 REVIEW OF INCENTIVES FOR OPERATIONAL HEADQUARTERS (OHQ)

Present
Current incentives given to OHQ are as follows :

(a) A concessionary tax rate of 10% on income from qualifying services rendered to its related companies outside Malaysia for a period of 5 years and with the possibility of another 5 years extension;
(b) Expatriate posts approved according to its requirements ;
(c) Able to obtain credit facilities in foreign currency from licensed commercial banks in Malaysia / licensed offshore bank in Labuan without the approval from Bank Negara Malaysia ;
(d) Able to borrow freely up to RM10,000,000 from financial institutions in Malaysia ;
(e) Able to invest freely in foreign securities and lend to related companies outside Malaysia ;
(f) Able to open a single or multi-foreign currency account with licensed commercial banks in Malaysia / licensed offshore bank in Labuan.

Proposed
(a) OHQs be exempted from income tax for 10 years;
(b) Dividends paid from the exempt income is exempted from tax in the hands of the shareholder.

Effective
For application received by the Malaysian Industrial Development Authority (MIDA) with effect from 21 September 2002.

3.7 EXPORT INCENTIVES FOR PROFESSIONAL SERVICES

Present
Double deduction on expenses incurred for promotion of export of services are granted only to companies registered with the Registrar of Companies. Such export incentive is not made available to partnerships or sole proprietorships registered with the Registrar of Businesses.

Proposed
Double deduction on expenses incurred for promotion of export of the following professional services by partnerships or sole proprietorships, registered with the Registrar of Businesses :

(a) Legal ;
(b) Accounting (including taxation and management consultancy services) ;
(c) Architectural (including town planning and landscaping services) ;
(d) Engineering and integrated engineering (including valuation and quantity surveying) ; and
(e) Medical and dental.

Effective
Year of assessment 2003

3.8 INCENTIVES TO CONSOLIDATE THE MANAGEMENT OF SMALLHOLDINGS & IDLE LAND

Present
The consolidation of the management of smallholding and idle land is undertaken by public agencies such as RISDA and FELCRA.

Proposed

(a) A company that invests in a wholly-owned subsidiary company involved in the consolidation of management of smallholding and idle land be allowed a deduction equivalent to the amount of investment ;
(b) Exemption of service tax will be given to a wholly-owned subsidiary company involved in the consolidation of management of smallholding and idle land.

Effective
Proposal (a)
For application received by the Minister of Finance (via the Ministry of Primary Industries) with effect from 21 September 2002.

Proposal (b)
1 January 2003.

3.9 ADDITIONAL INCENTIVES FOR DEEP SEA FISHING

Present
Companies carrying out deep sea fishing are given the following incentives :

(a) Pioneer status with tax exemption of 70% of statutory income for 5 years , or
(b) Investment Tax Allowance (ITA) of 60% on qualifying capital expenditure incurred for 5 years with the ITA eligible for deduction against 70% of statutory income each year.

Proposed
Additional incentives :

(a) Option 1
  (i) A company that invests in a subsidiary company engaged in deep sea fishing be granted tax deduction equivalent to the amount of investment made in that subsidiary company; and
  (ii) The subsidiary company undertaking deep sea fishing be granted income tax exemption of 100% on its statutory income for 10 years commencing from the 1st year the company makes profit. In addition to the above :

    * Losses suffered before the exemption period is allowed to be carried forward after the 10 years exemption period ;
    * Losses suffered during the exemption period is allowed to be carried forward after the 10 years exemption period ; and
    * Dividends paid from the exempt income account is exempted from tax in the hands of the shareholders.

(b) Option 2

  (i) A company that invests in a subsidiary company engaged in deep sea fishing be granted group relief for losses incurred by the subsidiary company before it records any profit; and

(ii) The subsidiary company undertaking deep sea fishing be granted income tax exemption of 100% on its statutory income for 10 years commencing from the 1st year the company makes profit. In addition to the above :

* Losses suffered during the exemption period is allowed to be carried forward after the 10 years exemption period and
* Dividends paid from the exempt income account is exempted from tax in the hands of the shareholders.

Conditions for granting incentives under Option 1 and Option 2

(a) The investing company should own 100% of the subsidiary company, that undertakes the deep sea fishing;
(b) The project should commence within 1 year from the date the incentive is approved ; and
(c) The project must comply with the provisions of the Fisheries Act 1985.

Effective
For application received by the Ministry of Agriculture from 21 September 2002 until 31 December 2005.

3.10 INCENTIVES FOR FOOD PROCESSING ACTIVITY

Present
Current incentives granted to companies engaged in the processing of promoted food products are as follows :

(a) Pioneer status with tax exemption of 70% of statutory income for 5 years , or
(b) Investment Tax Allowance (ITA) of 60% on qualifying capital expenditure incurred for 5 years with the ITA eligible for deduction against 70% of statutory income.

All manufacturing companies including food-processing companies undertaking reinvestments are granted Reinvestment Allowance (RA) of 60% on qualifying capital expenditure incurred for 15 years with the RA eligible for deduction against 70% of statutory income in each year of assessment.

Locally owned company in the resource-based industry, which undertakes reinvestment for expansion of its existing project is given another round of incentives as follows :

(a) Pioneer status with tax exemption of 70% of statutory income for 5 years , or
(b) Investment Tax Allowance (ITA) of 60% on qualifying capital expenditure incurred for 5 years with the ITA eligible for deduction against 70% of statutory income in each year of assessment.

Proposed
Locally owned company, which undertakes to reinvest in the promoted food processing activity be given another round of the same incentives as follows :-

(a) Companies located outside the promoted areas
 (i) Pioneer status with tax exemption of 70% of statutory income for 5 years, or
 (ii) Investment Tax Allowance (ITA) of 60% on qualifying capital expenditure incurred for 5 years with the ITA eligible for deduction against 70% of statutory income in each year of assessment.

(b) Companies located in the promoted areas
 (i) Pioneer status with tax exemption of 85% of statutory income for 5 years, or
 (ii) Investment Tax Allowance (ITA) of 80% on qualifying capital expenditure incurred for 5 years with the ITA eligible for deduction against 85% of statutory income in each year of assessment.

Effective
For application received by the Malaysian Industrial Development Authority (MIDA) with effect from 21 September 2002.

3.11 INCENTIVES FOR MODERNISING CHICKEN & DUCKS REARING SYSTEM

Present
No incentives are given to encourage chicken and ducks rearers to modernise their rearing practice from opened house to closed house system.

Proposed
Chicken and ducks rearers who reinvest to shift their rearing practice from opened house to closed house system, be given Reinvestment Allowance (RA) for 15 consecutive years commencing from the first year the reinvestment is made.

The RA shall be granted as follows :

(a) Projects located in promoted areas (Eastern Corridor of West Malaysia, Sabah & Sarawak)
RA of 60% on qualifying capital expenditure incurred with the RA eligible for deduction against 100% of statutory income in each year of assessment.

(b) Projects located outside the promoted areas
RA of 60% on qualifying capital expenditure incurred with the RA eligible for deduction against 70% of statutory income in each year of assessment.

Conditions to qualify for the above proposed incentives as above are as follows :

(a) The minimum rearing capacity of the closed house system must be :
   (i) 20,000 broiler chicken / ducks per cycle; or
   (ii) 50,000 layer chicken / ducks per cycle.

(b) Approved by the Ministry of Agriculture.

Effective
Year of assessment 2003

3.12 TAX INCENTIVES FOR AUTOMOTIVE COMPONENT MODULES

Present
Companies producing automotive components that meet:

(a) Value added criteria of at least 25% , and
(b) Managerial, Technical & Supervisory Index of at least 15%,

are eligible for the following incentives :

(a) Pioneer status with tax exemption of 70% of statutory income for 5 years , or
(b) Investment Tax Allowance (ITA) of 60% on qualifying capital expenditure incurred for 5 years with the ITA eligible for deduction against 70% of statutory income in each year of assessment.

Proposed
New and existing companies that undertakes design, research & development (R&D) and production of qualifying component modules or systems to be given the following incentive :

(a) Pioneer status with tax exemption of 100% of statutory income for 5 years , or
(b) Investment Tax Allowance (ITA) of 60% on qualifying capital expenditure incurred for 5 years with the ITA eligible for deduction against 100% of statutory income in each year of assessment.

Effective
For application received by the Malaysian Industrial Development Authority (MIDA) with effect from 21 September 2002.

3.13 INCENTIVES FOR SELECTED MACHINERY & EQUIPMENT

Present
Manufacturers of specialised machinery and equipment will enjoy the following tax incentives :

(a) Pioneer status with tax exemption of 100% of statutory income for 10 years, or
(b) Investment Tax Allowance (ITA) of 100% on qualifying capital expenditure incurred for 5 years with the ITA eligible for deduction against 100% of statutory income in each year of assessment.

Proposed
Tax incentives to be extended to manufacturers of the following categories of machinery and equipment :

(a) specialised / process machinery or equipment for specific industry ,
(b) packaging machinery ,
(c) plastic extrusion machinery , and
(d) parts and components of the above machinery and equipment.

Effective
For application received by the Malaysian Industrial Development Authority (MIDA) with effect from 21 September 2002.

3.14 INCENTIVES FOR KNOWLEDGE-BASED ECONOMY (KBE)

Present
There are no specific tax incentives given to encourage companies to move towards knowledge-based activities.

Proposed
(a) Companies granted ‘Strategic Knowledge-Based Status Company’ to be given the following incentives :

(i) Pioneer status with tax exemption of 100% of statutory income for 5 years; or

(ii) Investment Tax Allowance (ITA) of 60% on qualifying capital expenditure incurred for 5 years with the ITA eligible for deduction against 100% of statutory income of each year of assessment.

Conditions :

(i) The company must be a knowledge-intensive company with the following characteristics :
   * Potential to generate knowledge content ,
   * High value added operations ,
   * High technology , and
   * Large number of knowledge workers.

(ii) The company must have a Corporate Knowledge-Based Master Plan (CKBMP).

(b) Expenses incurred by the company for drafting the individual CKBMP will be allowed as a deduction for income tax purposes where such claim should be made when the company begins to implement the CKBMP.

Effective

Proposal (a)

For application received by the Malaysian Industrial Development Authority (MIDA) with effect from 21 September 2002.

Proposal (b)

Year of assessment 2003

3.15 INCENTIVES FOR OLD FOLKS CARE CENTRE

Present

No incentive is given to the old folks care centre.

Proposed

Any person who constructs or purchases a building to be used as an old folks care centre, be given building allowance (10% of the cost incurred on the building) for 10 years, subject to the condition that the old folks centre must be approved by the Social Welfare Department.

Effective

Year of assessment 2003.

3.16 REVIEW OF INCENTIVES FOR THE USE OF RENEWABLE ENERGY RESOURCES

Present

Companies generating energy using biomass as a source of renewable energy are given tax incentives as follows :

(a) Pioneer status with tax exemption of 70% of statutory income for 5 years; or
Investment Tax Allowance (ITA) of 60% on qualifying capital expenditure incurred for 5 years with the ITA eligible for deduction against 70% of statutory income ; and

(b) Exemption on import duty and sales tax for equipment purchased for use in the related projects, which are not manufactured locally. Equipment purchased from local manufacturers is exempted from sales tax.

These incentives is for applications received from 28 October 2000 to 31 December 2002, and the company is required to implement the project within 1 year from the date of approval of the incentive.

Proposed

(a) The existing incentive is extended for 3 more years until 31 December 2005, and the company is required to implement the project within 1 year from the date of approval of the incentive ; and

(b) The scope of the existing incentives be extended to the use of other sources of renewable energy as follows :
  (i) hydro power (not exceeding 10 megawatts) ; and
  (ii) solar power.

Effective

Incentive (b) is for applications received by MIDA from 21 September 2002 to 31 December 2005, and the company is required to implement the project within 1 year from the date of approval of the incentive.

3.17 INCENTIVES FOR APPROVED FOOD PRODUCTION

Present

The incentives available for companies involved in food production are as follows: -

<u>First Alternative</u>

(a) The company which invests in the subsidiary company engaged in food production be granted tax deduction equivalent to the amount of investment made in that subsidiary; and

(b) The subsidiary company undertaking food production be given income tax exemption of 100% on its statutory income for 10 years commencing from the first year the company makes profit.

OR

Second Alternative

(a) The company which invests in the subsidiary company engaged in food production be given group relief for the losses incurred by the subsidiary company before it records any profit; and

(b) The subsidiary company undertaking food production be given income tax exemption of 100% on its statutory income for 10 years commencing from the first year the company makes profit.

The above incentives are granted :

(a) To companies that have not commenced the food production activity, and companies which reinvest in the production of the same approved food products ;

(b) For a period of 5 years ; and

(c) For applications received by the Ministry of Agriculture before 31 December 2003.

Proposed

The applications for the incentives to be further extended for another 2 years to 31 December 2005.

Effective

For applications received by the Ministry of Agriculture before 31 December 2005.

4. STAMP DUTY

4.1 EXEMPTION OF STAMP DUTY ON FINANCING INSTRUMENTS UNDER ISLAMIC BANKING

Present

In principal, financing under Islamic banking should attract the same amount of stamp duty as conventional banking. However, stamp duty is again imposed on instruments relating to the restructuring and rescheduling of loans under Islamic banking as well as financing facilities offered on a clean basis, that is the Islamic revolving financing facility. The additional stamp duty is imposed on new agreements for the sale or purchase of assets required for renewal of the 'akad' from time to time.

Under conventional banking, the restructuring and rescheduling of loans and financing facilities on a clean basis are done through letters of offer with a nominal stamp duty of RM10 and do not require any new agreements.

Proposed
It is proposed that stamp duty be exempted on all new agreements for the sale or purchase of assets required for financing facilities under the Islamic banking as follows:

(a) the restructuring and rescheduling of the existing financing, limited to the outstanding balance; and
(b) the renewal of financing facilities on a clean basis that is the Islamic revolving financing facility.

Effective
21 September 2002

4.2 REMISSION OF STAMP DUTY ON TRANSFER OF PROPERTY

Present
Transfer of property without any monetary consideration among family members such as from husband to wife and from parents to children is subject to stamp duty based on the prevailing market value of the property as follows:

(a) 1% on the first RM100,000;
(b) 2% on the next RM400,000; and
(c) 3% on the remaining amount.

Proposed
It is proposed that stamp duty on instruments of transfer of property without monetary consideration between husband and wife and between parents and children be remitted by 50%.

Effective
1 January 2003

4.3 REDUCTION IN MINIMUM THRESHOLD FOR FAILURE TO REMIT THE STAMP DUTY DUE AND COLLECTED ON UNSTAMPED INSTRUMENTS

Present
Presently, failure by a banker, dealer or insurer to remit the stamp duty due and collected on unstamped cheques, contract notes or policies of insurance within the stipulated time would be subject to a penalty of RM500 or 10% of the amount due, whichever is lower.

Proposed
It is proposed that the minimum threshold of the penalty be reduced from RM500 to RM200.

Effective
1 January 2003

4.4 REDUCTION IN PENALTY FOR LATE STAMPING

Stipulated period after time for stamping	Penalty on unpaid duty	
	Present	**Proposed**
1. Within 3 months	RM25 or 50%	RM25 or 5%
2. Later than 3 months but not later than 6 months	RM50 or 100%	RM50 or 10%
3. More than 6 months	RM100 or 200%	RM100 or 20%

Effective
1 January 2003

4.5 STAMP DUTY RATE FOR CERTAIN LEASE INSTRUMENTS

Present
Lease for securing the payment for the provision of services or facilities or to other matters or things in connection with the lease of immovable property is categorised as "Charge or Mortgage" under item 22(1)(a) of the First Schedule of the Stamp Act 1949.

Present rate
RM5 for each RM1,000 or part thereof.

Proposed
Lease for securing the payment for the provision of services or facilities or to other matters or things in connection with the lease of immovable property be categorised as "Lease" under item 49(a) of the First Schedule of the Stamp Act 1949.

Proposed rate
When the lease period is for a period of :

	Less than 1 year	**1 year to 3 years**	**More than 3 years**
Without fine or premium when the average rent and other considerations calculated for a whole year:			
(a) does not exceed RM2,400	Nil	Nil	Nil
(b) for every RM250 or part thereof in excess of RM2,400	RM1.00	RM2.00	RM4.00

Effective
1 January 2003

5. INDIRECT TAXES

5.1 REFUND OF SALES TAX AND SERVICE TAX ON BAD DEBTS

Present
Presently, there is no provision under the Sales Tax Act 1972 and the Service Tax Act 1975 to allow the uncollected tax to be treated as bad debts for the computation of sales tax or service tax payable.

Proposed
It is proposed that sales tax or service tax that has been paid by the licensee be treated as bad debts under the following circumstances:

(a) The licensee is unable to collect the debt from the customer after the expiry of 12 months from the date of payment of tax; or
(b) The debtor had been adjudged a bankrupt under the Bankruptcy Act 1967; or
(c) The debtor had been placed under receivership or assigned to the Official Assignee; or
(d) The debtor had been ordered by the court to wind up; or
(e) The licensee had filed a claim in court to recover the tax or the licensee had initiated action for the customer to be adjudged a bankrupt.

Once deemed as bad debts, the licensee is eligible to apply for refund of the tax subject to conditions to be determined.

Effective
1 January 2003

5.2 ABOLITION OF SERVICE TAX ON SERVICES RENDERED TO COMPANIES WITHIN THE SAME GROUP

Present
Service tax of 5% is imposed on taxable services provided by any person, including professional services rendered by a company to companies within the same group.

Proposed
It is proposed that professional services provided to companies within the same group be exempted from service tax. The services involved are those provided by the following professionals:

(a) public accountants;
(b) advocates and solicitors;
(c) engineers;
(d) architects;
(e) surveyors including valuers, assessors and real estate agents;
(f) consultants; and

(g) management service providers.

Effective
1 January 2003

5.3 SALES TAX VALUATION FOR LOCALLY MANUFACURED GOODS

Present
Currently, the value of imported goods used for purposes of sales tax is the same as that used in arriving at the import duty. The value of imported goods is determined in accordance with the World Trade Organisation (WTO) method of valuation, which is based on the transaction value. Unless proven, adjustments on the value of the goods are disallowed.

For locally manufactured goods, the determination of value for purposes of sales tax is based on the notional value concept, which is based on an open market price where an up-lift on the value of goods can be imposed under certain circumstances. The burden of proof of the open market price is with the manufacturer.

The different valuation methods may result in a higher sales tax imposed on the locally manufactured goods.

Proposed
It is proposed that the valuation method for locally manufactured goods be standardised with that of imported goods, which is based on the transaction value.

Effective
1 January 2003

5.4 ABOLITION OF IMPORT DUTY AND SALES TAX ON PAPER

Present
Quality printing paper is subject to import duty of 5% or 10% and sales tax of 10% whereas books and other reading materials are not subject to any tax.

Proposed
It is proposed that import duty and sales tax be abolished on quality printing paper.

Effective
20 September 2002

5.5 SERVICE TAX EXEMPTED ON COURIER SERVICE TO OVERSEAS DESTINATIONS

Present
Courier service is subject to 5% service tax, regardless whether delivery is to destinations within or outside the country.

Proposed
It is proposed that courier service provided from a point within Malaysia to a destination outside Malaysia be exempted from service tax.

Effective
1 January 2003

5.6 ENHANCING EFFICIENCY OF CUSTOMS AGENTS

Present
The criteria stipulated by the Customs Department to approve customs agents known as forwarding agents under Section 90 of the Customs Act 1967 are capital requirement, permanent premises and appointment by clients. The criteria do not include skills in the relevant fields.

Proposed
It is proposed that approval for customs agents be given to those who have undergone training and are successful in the examinations conducted by the Customs Department.

Effective
1 January 2003

5.7 SIMPLIFYING AND STANDARDISING CUSTOMS REGULATIONS / PROCEDURES ON MOVEMENT / IMPORTATION / EXPORTATION OF GOODS

Present
The movement/importation/exportation of goods is subject to the following customs regulations/procedures:

(a) The lodgement of bank guarantee as a security to cover the movement of goods on which duty/tax has not been paid;
(b) Various forms to be submitted to the Customs Department to cover the movement of the goods; and
(c) Re-inspection of goods by the Customs Department although the goods have been inspected by other agencies such as the Veterinary Department or the Agriculture Department.

Proposed
It is proposed that customs regulations/procedures pertaining to the movement/importation/exportation of goods be simplified and standardised:

(a) Movement of goods with low tax value will only need to be covered by a general bond;
(b) Movement of dutiable/taxable goods will only be covered by one form; and
(c) Goods already examined by other agencies will not be further inspected by the Customs Department.

Effective
1 January 2003

5.8 PREVENTION OF SMUGGLING AND PROTECTION FROM PURCHASING COUNTERFEIT GOODS

Present
There is no requirement to attach special stickers or codes on cigarettes, liquor or medicines.

Proposed
It is proposed that special sticker or codes be affixed on each packet of cigarettes and other items such as liquor and medicine to indicate that tax has been paid and to protect consumers from purchasing counterfeit goods.

Effective
To be confirmed

5.9 REVIEW OF ROAD TAX ON MULTI PURPOSE SEMI-TRAILERS AND PRIME MOVERS

Present
Currently, road tax on multi purpose semi-trailers and multi purpose prime movers is imposed separately. In addition, road tax on multi purpose semi-trailers takes into account the weight of the multi purpose prime mover. This results in road tax on multi purpose semi-trailers to be much higher than that of multi purpose prime movers. As a result, transportation companies are not keen to own more units of multi purpose semi-trailers.

Proposed
It is proposed that road tax on multi purpose semi-trailers and prime movers be reviewed as follows:

(a) Road tax on multi purpose semi-trailers be abolished;
(b) Road tax of RM90 on semi-trailers for containers be abolished;
(c) Road tax on prime movers for containers be maintained based only on the kerb weight; and
(d) Road tax on multi purpose prime movers is revised from being based on the kerb weight of the prime mover to that which is based on the gross combined weight i.e. weight of the prime mover, semi-trailer and vehicle load capacity.

Effective
1 January 2003

5.10 EXEMPTION OF DUTY / TAX FOR AIR COURIER PARCEL

Present
Presently, all imports through KLIA express cargo services valued up to RM200 is exempted from import duty and sales tax.

Proposed
It is proposed that the value be increased to RM500 and the exemption be extended to all international airports in Malaysia. However, this exemption does not include cigarettes and liquor.

Effective
To be confirmed.

6.1 LIABILITY OF COMPANY OFFICERS

Present
Officers of companies are responsible for ensuring companies are in compliance with various provisions under the revenue legislation, including payment of income tax.

Proposed
A new Section 75A be introduced to make –

(a) directors of companies and those who is occupying the position of director (by whatsoever name called), including any other persons who is concerned with the management of the Company's business; and
(b) who hold, either directly or indirectly, more than 50% of the controlling interest (ordinary share capital) of companies ;

to be jointly and severally liable for the tax due and payable by the Company.

Effective
To be confirmed.

5.2 DUTY OF KEEPING RECORDS

Present
Presently, duty to keep and retain sufficient records for ascertainment of profit or loss from a business is imposed on every person who carries on a business.

Proposed
It is proposed that every person who is required to furnish a return of his income, is required to keep records for a period of seven years from the end of a year of assessment for ascertaining his chargeable income and tax payable.

Effective
Year of assessment 2003 and subsequent years of assessment.

5.3 NOTIFICATION OF TAX REFUNDABLE

Present
Presently, refund of tax overpaid shall be notified by the IRB upon their satisfaction of the excess payment of tax by that person.

Proposed
To regularise the compliance procedures in self-assessment system, tax overpaid by companies by reason of tax set-off under Section 110 (tax deducted from dividend income), notification of tax refundable shall be deemed to have been served on the day the company furnished its tax return.

Effective
Year of assessment 2003 and subsequent years of assessment

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