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2005 Budget Proposals Highlights

- Establishment of fund for income tax refund
- Introduction of Goods and Services Tax ("GST") to replace Sales tax and Service tax
- Due date for submission of tax returns of persons other than company and co-operative societies
- Review of tax reliefs and rebate for individuals
- Review of tax exemption of retirement benefits
- Review of industrial building allowance and accelerated allowances for certain machinery and equipment
- Tax treatment on Real Estate Investment Trust ("REIT") or Property Trust Fund ("PTF")

Tax Incentives

- Additional incentives for relocation of manufacturing activities to promoted areas
- Incentives for outsourcing manufacturing activities
- Incentives for commercialisation of public sector research and development

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FOREWORD

Y.A.B Dato' Seri Dr. Abdullah Bin Hj Ahmad Badawi, the Prime Minister and Minister of Finance of Malaysia presented his maiden budget on 10 September 2004.

The Budget 2005 strategies are summarised as follows :-

First: Enhancing the effectiveness of Government financial management, efficiency of the delivery system and competitiveness;

Second: Accelerating the shift towards a higher value added economy;

Third: Developing human capital as a catalyst of growth; and

Fourth: Ensuring the well-being of the *rakyat* through improving their quality of life.

Apart from strategic fiscal allocations, more incentives, deductions and exemptions have been proposed both for businesses as well as individuals with emphasis on strengthening the manufacturing sector, promoting health tourism and education tourism, developing the Islamic Financial System, exporting professional services and other technological development such as energy conservation, recycling and the food production industry.

The existing consumption tax, sales tax and service tax, will be abolished and replaced with a value added single consumption tax, Goods and Services Tax (GST) which is proposed to be implemented on 1 January 2007. The public and private organisations are encouraged to give their views in respect of the impending implementation of GST.

1. TAX SYSTEM AND ADMINISTRATION

1.1 ESTABLISHMENT OF FUND FOR INCOME TAX REFUND

Present
Refunds of excess payments of income tax are to be made out of the Consolidated Fund, which are subject to approval by the Parliament.

Proposed
A portion of income tax collected is to be allocated into a fund known as "Fund for Tax Refund". The said fund is to be administered by the Accountant General of Malaysia for refunds of excess income tax payments.

Effective
1 January 2005.

1.2 REVIEW OF TAX SYSTEM

Present
Consumption tax, consists of sales tax and service tax are levied on certain taxable goods and services.

Proposed
The sales tax and service tax are to be replaced with a single consumption tax known as Goods and Services Tax ("GST"). Liabilities for GST arises each time goods or services are provided. It is a tax on final consumption of goods and services, collected at every stage of the production and distribution chain.

Effective
1 January 2007.

2. TAXATION ON PERSONS OTHER THAN COMPANIES

2.1 REVIEW OF TAX RELIEFS AND REBATE FOR INDIVIDUALS

Deduction/ Rebate	**Reliefs or rebate**	**Present** (RM)	**Proposed** (RM)
Self - disabled	Reliefs	5,000	6,000
Spouse - disabled	Reliefs	2,500	3,500
Approved provident fund / life insurance premium / takaful	Reliefs	5,000	6,000
Purchase of books & magazines	Reliefs	500	700
Purchase of personal computer	Rebate	400	500

Effective
Year of assessment 2005.

2.2 DUE DATE FOR SUBMISSION OF TAX RETURNS AND PAYMENT OF BALANCE OF TAX PAYABLE

Present
Taxpayers other than companies, trust body and co-operative society are required to file their income tax returns and make payment toward settlement of their balance of tax payable, not later than 30 April each year.

Proposed
Tax returns submission deadline and settlement of balance of tax payable for taxpayers who are carrying on the businesses other than companies, trust body and co-operative society be extended to 30 June each year.

Effective
Year of assessment 2004.

2.3 CONDITIONS FOR APPROVED CHARITABLE ORGANISATIONS

Present
Approved charitable organisations are given income tax exemption on condition that at least 70% of their income is disbursed for charitable purposes. Failure to comply with the condition will result in the status being revoked.

Proposed
The threshhold for disbursement of income for charitable purposes be reduced from 70% to 50% of the income received in the preceding year.

Effective
Year of assessment 2005.

2.4 TAX TREATMENT FOR TRADE ASSOCIATIONS

Present
Statutory income from members' subscription fees are exempted from payment of income tax as determined by the following formula :-

$$\frac{\text{Statutory income from business}}{\text{Gross income from business}} \times \text{Members' subscription fees}$$

Proposed
Statutory income from members' subscription that is exempted from income tax be calculated according to the attributable method by taking into consideration of actual expenditure incurred.

Effective
Year of assessment 2005.

2.5 REVIEW OF TAX EXEMPTION ON RETIREMENT BENEFITS

Present
Tax exemption is given on retirement benefits received by employees who retire
(a) due to ill health; or
(b) upon reaching the age of 55 or the compulsory age of retirement under any written law (and have completed at least 10 years of employment with the same employer or with companies in the same group).

2.5 REVIEW OF TAX EXEMPTION ON RETIREMENT BENEFITS

Proposed

Tax exemption be given on retirement benefits received by employees up to RM6,000 for each completed year of service if the retirement takes place on reaching the compulsory age of retirement pursuant to a contract of employment or collective agreement at the age of 50 but before 55 and have completed at least 10 years of employment with the same employer or with companies in the same group.

Effective

Year of assessment 2003.

3. TAXATION ON COMPANIES

3.1 ACCELERATED CAPITAL ALLOWANCES ("ACA")

ACA are given to the following category of assets –

(a) Machinery and equipment used by companies in the agriculture sector including plantations

Capital allowance	Present (%)	Proposed (%)
Initial allowance	20	20
Annual allowance	10 or 20	40

(b) Equipment used by companies in maintaining the quality of power supply

Capital allowance	Present (%)	Proposed (%)
Initial allowance	20	20
Annual allowance	10 or 20	40

(c) Equipment used by companies to generate energy that are renewable and environment friendly e.g. biomass, hydropower and solar energy for own consumption

Capital allowance	Present (%)	Proposed (%)
Initial allowance	20	20
Annual allowance	10 or 20	80

The machinery and equipment eligible for the above proposed ACA will be determined by the Minister of Finance.

Effective

Year of assessment 2005.

3.2 REVIEW OF INDUSTRIAL BUILDING ALLOWANCE ("IBA")

Present
For purpose of IBA claim, the qualifying building expenditure ("QBE") for a purchased building used as an industrial building is calculated based on the residual value of its construction cost. The purchaser is required to obtain the information on the construction cost and residual value of the said industrial building from the seller.

No balancing charge shall be made on the disposer if the industrial building is disposed off after the basis period which is the 50^{th} year of assessment after which the building was constructed.

Proposed
Purchase price of the used industrial building shall be taken as the QBE of that industrial building. Balancing charge shall be made on the disposer on subsequent disposal of the said building.

For industrial buildings acquired prior to year of assessment 2005, the treatment on qualifying building expenditure remains the same as that determined previously before the introduction of the above proposal.

The proposed amendment also covers chargeable persons governed under the Petroleum Income Tax Act 1967, but does not cover used industrial buildings acquired prior to the implementation of the above proposal.

Effective
Year of assessment 2005.

3.3 TAX TREATMENT ON REAL ESTATE INVESTMENT TRUST ("REIT") OR PROPERTY TRUST FUND ("PTF")

Present
Real Estate Investment Trust ("REIT") or Property Trust Fund ("PTF") mobilises funds from unit holders comprising individuals and companies for investments in the property sector and related assets.

REIT or PTF is subject to income tax at 28%. The after-tax income distributed to unit holders is eligible for tax credit.

In the 2004 Budget, the following incentives were announced :-
(a) gains from disposal of real property by individuals or companies to REIT or PTF be exempted from RPGT; and
(b) instruments of transfer of real property from individuals or companies to REIT or PTF be exempted from stamp duty.

Proposed
The following tax treatments be given to REIT or PTF approved by the Securities Commission:

(a) <u>Taxation of distributed income</u>
   (i) chargeable income of REIT or PTF distributed to unit holders be exempted from income tax; and
   (ii) the income distributed to unit holders will be taxed at their respective tax rates. For a non-resident unit holder, tax payable is at 28% and shall be withheld by REIT or PTF.

3.3 TAX TREATMENT ON REAL ESTATE INVESTMENT TRUST ("REIT") OR PROPERTY TRUST FUND ("PTF")

(b) Taxation of undistributed income
   (i) undistributed chargeable income of REIT or PTF will be taxed at 28%; and
   (ii) the accumulated income that has been taxed and subsequently distributed is eligible for tax credit in the hands of unit holders.

(c) Tax administration
   (i) REIT or PTF shall inform the Inland Revenue Board ("IRB") on distributions to each resident unit holder for each year of assessment. For non-resident unit holder, REIT or PTF shall withhold tax @ 28% and remit to the IRB within 1 month from date of distribution.
   (ii) A resident unit holder is required to declare his residence status to get full distribution from REIT or PTF.

Effective
Year of assessment 2005.

3.4 DEDUCTION FOR *ZAKAT PERNIAGAAN*

Present
Zakat paid on income by Labuan offshore companies is given tax rebate under the Labuan Offshore Business Activities Tax Act 1990 ("LOBATA") (subject to a maximum of the tax payable which is 3% of net profits or RM20,000). Zakat paid on income including business income by other companies will not qualify for tax rebate or deduction under the Income Tax Act 1967.

Proposed
Zakat perniagaan paid by a company in the basis period for the relevant year of assessment to an appropriate religious authority established under any written law or any person authorised by such religious authority be given tax deduction not exceeding 2.5% of the aggregate income of the company in the relevant year. The proposal is not applicable to an offshore company.

Effective
Year of assessment 2005.

3.5 SCOPE OF DOUBLE DEDUCTION TO PROMOTE EXPORT OF SERVICES

Present
Double deduction is granted to Malaysian tax resident companies and non-companies on expenses incurred in respect of promoting the export of professional services relating to –
(a) feasibility studies on overseas projects for the purposes of tender;
(b) tender preparations; and
(c) technical information for export of professional services.

Proposed
Double deduction be allowed for expenses incurred in preparing architectural and engineering models, perspective drawings and 3-D animations for participating in competitions at international level.

Effective
Year of assessment 2005.

3.6 TAX TREATMENT ON ISLAMIC FINANCIAL AND CAPITAL MARKET PRODUCTS

Present
Islamic financial and capital market products require additional transactions and instruments to comply with Syariah principles. Thus, these products are burdened with additional taxes and duties (e.g. stamp duty and real property gains tax) as compared to conventional products. In order to ensure the competitiveness of these products against conventional products, tax and duty exemptions and specific income tax treatment are considered on a case-by-case basis.

Proposed
Any additional tax or duty be exempted or given specific treatment provided that :-

(a) The Islamic financial products are approved by the Syariah Advisory Council, Bank Negara Malaysia; and
(b) The Islamic capital market products are approved by the Syariah Advisory Council, Securities Commission.

The Islamic financial products include products offered by any other body outside the supervision of Bank Negara Malaysia, but subject to the approval of the Syariah Advisory Council, Bank Negara Malaysia.

Effective
Products approved from 11 September 2004.

3.7 TAX TREATMENT ON INTEREST-IN-SUSPENSE ("IIS")

Present
Interest accrued from loans which have been outstanding for a period of 6 months or more (non-performing loans) will be credited into the interest-in-suspense ("IIS") account. Such interest, although not received is subject to income tax on accrual basis.

In the 2000 Budget, IIS was deemed as specific provision for bad debts and allowed 100% deduction in the computation of income tax for year of assessment 2000 (current year basis). However, tax was imposed when the interest was received.

Proposed
IIS be deemed as specific provision for bad debts under Section 34(2) of the Income Tax Act 1967 and be allowed full deduction in the computation of income tax in the case of a bank(1). Such income will be taxed when the interest is received.

bank(1) means a bank or a finance company or a banking and finance company licensed or deemed to be licensed under the Banking and Financial Institutions Act 1989 or Islamic Banking Act 1983, or an institutions prescribed under the Development Financial Institutions Act 2002.

Effective
Year of assessment 2001.

3.8 DEDUCTION ON EXPENSES FOR HALAL CERTIFICATION AND QUALITY SYSTEMS AND STANDARDS CERTIFICATION	**Present** Single deduction is given on expenses incurred in obtaining – (a) halal certification; and (b) quality systems and standards certification. **Proposed** Double deduction be given to a company which incurs expenses (not being capital expenditure) in obtaining certifications for recognized quality systems and standards, and *halal* certification from Jabatan Kemajuan Islam Malaysia (JAKIM). **Effective** Year of assessment 2005.
3.9 EXEMPTION ON MERGER OF PRIVATE INSTITUTIONS OF HIGHER LEARNING	**Present** No exemption of duties is given to merger of private institutions of higher learning. **Proposed** Stamp duty exemption and real property gains tax exemption be given on the mergers of private institutions of higher learning approved by the Ministry of Higher Education and undertaken not later than 31 December 2006. **Effective** Not stated.
3.10 TAX EXEMPTION ON INTEREST INCOME FROM BONDS RECEIVED BY NON-RESIDENT COMPANIES	**Present** Resident and non-resident companies are not granted tax exemption on interest income from investments in securities and debentures. However, a resident and non-resident individual, unit trust or listed closed-end fund is given tax exemption on interest income derived from investments in the following securities and debentures :- (a) Securities or bonds issued or guaranteed by the Government; (b) Debenture, other than the convertible loan stocks, approved by the Securities Commission; and (c) Malaysian Saving Bonds issued by Bank Negara Malaysia. **Proposed** The interest income derived by non-resident companies from the following investments be given tax exemption:- (a) Securities issued by the Government of Malaysia; and (b) Ringgit-denominated Islamic securities or debentures, other than convertible loan stocks, approved by the Securities Commission. **Effective** 11 September 2004.

4. TAX INCENTIVES

4.1 REVIEW OF INCENTIVES FOR FOOD PRODUCTION

Present

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

First Alternative

(a) the company which invests in its subsidiary company engaged in food production is granted tax deduction equivalent to the amount of investment made in that subsidiary; and
(b) the subsidiary company undertaking food production is granted income tax exemption of 100% on its statutory income for 10 years for new investment or 5 years for reinvestment.

The exemption period commences from the first year the company enjoys profit in which –

(i) losses incurred before the exemption period is allowed to be brought forward after the exemption period;
(ii) losses incurred during the exemption period is also allowed to be brought forward after the exemption period; and
(iii) dividends paid from the exempt income is exempted in the hands of the shareholders.

OR

Second Alternative

(a) the company which invests in its subsidiary company engaged in food production is granted group relief for the losses incurred by its subsidiary before it records any profit; and
(b) the subsidiary company undertaking food production is granted income tax exemption of 100% on its statutory income for 10 years commencing from the first year the company enjoys profit in which –
    (i) losses incurred during the exemption period is also allowed to be brought forward after the exemption period; and
    (ii) dividends paid from the exempt income is exempted in the hands of the shareholders.

The incentives are given on the following conditions –

(a) the investing company should own 100% equity (70% for Second Alternative) in the company that undertakes food production;
(b) the eligible food products and activities are as approved by the Minister of Finance such as vegetables, fruits, herbs, spices, aquaculture, rearing of cattle, goats, sheep, deep sea fishing as well as kenaf; and
(c) the food production project should commence within a period of one year from the date the incentive is approved.

4.1 REVIEW OF INCENTIVES FOR FOOD PRODUCTION

The above incentives are given for applications received until 31 December 2005.

Proposed

(a) the equity condition for a company which invests in its subsidiary and claims tax deduction equivalent to the amount of investment made under the First Alternative be reduced from 100% to at least 70%;

(b) the incentive period for the scheme be extended for applications received until 31 December 2010.

Effective

Item (a) – Application received by the Ministry of Agriculture and Agro-based Industry from 11 September 2004.

Item (b) – Year of assessment 2005.

4.2 INCENTIVES FOR COMMERCIALISATION OF PUBLIC RESEARCH & DEVELOPMENT ("R & D")

Present

Currently, public sector research institutes such as Malaysian Palm Oil Board, Malaysian Agricultural Research and Development Institute ("MARDI") and public institutions of higher learning have produced significant amount of research on resource-based industries. However, the initiative to commercialise these R&D findings remain limited.

Proposed

To encourage commercialisation of resource based R & D findings by the public research institutes, an incentive package be given (subject to conditions set out below) as follows :-

(a) a company that invests in its subsidiary company engaged in the commercialisation of the R&D findings be given tax deduction equivalent to the amount of investment made in the subsidiary company; and

(b) the subsidiary company that undertakes the commercialisation of the R&D findings be given Pioneer Status with 100% tax exemption on statutory income for 10 years.

<u>Conditions</u> :

(a) at least 70% of the company's equity is owned by Malaysians;

(b) Investor company should own at least 70% of the equity of the investee company that commercialises the R&D findings;

(c) only resource-based R & D findings are eligible; and

(d) commercialisation of the R&D findings should be implemented within one year from the date of approval of the incentive.

Effective

For application received by Malaysian Industrial Development Authority ("MIDA") from 11 September 2004.

4.3 RELOCATE MANUFACTURING ACTIVITIES TO PROMOTED AREAS

Present
Flow of investments to the promoted areas in the Eastern Corridor of Peninsular Malaysia, Sabah and Sarawak continue to remain low despite the provision of various tax incentives as follows :-

(a) Pioneer status with tax exemption of 100% of statutory income for 5 years; or
(b) Investment Tax Allowance of 100% of the qualifying capital expenditure incurred within a period of 5 years, which can be used to set off against 100% of the statutory income in each year of assessment.

Proposed
Existing companies which relocate their manufacturing activities to the promoted areas be given a second round of the same incentives.

Effective
For application received by Malaysian Industrial Development Authority ("MIDA") with effect from 11 September 2004.

4.4 INCENTIVE FOR OUTSOURCING MANUFACTURING ACTIVITIES

Present
There are local companies including those with Malaysian brands names which have outsourced their activities to contract manufacturers, either locally or abroad, to enable them to focus on high value added activities, such as design and R&D. These companies import raw materials or components for their contract manufacturers. Such companies are not eligible for import duty exemption as provided to manufacturers.

Proposed
Owners of Malaysian brands who outsource manufacturing activities be given import duty and sales tax exemptions on raw materials which are not manufactured locally and semi-finished goods imported from contract manufacturers abroad.

Effective
For application received by Malaysian Industrial Development Authority ("MIDA") from 11 September 2004.

4.5 PRODUCTION OF HALAL FOOD

Present
The following incentives are given to production of promoted food products:-

(a) Pioneer Status with tax exemption of 70% (100% for SMEs[(2)]) of statutory income for 5 years; or
(b) Investment Tax Allowance of 60% (100% for SMEs) on the qualifying capital expenditure incurred within a period of 5 years, which can be used to set off against 70% (100% for SMEs) of statutory income in each year of assessment.

SMEs[(2)] – small and medium enterprises

4.5 PRODUCTION OF HALAL FOOD

Proposed
To encourage new investments in halal food production, companies that produce high quality halal food and have obtained halal certification from JAKIM and other quality certification, be granted the Investment Tax Allowance of 100% on qualifying capital expenditure incurred within a period of 5 years, which can be used to set off against 100% of statutory income in each year of assessment.

Effective
For application received by Malaysian Industrial Development Authority ("MIDA") from 11 September 2004.

4.6 TAX INCENTIVE FOR MODERNISING THE SYSTEM FOR CHICKEN AND DUCK REARING

Present
Rearers of broiler and layer chickens and ducks approved by the Ministry of Agriculture and Agro-based Industry, who reinvest to shift from open to closed house system are given the following Reinvestment Allowance (RA) for a period of 15 consecutive years commencing from the first year the reinvestment is made.

(a) Projects located in promoted areas

RA of 60% on qualifying capital expenditure incurred in each year of assessment to be set off against 100% of statutory income; and

(b) Projects located outside promoted areas

RA of 60% on qualifying capital expenditure incurred in each year of assessment to be set off against 70% of statutory income.

The rearers are approved by the Ministry of Agriculture and Agro-based Industry on condition that the following minimum rearing capacity is fulfilled :-
(a) at least 20,000 broiler chickens/ducks per cycle; or
(b) at least 50,000 layer chickens/ducks per cycle.

Proposed
The scope for the incentive be extended to rearers of parent and grandparent stock of chickens and ducks subject to the following conditions –
(a) at least 20,000 parent and grandparent stock of chickens and ducks per cycle; and
(b) the project is approved by the Ministry of Agriculture and Agro-based Industry.

Effective
Year of assessment 2005.

5. OTHERS

5.1 EXEMPTION OF CONSTRUCTION INDUSTRY DEVELOPMENT BOARD ("CIDB") LEVY

Present
Developers of projects other than low, medium-low and medium cost housing projects contribute a levy of 0.125% to CIDB.

Proposed
Full exemption will be given to housing developers who utilise Industrialised Building System components exceeding 50%.

Effective
Not stated.

5.2 IMPORT DUTY EXEMPTION ON IMPORTED MEDICAL DEVICES FOR PURPOSE OF KITTING

Present
Local manufacturers who import medical devices to complete procedural kits have to bear the cost of import duty since exemption is given only on raw materials and components.

Proposed
Full import duty exemption be given on medical devices that are imported for the purpose of kitting or producing complete procedural sets, provided these medical devices are not manufactured locally.

Effective
For application received by Malaysian Industrial Development Authority ("MIDA") from 11 September 2004.

5.3 REVIEW OF IMPORT DUTY ON SELECTED GOODS

Present
High import duty is imposed on selected goods to protect local manufacturers. Besides this, tax anomaly arises when import duty is levied on raw materials and components whereas finished goods are not subject to import duty. This does not encourage the manufacture of such finished goods domestically as they are cheaper to import since they are not dutiable.

Proposed
Import duty on 118 goods be reduced while import duty on 27 goods be abolished.

Effective
From 4.00pm on 10 September 2004.

5.4 EXEMPTION OF ENTERTAINMENT DUTY ON ARTS AND CULTURAL PERFORMANCES

Present
Exemption of entertainment duty is given on the following:
(a) stage shows and performances for charity purposes;
(b) stage shows and performances by foreign artistes of international standing as certified by the Ministry of Culture, Arts and Heritage;

5.4 EXEMPTION OF ENTERTAINMENT DUTY ON ARTS AND CULTURAL PERFORMANCES

(c) international performances, exhibitions, fairs and sports competitions held at the National Sports Complex, Istana Budaya, Balai Seni Lukis Negara and Petronas Philharmonic Hall;

(d) performances by local artistes held at the Bukit Jalil National Sports Complex and Bukit Kiara Sports Complex; and

(e) stage performances by theatre groups held at the Federal Territory of Kuala Lumpur, Labuan and Putrajaya.

Other forms of arts and cultural stage shows and performances such as dances and musicals are not eligible for entertainment duty exemption.

Proposed

Arts and cultural performances by local artistes held in the Federal Territory of Kuala Lumpur, Labuan and Putrajaya, which are approved by the Ministry of Arts, Culture and Heritage be given full exemption on entertainment duty.

Effective

11 September 2004.

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