TAX BULLETIN

2008 Budget Highlights

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Independent member firms of DFK International

Folks DFK & Co (AF0502)
azman, wong, salleh & co (AF0012)

FOREWORD

Our honourable Prime Minister cum Minister of Finance, had on 7 September 2007 announced the 2008 Budget themed "Together Building The Nation and Sharing Prosperity". The 2008 Budget is focused on the following main strategies :

(i) Enhancing the nation's competitiveness;

(ii) Strengthening human capital development; and

(iii) Ensuring the well-being of all Malaysians.

Some of the notable proposal in the 2008 Budget are as follows :-

- Introduction of a single tier system of taxation

  A single tier system is introduced to replace the existing imputation system of the last forty years with the aim of improving the efficiency and administration of corporate tax. Under the proposed single-tier system, the tax paid by the company will constitute a final tax and dividend income paid by the Company will not be taxed in the hands of shareholders. While the single-tier tax system will take effect from year of assessment 2008, the Government has allowed a transition period of six years for companies to opt to utilise the balance of section 108 tax credit, to frank dividends accumulated to 31 December 2007.

- Exemption from filing tax estimate by SME

  Small and medium enterprises (SMEs) will be exempted from submitting tax estimates of tax payable and instalment payments for the first two years of assessment beginning from the date of commencement of operations. [*note : SMEs are companies with paid up capital of not exceeding RM2.5 million at the beginning of the basis period*]

- Reduction in corporate income tax rate

  The corporate income tax rate is further reduced from 26% for year of assessment 2008 to 25% for year of assessment 2009 to enhance the nation's competitiveness in the global economy.

Several tax incentives are further enhanced to promote growth and development in the areas of Islamic banking and financing, energy efficiency and the generation of renewable energy and energy conservation and new incentives are introduced to promote corporate social responsibilities.

In line with the Government's initiatives to enhance the efficiency of public service delivery system, the proposal to allow tax agents a Personal Identification Number to e-file returns on behalf of their clients is a positive step forward.

Notably, no "sin" taxes are introduced in this budget and that should provide a much welcomed respite to SOME of us. However, the much expected reduction of individual tax rates did not materialise.

Other notable initiatives proposed in the 2008 Budget include the establishment of the special monitoring body, the Public Companies Accounting Oversight Board under the purview of the Securities Commission, and the mandating of the internal audit function for all public listed companies as part of measures to strengthen corporate governance.

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1. TAX SYSTEM AND ADMINISTRATION

1.1 COMPOSITE CUSTOMS FORMS

To enhance the Royal Malaysian Customs service delivery system, Customs forms that require similar information shall be combined as follows:

Current Forms		Proposed Forms
CJ3	Sales Tax Return	JKED No.3 (Internal Tax Returns)
CP3	Service Tax Return	
K13	Warehouse Licence	JKED No.4 (Licence/ Certificate)
K14	Manufacturing Warehouse Licence	
K21	Duty Free Shop Licence	
CJ2	Licence Under The Sales Tax Licensing - Manufacturing Licence	
CJ7	Certificate of Exemption From Sales Tax Licensing	
CP2	Service Tax Licence	
E1	Manufacturing Licence (Excise Act)	
E2	Warehouse Licence (Excise Act)	
Schedule 1	Bottling and movement of Intoxicating Liquors (Excise Regulation)	
K4	Inward Manifest	JKED No.5 (Manifest)
K5	Outward Manifest	
K6	Transshipment Manifest	
K19	Permit To Go Alongside A Legal Landing Place Or Alongside An Ocean-Going Vessel Within The Port Limits	JKED No.6 (Permit For Landing/Permit To Carry Goods)
K20	Permit To Carry Dutiable Or Prohibited Goods By Local Craft	

Effective
1 January 2008

1.2 ADMISSIBILITY OF ELECTRONIC RECORDS

Present
There is no specific provision stated for the admissibility of electronic records as evidence.

Proposed
Electronic records or the copy or print-out of electronic records of prescribed forms furnished, or any other document stored, communicated or received through or by electronic medium be admissible as evidence.

Effective
Gazette date of the Finance Bill 2007.

1.3 POWER TO ACCESS BUILDINGS AND DOCUMENTS

Present
The Director General is empowered to access land, buildings and places and to take possession of books and documents.

Proposed
The power of the Director General be extended to include taking possession of objects, articles, materials and things.

Effective
Gazette date of the Finance Bill 2007.

1.4 E-FILING OF RETURNS BY TAX AGENTS

Present
There is no provision for tax agents to file their clients' income tax returns through e-filing.

Proposed
Tax agents to be assigned with a Personal Identification Number (PIN) for their filing of returns on behalf of tax payers (their clients) through e-filing. To do so, both the tax agent and his clients are required to make the relevant declarations in prescribed forms.

Effective
Year of assessment 2008.

1.5 TAX APPEAL BEFORE SPECIAL COMMISSIONERS

Present
The procedures for appeal of tax cases to the Special Commissioners are provided under Schedule 5 to the Income Tax Act 1967.

Proposed
To allow flexibility and to expedite the appeal process for tax cases, the following measures are proposed to be introduced:-

(i) two or more hearing of appeals before the Special Commissioners may be held concurrently at any one time;
(ii) where a Special Commissioner is unable to complete the hearing for any reason, the hearing may, with the consent of both parties in dispute, be heard afresh or continued by the remaining Special Commissioners together with another Special Commissioner; and
(iii) the Special Commissioners be empowered to dismiss an appeal if the appellant to an appeal fails to attend at the time and place fixed for hearing.

Effective
Gazette date of the Finance Bill 2007.

1.6	**EXTENSION OF APPROVAL PERIOD FOR TAX AGENT LICENCE**	**Present** An approval or renewal of an approval for tax agent licence by the Minister shall be valid for a period of twenty four months beginning from the date of such approval or renewal. **Proposed** The period of approval or renewal of an approval for tax agent licence be further extended to any other period as approved by the Minister which shall not be less than twenty four months beginning from the date of such approval or renewal. **Effective** 21 February 2007.

2. TAXATION - INDIVIDUALS

2.1	**INCOME TAX TREATMENT FOR EXPATRIATES WORKING FOR INTERNATIONAL PROCUREMENT CENTRE AND REGIONAL DISTRIBUTION CENTRE**	**Present** Expatriates working for International Procurement Centre (IPC) and Regional Distribution Centre (RDC) are taxed on the entire employment income derived from Malaysia. **Proposed** It is proposed that expatriates working for IPC and RDC be taxed only on that portion of employment income attributable to the number of days their employment is exercised in Malaysia. **Effective** Year of assessment 2008.
2.2	**EXTENDING THE SCOPE OF EXEMPTION ON RETIREMENT BENEFIT**	**Present** Retirement benefits of employees who retire at the compulsory retirement age of 55 and above, from employment specified under any written law or for health reasons are fully exempted from income tax. Tax exemption of up to RM6,000 for each completed year of service is given on retirement benefits for those who retire:- (i) compulsorily at age of 50 but before 55 pursuant to a contract of employment or collective agreement; and (ii) the employment has lasted for ten years with the same employer or with companies in the same group. **Proposed** It is proposed that the retirement benefit for private sector employees who retire at the compulsory retirement age of 50 and above be given full income tax exemption in order to provide equal tax treatment especially for employees who are required to retire earlier. **Effective** Year of assessment 2007.

2.3 EXTENDING THE EXEMPTION OF INTEREST INCOME FROM ISLAMIC SECURITIES

Present
No exemption is given on interest received by non-resident individual derived from Islamic securities.

Proposed
Exemption is given on interest received by non-resident individual from Islamic securities approved by the Securities Commission, other than convertible loan stock, issued in any currency other than Ringgit Malaysia.

Effective
Year of assessment 2008.

2.4 TAX EXEMPTION ON INCOME RECEIVED BY NON-RESIDENT EXPERTS IN ISLAMIC FINANCE

Present
Various incentives have been provided to promote Malaysia as an International Islamic Financial Centre (MIFC) and full income tax exemption until, 2016, has been given to :-

(i) Islamic banks and Islamic banking units licensed under the Islamic Banking Act 1983 on income derived from Islamic banking business conducted in international currencies including transactions with Malaysian residents; and
(ii) Takaful companies and takaful units licensed under the Takaful Act 1984 on income derived from takaful business conducted in international currencies including transactions with Malaysian residents;
(iii) Stamp duty exemption for instruments executed under Islamic banking and takaful activities in foreign currencies; and
(iv) Stamp duty exemption for instruments executed under issuance of Islamic bonds in all type of currencies as approved by the Securities Commission.

In addition to the above, tax deduction shall be given for expenses incurred in establishing an Islamic stock broking firm until 31 December 2009.

Proposed
Income received by non resident experts in Islamic finance be exempted from income tax. Verification must be made by MIFC Secretariat.

Effective
8 September 2007 to 31 December 2016.

2.5 TAX DEDUCTION ON PURCHASE OF SPORTS EQUIPMENT

Present
There is no deduction given in relation to purchase of sports equipment by individuals.

Proposed
A deduction not exceeding RM300 a year be given to an individual on purchase of sports equipment for any sports activity as defined under the Sports Development Act 1997.

Effective
Year of assessment 2008.

2.6 TAX DEDUCTION ON DEPOSIT INTO SKIM SIMPANAN PENDIDIKAN NASIONAL	**Present** No deduction is given on deposits made by an individual for his child into Skim Simpanan Pendidikan Nasional. **Proposed** Tax deduction of an amount not exceeding RM3,000 a year be given to an individual tax payer on net amount deposited into Skim Simpanan Pendidikan Nasional for his child. **Effective** Year of assessment 2007.
2.7 EXTENDING THE SCOPE OF DEDUCTION ON FEES FOR POST GRADUATE STUDIES	**Present** Individual taxpayers pursuing studies at tertiary level in selected fields of studies at any institution or professional body in Malaysia as approved by the Minister of Finance are given a claim on the fee expended on such studies of not exceeding RM5,000 per annum. The selected fields of studies are technical, vocational, industrial, scientific, technological, law, accounting, and Islamic financing. **Proposed** Courses eligible for tax deduction to be extended to all fields of studies at post graduate level i.e. masters and doctorate level. **Effective** Year of assessment 2008.
2.8 GIFT OF NEW COMPUTER AND BROADBAND SUBSCRIPTION FEE FROM EMPLOYERS TO EMPLOYEES	**Present** Gift of computer and payment of broadband subscription fee from employers to employees are treated as benefit-in-kind to the employees and subject to income tax. Expenditure incurred by employers for providing such benefits is also not allowed as deduction. **Proposed** Expenses incurred by employers to employees on gift of new computers and payment of broadband subscription fees be allowed as deduction, and such benefit-in-kind is not subject to income tax in the hands of employees. **Effective** Year of assessment 2008 until year of assessment 2010.
2.9 REMOVAL OF TAX RELIEF FOR INTEREST PAYMENTS	**Present** The following tax relief on interest payments is given to first-time owners of houses costing between RM100,000 to RM180,000 purchased during the period from 1 June 2003 to 31 May 2004. (i) RM5,000 for the year of assessment 2003; (ii) RM3,000 for the year of assessment 2004; and (iii) RM2,000 for the year of assessment 2005;

Proposed
With the expiration of the tax relief period, the relevant legislation is now deleted.

Effective
Year of assessment 2006.

2.10 NOTIFICATION OF TAX REFUNDABLE

Present
The notification of tax refundable is deemed to have been served on a company, trust body or co-operative society (which has paid tax in excess of the amount payable by reason of tax set-off under section 110 (i.e. tax deducted from dividend income)) on the day the tax returns is furnished by the company, trust body or co-operative society.

Proposed
The provision is extended to include persons other than company, trust body or co-operative society.

Effective
Year of assessment 2008.

3. TAXATION - COMPANIES & UNINCORPORATED BUSINESSES

3.1 REDUCTION OF CORPORATE INCOME TAX RATE

Present
For the year of assessment 2007, the corporate income tax rate is at 27%. For the year of assessment 2008, the rate will be reduced to 26%. This rate also applies to the following entities:-
(i) a trust body;
(ii) an executor of an estate of an individual who was domiciled outside Malaysia at the time of his death; and
(iii) a receiver appointed by the court.

The tax rate for chargeable income up to RM500,000 of small and medium enterprises (SMEs) with paid up capital not exceeding RM2.5 million is 20%.

Proposed
The corporate income tax rate be further reduced by one percentage point to 25%.

The tax rate for chargeable income up to RM500,000 of SMEs remains at 20%.

Effective
Year of assessment 2009.

3.2 INTRODUCTION OF A SINGLE TIER SYSTEM OF TAXATION

Present

The income tax system for a company is based on the full imputation system where the tax paid by the company is imputed into the dividend distributed by the company to its shareholders and serves as a relief against the tax chargeable on the shareholders. Section 108 to the Income Tax Act 1967 has specific provisions on the maintenance of such accounts under the imputation system.

Proposed

It is proposed that a single tier company income tax system be introduced at the current rate of tax of 26%. Under the single tier system, tax on profits of a company is a final tax and dividend distributed will be exempted from tax in the hands of shareholders.

Companies which have no credit balance of section 108 accounts (nil balance) on 31 December 2007 will automatically move to the single tier tax system. Companies with credit balance in the section 108 accounts are given an option to irrevocably elect to switch over to the single tier tax system.

Companies with credit balance in their section 108 accounts which do not elect to switch over to the single tier system are allowed to use the credit balance for purpose of dividend distribution during the transition period of 6 years until 31 December 2013. The mechanism and conditions to utilise the credit include the following:

(i) the credit balance of section 108 accounts allowed for the purposes of dividend distribution to the shareholders is the balance as at 31 December 2007;
(ii) the credit balance of section 108 accounts will only be adjusted downwards for any tax discharged, remitted or refunded in relation to tax which have been taken into account for the purposes of computing section 108 balance;
(iii) a company that has fully utilised its credit balance on the section 108 account at any time during the transition period will automatically move to the single tier tax system;
(iv) all companies will automatically move to the single tier tax system on 1 January 2014 notwithstanding any remaining balances in the section 108 accounts as at 31 December 2013;
(v) companies are only allowed to pay cash dividends; and
(vi) for small and medium companies (SMEs), tax on dividend paid to shareholders is deducted from the credit balance of their section 108 accounts based on the highest current tax rate.

Conditions for shareholders to claim tax credits

(i) only direct expenses related to dividend income are allowed to be deducted in arriving at statutory dividend income and the statutory dividend income of a company is deemed to be the total income or part of the total income of the company for the year of assessment (i.e. no set-off will be allowed for current year losses from other business sources against statutory income consisting of a dividend source);

(ii) the claim for tax credit is only allowed for shares held continuously for a period of 90 days or more from the date of purchase of the shares (excluding shares of public listed companies); and

(iii) only dividend distributed from ordinary shares are eligible for tax credit.

Effective
Year of assessment 2008.

3.3 EXTENDING THE EXEMPTION OF INTEREST INCOME FROM ISLAMIC SECURITIES

Present
Interest received by a non-resident company derived from Islamic securities or debenture issued in Ringgit Malaysia approved by the Securities Commission, other than convertible loan stock, is exempted from tax.

Proposed
The exemption is extended to include interest derived from Islamic securities approved by the Securities Commission, other than convertible loan stock, issued in any currency.

Effective
Year of assessment 2008.

3.4 CONTRIBUTION OF USED COMPUTERS

Present
No deduction was accorded for contributions of computers to schools under the PINTAR programme.

Proposed
A deduction of RM200 per computer be given for contribution of computers (used in a business for not more than four years) to adopted schools through PINTAR secretariat under Khazanah Berhad.

Effective
Years of assessment 2008 to 2010.

3.5 DEDUCTION FOR PROFESSIONAL INDEMNITY INSURANCE

Present
Premium paid on professional indemnity insurance is not tax deductible as it is considered an expense to cover a personal liability or risk.

Where premium for professional indemnity insurance is compulsory under the Act of the respective professions, rules and by laws, the premium paid will be allowed for deduction as a concession based on Public Ruling No: 5/2006.

Proposed
Professional indemnity insurance premiums be allowed as a deduction for tax purposes.

Effective
Year of assessment 2008.

3.6 TAX DEDUCTION FOR COMMUNITY PROJECTS

Present
Expenses incurred by companies for provision of services, public amenities and contributions to charity or community projects are allowed as full deduction under section 34(6)(h) of the Income Tax Act 1967. This deduction is given only if it does not give any benefit to the business of the company.

Proposed
In addition to the above and in relation to its business, expenses incurred in the provision of approved infrastructure facilities that significantly benefit the public without charge shall be allowed as a deduction for income tax purposes.

Effective
Year of assessment 2008.

3.7 TAX DEDUCTION FOR RENOVATION OF WORKPLACE FOR DISABLED WORKERS

Present
Only equipment provided by an employer to his disabled employees is allowable for tax deduction.

Proposed
Alteration or renovation cost of the premises by the employer to assist disabled employees be allowed as a deduction for income tax purposes.

Effective
Year of assessment 2008.

3.8 TAX TREATMENT FOR NEWLY INCORPORATED SMALL AND MEDIUM ENTERPRISES (SMEs)

Present
All companies are required to submit their estimates of tax payable not later than thirty days before the beginning of the basis period.

Estimates of the tax payable should not be less than 85% of the tax payable in the preceding year and should be paid in equal monthly instalments by the due date beginning from the second month of the basis period.

New companies commencing operations in a year of assessment are required to submit their estimates of tax payable within three months from the date of commencement of operations and estimates of tax payable should be paid in equal monthly instalments beginning from the sixth month of the basis period.

Proposed
Where a SME first commences operations in a year of assessment, the SME shall be exempted from submitting an estimate of tax payable or making instalment payments for a period of two years beginning from the year of assessment in which the SME commences operation.

The tax payable for the relevant years of assessment has to be settled upon submission of income tax returns which is not later than seven months from the date of the company's financial year end.

Effective
Year of assessment 2008.

3.9 ENHANCING SECURITY CONTROL OF GOODS

Present
Security and surveillance equipment used for business purposes qualify for normal rates of initial and annual capital allowance.

Proposed
It is proposed that Accelerated Capital Allowance be given on the expenditure incurred on:-

(i) security control equipment installed in the factory premises of companies approved under the Industrial Coordination Act 1975; and
(ii) vehicle surveillance equipment installed in the container lorries bearing Carrier Licence A and general cargo lorries bearing Carrier Licence A and C.

The qualifying expenditure is to be fully claimed in the year it is incurred. The eligibility of the security and surveillance equipments is to be approved by the Minister of Finance.

Effective
Year of assessment 2008 to year of assessment 2012.

3.10 REVIEW OF TAX TREATMENT FOR LIFE INSURANCE BUSINESS

Present
The investment income and profit from realisation of investments of the life fund are taxed at 8%, and income of the shareholders' fund is taxed at the rate of 27%.

Portion of investment income and profit from realisation of investments which has been taxed at 8% is transferred to the shareholders' fund as an actuarial surplus. The surplus transferred is also taxed at 27%. The distribution of the actuarial surplus is made based on the portion of the income of the participating fund and the non-participating fund of the life fund.

Proposed
It is proposed that a set-off of tax from the total tax charged on the shareholders' fund be given to overcome the incidence of double taxation. The tax set-off is calculated as follows :-

$$\left[A \times \frac{B}{C} \right] \times D$$

Where A is the actuarial surplus transferred;
B is the net investment income and net proceeds from realisation of investments of life fund;
C is the net investment income and net proceeds from realisation of investments and surplus arising from premiums (if any) of the life fund; and
D is the rate of tax applicable to the life fund for that year of assessment.

The above computation is applicable for ascertaining the tax set off relating to the non-participating fund. For participating fund, the computation for B and C shall only take into account the income and premium attributable to shareholders' fund. The tax set off is only applicable where there is chargeable income for the shareholders' fund.

Effective
Year of assessment 2008.

3.11 REVIEW OF TAX TREATMENT FOR TAKAFUL BUSINESS

Present
Takaful business adopts the tax treatment accorded to conventional insurance business. No specific provisions are available for takaful business.

Proposed
Special tax provisions to be introduced to cover the taxation of takaful business are as follows: -

(i) management expenses incurred by the shareholders' fund in connection with the family and general takaful business be allowed as deductions from the gross income of the shareholders' fund;
(ii) share of profits distributed or credited to the participant or to the shareholders' fund out of the family fund and general takaful fund be allowed as tax deduction;
(iii) a proportion (to be ascertained in accordance with the formula prescribed by the Minister of Finance) of the share of profits distributed or credited out of the family fund, family re-takaful fund and general takaful fund to the participant, other than a participant which is a resident company, be taxed through a withholding tax mechanism which is a final tax. The withholding tax rate proposed for a non-resident company is 26% (25% for YA 2009 and thereafter) and 8% for others;
(iv) wakalah fee which is attributable to the shareholders' fund be deducted from the gross contribution of the general takaful fund;
(v) wakalah fee or any other fee receivable by the shareholders' fund from the family takaful fund and general takaful fund is taxable;
(vi) deduction be allowed for *Qard* from the shareholders' fund and tax be imposed on the repayment of *Qard*;
(vii) chargeable income of a family fund, other than income arising from family solidarity re-takaful business and inward family solidarity re-takaful business, of a resident or non-resident operator be taxed at 8%;
(viii) chargeable income of an operator from inward re-takaful business on offshore takaful business be taxed at 5%.

Effective
Year of assessment 2008.

3.12 RESTRICTION ON DEDUCTIBILITY OF APPROVED DONATION

Present
With effect from year of assessment 2001, deduction of approved donation made by companies was restricted to 5% of aggregate income of companies (revised to 7% of aggregate income effective from year of assessment 2007). Full deduction was allowed for taxpayers other than companies.

Proposed
The restriction on the deductibility of approved donation to 7% of aggregate income be extended to cover all taxpayers.

Effective
Year of assessment 2008.

3.13 INTRODUCTION OF APPEAL MECHANISM ON APPROVED ORGANISATION/ INSTITUTION APPLICATION

Present
Application to be an approved organisation/ institution is subject to approval by the Director General of Inland Revenue. No mechanism of appeal was provided for institutions or organisations when their applications to be an approved organisation/ institution were rejected.

Proposed
Institutions or organisations may appeal to the Minister of Finance within 30 days after being informed of the rejection of their application to be an approved organisation/ institution and the Minister may make any decision as he considers fit.

Effective
Gazette date of the Finance Bill 2007.

3.14 REVIEW OF INCOME TAX TREATMENT FOR LABUAN OFFSHORE COMPANIES

Present
Income of a Labuan offshore company from offshore activities is taxed under the Labuan Offshore Business Activity Tax Act 1990, whereas income from non-offshore activities is taxed under the Income Tax Act 1967.

Income from offshore activities is taxed as follows:-

(i) Income from offshore trading such as offshore banking and insurance is taxed at 3% of net profit or at a flat rate of RM20,000, on election; and
(ii) Income from offshore non-trading such as dividend, interest and royalty is exempted from tax.

Income from non-offshore activities is taxed at the current corporate rate under the Income Tax Act 1967.

Proposed
Labuan offshore companies will be given an irrevocable option to be taxed under Income Tax Act 1967 in addition to the existing option under Labuan Offshore Business Activity Tax Act 1990. The election to be taxed under the Income Tax Act 1967 is irrevocable.

Effective
Year of assessment 2008.

3.15 INCOME TAX EXEMPTION FOR NON-PROFIT ORIENTED SCHOOLS

Present
Income of non-profit oriented Government assisted and private schools comprising school fees, public donations, rental and interest are subject to tax if these schools are not approved as charitable organizations or institutions under the Income Tax Act 1967.

Proposed
It is proposed that all income received by non-profit oriented Government assisted and private schools be given tax exemption.

Effective
Year of assessment 2008.

3.16 TAX TREATMENT OF DISCOUNT OR PREMIUM ON BONDS

Present
There is no specific provision in the Income Tax Act 1967 governing the timing of recognition of discount or premium from the subscription or issuance of bonds.

Proposed
The income from the discount or premium arising from the subscription or issuance of bonds shall be accrued over the period of the bonds when it first becomes receivable.

The expenses incurred in relation to the discount or premium on bonds issued or subscribed are deemed accrued over the period of the bonds.

The amount of discount or premium on bonds to be accrued shall be ascertained as follows :

$$\frac{A}{B} \quad x \quad C$$

A is the number of days in the relevant period that falls within the period of the bond;
B is the total number of days in the term of the bond;
C is the total amount of discount/ premium in respect of the bond.

Notwithstanding the above, the company is allowed to apply any other formula which is in accordance with generally accepted accounting principles during the relevant period provided such other formula is applied consistently.

Effective
Year of assessment 2006.

4. TAX INCENTIVES

4.1 INCENTIVES FOR MEDICAL DEVICES TESTING LABORATORY

Present
No incentives are available for companies to set up or upgrade medical devices testing laboratories.

Proposed
The following incentives have been proposed:-

(1) **Company investing in a new testing laboratory for testing medical devices**

(i) Pioneer Status with income tax exemption of 100% of statutory income for a period of 5 years; or
(ii) Investment Tax Allowance of 60% on the qualifying capital expenditure incurred within a period of 5 years to be set off against 100% of the statutory income.

(2) **Company upgrading an existing testing laboratory for testing medical devices**

Investment Tax Allowance of 60% on the qualifying capital expenditure incurred within a period of 5 years to be set-off against 100% of the statutory income.

Effective
Effective for applications received by the Malaysian Industrial Development Authority (MIDA) from 8 September 2007 to 31 December 2012.

4.2 TAX TREATMENT ON TRANSFER OF INDUSTRIAL BUILDINGS TO REAL ESTATE INVESTMENT TRUST

Present
A company that disposes industrial building is subject to balancing charge when the disposal value exceeds the unclaimed industrial building allowance (IBA). Similarly, it is given a balancing allowance equivalent to the amount of unclaimed IBA that exceeds the disposal value of the industrial building.

However, no balancing charge or balancing allowance is imposed on disposal of building that fulfills the provision of controlled transfers between companies in the same group.

Proposal
The disposal of industrial buildings from companies to Real Estate Investment Trusts (REITs) be accorded the same treatment as those of controlled transfers between companies in the same group. Hence, no balancing adjustment is made on the disposal and the REITs will continue to claim the balance of the unclaimed IBA on the said industrial building.

Effective
Year of assessment 2008.

4.3 INCENTIVES FOR LAST MILE NETWORK FACILITIES

Present
No incentives are available for companies to invest in broadband facilities.

Proposed
It is proposed that the facilities provider be given :
(i) income tax exemption equivalent to 100% of the qualifying capital expenditure incurred for broadband infrastructure with the allowance to be set off against 70% of statutory income (application to be submitted to Ministry of Finance); and
(ii) exemption of import duty and sales tax for basic broadband equipment and devices in providing broadband services which are not produced locally (application to be submitted to Malaysian Industrial Development Authority).

Effective
For investment made and equipment purchased until 31 December 2010.

4.4 EXTENDING THE INCENTIVE TO RECIPIENTS OF EXPORT EXCELLENCE AWARD (SERVICES) AND BRAND EXCELLENCE AWARD

Present
Full Tax exemption is given on the value of increased export to a manufacturing company that receives the Export Excellence Award (Merchandise) (awarded by the Ministry if International Trade and Industry (MITI)). This incentive is not granted to a company that receives the Export Excellence Award (Services) or the Brand Excellence Award.

Proposed
The exemption be extended to the recipients of Export Excellence Award (Services) and the Brand Excellence Award (both are awarded by MITI).

Effective
Year assessment 2008.

4.5 TAX TREATMENT OF SPECIAL PURPOSE VEHICLE ESTABLISHED FOR ISLAMIC FINANCING

Present
Special purpose vehicle (SPV) established for purpose of Islamic financing is not exempted from compliance with the provisions of the Income Tax Act 1967.

Proposed
Where a company establishes a SPV solely for issuance of Islamic securities, the income of SPV is treated as income of the company and the company is required to keep all records and documents in respect of such income. The SPV is exempted from doing all acts and things required to be done under the Income Tax Act 1967.

Effective
Year of assessment 2007.

4.6 TAX INCENTIVE FOR COMPANIES MANAGING ISLAMIC FUNDS

Present
Full income tax exemption is given to local and foreign fund management companies for 10 years on the fees derived from managing funds of foreign investors established under the Syariah principles.

Proposed
It is proposed that the income tax exemption be extended to include fees derived from managing funds of local investors established under the Syariah principles.

Effective
Year assessment 2008 until 2016.

4.7 EXPEDITING INVESTMENT FOR SELECTED ACTIVITIES

Present

(1) **Rearers of chickens and ducks who reinvest to shift from open to closed house system**

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.

(2) **Non-rubber plantation company with at least 10% plantation with rubber wood trees**

Accelerated Agriculture Allowance on capital expenditure incurred on land preparation, planting and maintenance of rubber wood cultivation fully written off within a period of 1 year. This incentive is effective for applications received from 21 September 2002.

(3) **Industrial linkage programme**

(a) Small and medium industries (SMEs) that supply components, technology or R&D

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

(ii) 60% on the qualifying capital expenditure incurred to be set off against 100% of the statutory income for 5 years (investment tax allowance).

(b) SMEs capable of achieving world class standard in terms of pricing, quality and capacity

(i) Income tax exemption of 100% of statutory income for 10 years (pioneer status); or

(ii) 100% on the qualifying capital expenditure incurred to be set off against 100% of the statutory income for 5 years (investment tax allowance).

Effective for applications received from 25 October 1997.

Proposed

To ensure investment in the selected activities are expedited, expiry dates have been proposed as follows:-

(a) Incentives (1) and (2) to be effective until year of assessment 2010; and

(b) Incentives (3)(a) and (3)(b) to be effective for applications received not later than 31 December 2010.

4.8 RATIONALISATION OF INCENTIVES FOR INFORMATION AND COMMUNICATION TECHNOLOGY

Present

Pioneer status or investment tax allowance is given to a company undertaking information and communication technology (ICT) activities. Applications are submitted to Multimedia Development Corporation Sdn Bhd (MDeC) or Malaysian Industrial Development Authority (MIDA). These incentives vary by location as follows :

(1) **Companies undertaking ICT activities with MSC status located in Cybercities and Cybercentres**

(i) Income tax exemption of 100% of statutory income for 10 years (pioneer status); or

(ii) 100% on the qualifying capital expenditure incurred to be set off against 100% of the statutory income for 5 years (investment tax allowance).

Multimedia faculties in institutions of higher learning outside the Cybercities and Cybercentres are also eligible for the above incentives.

(2) **Companies undertaking ICT activities located outside Cybercities and Cybercentres**

(i) Income tax exemption of 50% of statutory income for 5 years (pioneer status); or

(ii) 50% on the qualifying capital expenditure incurred to be set off against 50% of the statutory income for 5 years (investment tax allowance).

(3) **Companies undertaking computer software development activities outside Cybercities and Cybercentres**

Income tax exemption of 70% of statutory income for 5 years (pioneer status).

Proposed

It is proposed that :-

(1) All companies undertaking ICT activities including computer software development be centralised in the Cybercities and Cybercentres and be given MSC status company incentives

(i) Income tax exemption of 100% of statutory income for 10 years (pioneer status); or
(ii) 100% on the qualifying capital expenditure incurred to be set off against 100% of the statutory income for 5 years (investment tax allowance).

(2) Companies undertaking ICT activities including computer software development located outside Cybercities and Cybercentres to be discontinued; and

(3) MDeC to be the sole agency to process and make recommendation on incentives for companies undertaking ICT activities including computer software development.

Effective
8 September 2007.

4.9 TAX INCENTIVE FOR REDUCTION OF GREENHOUSE GAS EMISSION

Present
Income derived from the trading of Certified Emission Reduction (CERs) certificates issued for reduction of greenhouse gases emission is subject to tax.

Proposed
Income derived from the trading of CERs certificates be given tax exemption.

Effective
Year of assessment 2008 to Year of assessment 2010.

4.10 ENHANCING TAX INCENTIVE FOR THE GENERATION OF RENEWABLE ENERGY

Present
Tax incentives available to companies generating renewable energy (RE) are as follow:

(1) **Companies generating renewable energy**
(i) Pioneer Status with income tax exemption of 100% of statutory income for 10 years; or
(ii) Investment tax allowance of 100% on the qualifying capital expenditure incurred within a period of 5 years. The allowance can be set-off against 100% of statutory income for each year of assessment; and
(iii) Import duty and sales tax exemption on equipments used to generate energy that is not produced locally and sales tax exemption on equipment purchased from local manufacturers.

If any one of the companies from the same group has been granted the incentive in (i) or (ii) above, other companies in the same group undertaking the same activities are not eligible for those incentives.

(2) **Companies generating renewable energy for own consumption**
Accelerated Capital Allowance to be fully written off within a period of one year on equipment to generate energy.

Proposed
The existing incentives be enhanced as follows :-

(1) **Companies generating renewable energy**
Other companies in the same group be given the same incentives as (i) or (ii) above even though one company in the same group has been granted the incentive.

(2) **Companies generating renewable energy for own consumption**
Accelerated Capital Allowance be replaced with Investment Tax Allowance of 100% on the qualifying capital expenditure incurred within a period of 5 years. The allowance to be set-off against 100% of statutory income for each year of assessment.

Effective
Applications received by MIDA from 8 September 2007 to 31 December 2010.

4.11 ENHANCING TAX INCENTIVE FOR ENERGY CONSERVATION

Present
Tax incentives for energy conservation (Energy Efficiency – EE) activities are as follow:

(1) **Companies providing energy conservation services**

(i) Pioneer Status with income tax exemption of 70% of statutory income for 5 years; or
(ii) Investment Tax Allowance of 60% on the qualifying capital expenditure incurred within a period of 5 years. The allowance to be set-off against 70% of the statutory income for each year of assessment; and
(iii) Import duty and sales tax exemption on energy conservation equipment that are not produced locally and sales tax exemption on the purchase of locally produced equipment.

(2) **Companies which incur capital expenditure for energy conservation for own consumption**

Investment Tax Allowance of 60% on the qualifying capital expenditure incurred within a period of 5 years. The allowance to be set-off against 70% of statutory income for each year of assessment.

Proposed
The existing incentives be enhanced as follows :-

(1) **Companies providing energy conservation services**

(i) The level and period of Pioneer Status incentives be increased to 100% for 10 years; or
(ii) Investment Tax Allowance be increased to 100% of qualifying capital expenditure incurred within 5 years. The allowance to be set-off against 100% of statutory income for each year of assessment.

(2) **Companies which incur capital expenditure for energy conservation for own consumption**

Investment Tax Allowance be increased to 100% of the qualifying capital expenditure incurred within 5 years. The allowance to be set-off against 100% of statutory income for each year of assessment.

Effective
Application received by MIDA from 8 September 2007 to 31 December 2010.

5. OTHERS

5.1 ABOLITION OF SERVICE TAX THRESHOLD FOR PROFESSIONAL, CONSULTANCY AND MANAGEMENT SERVICES

Present
Professional, consultancy and management service providers that have reached turnover of RM150,000 within a period of 12 months or part thereof, are required to be licensed and collect 5% service tax under the Service Tax Act 1975.

Proposed
It is proposed that the threshold for professional, consultancy and management services be abolished. Consequently, all such service providers are required to be licensed and collect 5% service tax under the Service Tax Act 1975.

Effective
1 January 2008.

5.2 STAMP DUTY EXEMPTION ON PURCHASE OF RESIDENTIAL PROPERTY

Present
Stamp duty rate on instruments for transfer of property including residential property is as follows:-

Value of Property	Duty rate for every RM100 or part thereof
First RM100,000	RM1.00
>RM100,000 to ≤RM500,000	RM2.00
>RM500,000	RM3.00

Proposed
Instruments of transfer for purchase of a house not exceeding RM250,000 be given 50% stamp duty exemption. This exemption is granted to only one house per individual.

Effective
For sale and purchase agreement executed from 8th September 2007 to 31st December 2010.

5.3 STAMP DUTY EXEMPTION ON TRANSFER OF REAL PROPERTY BETWEEN HUSBAND AND WIFE

Present
Stamp duty exemption of 50% is given on the transfer of real property between husband and wife on the basis of love and affection.

Proposed
Instruments for transfer of property between husband and wife on the basis of love and affection to be exempted from stamp duty.

Effective
8th September 2007.

5.4 STAMP DUTY EXEMPTION FOR MERGERS AND ACQUISITIONS OF LISTED COMPANIES

Present
Companies listed on Bursa Malaysia that undertake mergers and acquisitions approved by the Securities Commission are given stamp duty and real property gains tax exemption from 1 October 2005 to 31 December 2007.

Proposed
Stamp duty exemption on all instruments pertaining to the mergers and acquisitions be extended for another 3 years.

Effective
Mergers and acquisitions must be approved by the Securities Commission up to 31 December 2010 and completed not later than 31 December 2011.

5.5 STAMP DUTY EXEMPTION FOR MERGERS OF PETRONAS VENDORS

Present
Most of Petronas vendors carrying out services related to the oil and gas industry operate mainly in the domestic market.

Proposed
Stamp duty exemption will be given on all instruments relating to mergers of such vendors involved in upstream activities to encourage their global competitiveness.

Effective
Mergers completed not later than 31 December 2010.

5.6 PAYMENT OF STAMP DUTY USING PRIVATE VALUATION

Present
Amount of stamp duty payable for transfer of real property is exclusively based on official valuation by the Valuation and Property Services Department (JPPH). As all instruments of transfer of real property must be stamped prior to the transfer, official valuation must be obtained from JPPH.

Proposed
To expedite urgent transfer of real property, pending official valuation from JPPH, private valuation be accepted in the interim to assess the initial stamp duty payable. The procedure involved is as follows:-

(i) the taxpayer shall furnish the private valuation report and pay a fee of RM10; and

(ii) pay the initial stamp duty based on the private valuation and furnish a bank guarantee that has a validity period of not less than 6 months.

The value of bank guarantee is ascertained as follows:-

A – B where

$$A = \text{Stamp duty payable on} \left[\begin{array}{c}\text{Value of property} \\ \text{based on private} \\ \text{valuation}\end{array} \times \frac{100}{65} \right]$$

B = Stamp duty levied based on private valuation (initial duty)

JPPH will issue notice of assessment once the official valuation is available.

If the actual amount of stamp duty is higher than the amount of initial duty, the additional duty has to be paid within 30 days from the date of the notice. The bank guarantee will be claimed if the duty is not paid. A 10% penalty will be imposed on any overdue unpaid shortfall.

A 10% penalty will also be imposed on the excessive difference (ED) where ED is determined as follows:-

[Final stamp duty (FD)–(initial duty+bank guarantee)] – 30% of FD

Effective
1 January 2008.

FOLKS DFK & CO. (AF0502) / AZMAN, WONG, SALLEH & CO. (AF0012)

MALAYSIAN AFFILIATED OFFICES

KUALA LUMPUR (Headquarters)
12th Floor, Wisma Tun Sambanthan
No 2, Jalan Sultan Sulaiman
50000 Kuala Lumpur
general@folksdfk.com
folksdfk@tm.net.my
☎ 03-2273 2688
🖷 03-2274 2688

IPOH
48A, Persiaran Greenhill
30450 Ipoh, Perak
ipfolks@tm.net.my
☎ 05-2551606, 05-2547807
🖷 05-2535877

JOHOR
MPS Services Sdn Bhd
Suite 5-02, Level 5, Plaza DNP
59, Jalan Dato' Abdullah Tahir
80250 Johor Bahru, Johor
☎ 07-3333502
🖷 07-3333601

Suite 2, 20th Floor, TAR Complex
(Letter Box 180), Jalan Wong Ah Fook
80000 Johor Bahru
awsjb@tm.net.my
☎ 07-2234753, 07-2234530
🖷 07-2232723

PENANG
14, Jalan Todak 3, Pusat Bandar
Bandar Seberang Jaya
13700 Seberang Jaya, Prai, Penang
shyeoh@tm.net.my
☎ 04-3976670, 04-3976671, 04-3976672
🖷 04-3976673, 04-3976675

SABAH
KOTA KINABALU
S.K. Hiew & Associates
2nd Floor, Lot 1, Block F,
Ruang Singgah Mata 3, Asia City
Locked Bag 117, 88738 Kota Kinabalu, Sabah
skhiew@tm.net.my
☎ 088-260000
🖷 088-269000

SARAWAK
SIBU (Philip Tong & Co.)
No. 147, 1st Floor
Kampong Nyabor Road
96000 Sibu
tomax@pd.jaring.my
☎ 084-313527, 084-313528
🖷 084-320755

KUCHING (Tong & Chong Partners)
Lot 9738-9741, 2nd Floor, Jalan Mendu
93250 Kuching, Sarawak
P.O. Box 2519, 93750 Kuching, Sarawak
kenctp@pc.jaring.my
☎ 082-332778, 082-483778
🖷 082-483779

SARIKEI (Philip Tong & Co.)
No. 34, 1st Floor Jalan Haji Karim
P.O. Box 16, 96107 Sarikei, Sarawak
☎ 084-655212
🖷 084-655212

BINTULU (Philip Tong & Co.)
No. 85-1, 1st Floor, Taman Sri Sinong,
Jalan Abang Galau, P.O. Box 2300
97011 Bintulu
☎ 086-334871
🖷 086-330168

MIRI (Philip Tong & Co.)
3A, Lot 1190, Bangunan Liew En Song
Jalan Haji Lampan, P.O. Box 1401
98008 Miri
☎ 085-416506
🖷 085-416548

(Folks DFK & Co./ Azman, Wong, Salleh & Co. and their affiliates operate as independent firms in close association)

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Suite 1102, Wisma Tun Sambanthan
No.2, Jalan Sultan Sulaiman
50000 Kuala Lumpur
Telephone : 03-22732688
Telefax : 03-22742688

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Taman Industri Puchong
47100 Puchong, Selangor
Telephone : 03-80619988
Telefax : 03-80619933