

TAX BULLETIN

2015 BUDGET HIGHLIGHTS



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FOREWORD

The Budget proposals for 2015 were tabled in Parliament on 10 October 2014 by YAB Dato' Sri Mohd Najib Tun Haji Abdul Razak, the Prime Minister and Minister of Finance of Malaysia.

The 2015 Budget is formulated with focus on the people's economy and outlines 7 main strategies :-

1. Strengthening Economic Growth;
2. Enhancing Fiscal Governance;
3. Developing Human Capital and Entrepreneurship;
4. Advancing Bumiputera Agenda;
5. Upholding Role of Women;
6. Developing National Youth Transformation Programme; and
7. Prioritising Well-Being of the Rakyat.

Some of the notable GST and tax measures as proposed in the 2015 Budget are as follows:-

❖ Goods and Services Tax

In respect of GST announced in 2014 the scope of items not subject to tax is widened for the benefit of the people and this was followed by the issuance of gazette orders with respect to exempt supply, zero-rated supply and relief order.

To assist businesses to comply with GST, RM100 million is provided for training of employees while another RM150 million is provided to SMEs for purchase of approved GST compliant software. These are in addition to the additional deduction for training and accelerated capital allowance for ICT equipment and software announced last year.

Given that GST will apply with effect from 1st April 2015, time is short and businesses must give top priority to prepare for due compliance and avoid unnecessary penalties and losses.

Various tax incentives and favourable changes have been proposed to meet the Budget objectives as outlined above and these include:-

- ❖ Extending the tax deductibility on expenses incurred in the issuance of *sukuk* under the principles of *Ijarah* and *Wakalah* for another 3 years until year of assessment 2018.
- ❖ An automation capital allowance of 200% will be given for automation expenditure in high labour intensive industries on the first RM4 million of capital expenditure incurred from 2015 to 2017 whilst other industries will qualify for the 200% capital allowance on the first RM2 million incurred from 2015 to 2020.
- ❖ Tax exemption to encourage the private sector's participation in relation to management activities for industrial areas in less developed areas (100%) and others (70%).
- ❖ Introduction of Investment Account Platform ("IAP") based on *syariah* principles to fund entrepreneurial activities. Individual investors in IAP will be given an income tax exemption on profits earned for 3 consecutive years.
- ❖ 50% stamp duty exemption for the purchase of the first residential property be extended to 31 December 2016 with the price limit raised from RM400,000 to RM500,000.
- ❖ Various personal reliefs have been increased while individual scale rates have been adjusted in favour of the tax payer.

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- ❖ The scopes of double deduction for scholarship, internship have been widened while the period for eligibility for investment allowance for medical tourism has been extended.
 - ❖ Corporate, LLP, and non-resident individual tax rates will be reduced by 1% while cooperative societies will also enjoy a tax reduction.

Various measures that have been introduced or amended which are expected to protect or increase tax revenue include:-

- ❖ The DGIR may raise assessments or additional assessments in respect of transfer pricing adjustments within 7 years as compared to 5 years currently applicable other than cases of fraud, wilful default or negligence.
- ❖ Income obtainable on demand will now be brought to tax when so defined as obtainable irrespective of whether it is received.
- ❖ Real Property Gains Tax

Effective from 2016 self-assessment as compared to official assessment will apply to assessment of real property gains.

The retention sum on disposal of a chargeable asset which the acquirer is required to retain is increased from 2% to 3%.

- ❖ Penalty For Offences

It is important to note the ten-fold increase from RM2,000 to RM20,000 for the following:-

- i. failure to furnish tax return or give notice of chargeability;
- ii. leaving Malaysia without payment of tax; and
- iii. other offences under Section 120 (e.g. failure to deduct monthly tax deductions, failure to submit tax estimates, etc.)

IMPORTANT NOTE

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ABBREVIATIONS

Act	Income Tax Act 1967
CA	Capital Allowance
DG	Director General
DGIR	Director General of the Inland Revenue Board
GST	Goods and Services Tax
HEI	Higher Educational Institutions
IRB	Inland Revenue Board
IAP	Investment Account Platform
ITA	Investment Tax Allowance
LLP	Limited Liability Partnerships
MIDA	Malaysian Investment Development Authority
MOF	Minister of Finance
RA	Reinvestment Allowance
RMC	Royal Malaysian Customs
RPGT	Real Property Gains Tax
RPGTA	Real Property Gains Tax Act 1976
SA	Stamp Act 1949
SC	Special Commissioners
SME	Small and Medium Enterprise
SPV	Special Purpose Vehicle
WHT	Withholding Tax
YA	Year of Assessment

DEFINITIONS

Approved Internship Programme	as defined under the Income Tax (Deduction for Expenditure incurred for the Provision of an Approved Internship Programme) Rules 2012 [PU(A)130/2012] means a structured internship programme in Malaysia conducted for a minimum period of 10 weeks as approved by the Talent Corporation Malaysia Bhd in collaboration with the Ministry of Higher Education which provides practical experience and emphasizes the development of specific knowledge or skills, which includes but not limited to technical, communication or business, for students of Higher Educational Institutions.
Deferred annuity	means deferred annuity contracted on or after 1 January 2014 issued by insurers licensed under the Financial Services Act 2013 [Act 758] or takaful operators registered under the Islamic Financial Services Act 2013 [Act 759], and contains the Retirement Saving Standards approved by the Central Bank.
Disabled person	as defined under Section 18 of the Income Tax Act 1967 means any individual certified in writing by the Department of Social Welfare to be a disabled person.
Higher Educational Institution	as defined under the Income Tax (Deduction for Expenditure incurred for the Provision of an Approved Internship Programme) Rules 2012 [PU(A)130/2012] means an institution in Malaysia, established under the Universities and University Colleges Act 1971, University Technology MARA Act 1976 or the Private Higher Educational Institutions Act 1996 and registered with the Ministry of Higher Education Malaysia.
Relative	as defined under Section 140(8) of the Income Tax Act 1967 means a parent, a child (including a stepchild and a child adopted in accordance with any law), a brother, a sister, an uncle, an aunt, a nephew, a niece, a cousin, an ancestor or a lineal descendant.
Serious disease	as defined under Section 2 of the Income Tax Act 1967 means acquired immunity deficiency syndrome, Parkinson's disease, cancer, renal failure, leukaemia or other similar diseases.
Small and Medium Enterprise	<p>A SME is defined as a company with a paid-up capital in respect of ordinary shares of RM2.5 million and below at the beginning of the basis period for the relevant year of assessment. However, it excludes a company where :-</p> <ul style="list-style-type: none">(a) 50% of the paid up capital in respect of the company's ordinary shares is directly or indirectly owned by a related company;(b) 50% of the paid up capital in respect of ordinary shares of the related company is directly or indirectly owned by the company; or(c) 50% of the paid up capital in respect of ordinary shares of the company and the related company is directly or indirectly owned by another company. <p>“Related company” in this context is defined as a company which has a paid up capital exceeding RM2.5 million in respect of ordinary shares at the beginning of its basis period for a year of assessment.</p>

DEFINITIONS

Transaction

as defined under section 140(8) of the Income Tax Act 1967 means any trust, grant, covenant, agreement, arrangement or other disposition or transaction made or entered into orally or in writing (whether before or after the commencement of the Income Tax Act 1967), and includes a transaction entered into by two or more persons with another person or persons.

1. TAX SYSTEMS AND ADMINISTRATION

1.1 *Ascertainment of Chargeable Income*

Present

Pursuant to Section 5(1) of the Income Tax Act 1967 (“Act”), the following income are excluded in ascertaining the chargeable income of a person for tax purposes :-

- (a) Interest income accruing in or derived from Malaysia by an individual resident in Malaysia where it is subject to withholding tax (“WHT”) under Section 109C; or
- (b) Income accruing in or derived from Malaysia and received from a *takaful* operator by a participant other than a participant which is a resident company where such income is subject to WHT under Section 109E.

The WHT deducted from the above income is treated as a final tax.

Proposed

A new Section 5(1A) be introduced which provides that any amount or income received from the withdrawal of a deferred annuity or private retirement scheme which is subject to WHT under Section 109G be excluded for the purpose of ascertaining the chargeable income of a person for tax purposes.

Effective

Year of assessment 2015.

1.2 *Monthly Tax Deduction As Final Tax*

Present

Pursuant to Section 77C(1), an individual may elect not to furnish a return for a year of assessment (“YA”) and the tax deducted under Monthly Tax Deduction shall be the final tax if :-

- (a) the individual only derives employment income *other than those benefits provided by employer under Section 13(1)(b) or Section 13(1)(c)*;
- (b) deductions have been made by the employer in accordance with the Income Tax (Deduction from Remuneration) Rules 1994;
- (c) the individual is employed by the same employer *for a period of 12 months* in that YA;
- (d) such deductions are not borne by the employer for that YA; and
- (e) the spouse of that individual has not made an election for combined assessment under Section 45 of the Act.

Proposed

Amendments be made to Section 77C(1)(a) and (c) where the conditions of excluding employment benefits under Section 13(1)(b) and (c) and the employment period of 12 months (above, *in italics*) have been removed respectively.

Effective

Year of assessment 2015.

1. TAX SYSTEMS AND ADMINISTRATION

1.3 *Tax Treatment of Entities on Conversion Into Limited Liability Partnership*

Present

There is no provision to deal with the assessment of the partners or limited liability companies on conversion to a Limited Liability Partnership (“LLP”) in the year of conversion other than the treatment of claim for capital allowance in Paragraph 76A of Schedule 3.

Proposed

1. New Section 75B(3)

(a) Conversion from partnership to LLP

Every partner of the partnership shall continue to be personally assessable and chargeable to tax for that YA and for any previous YA before the conversion in respect of his chargeable income for any such YA.

(b) Conversion from company to LLP

The LLP shall be assessable and chargeable to tax for that YA and for any previous YA before the conversion in respect of the chargeable income of the company for any such YA.

2. New Section 75B(4)

Where the LLP is so assessable and chargeable under Section 75B(3)(b), it shall be assessable and chargeable to tax in like manner and to the like amount as the company would have been assessable and charged to tax prior to the conversion.

Effective

Upon coming into operation of the Finance (No.2) Act 2014.

1.4 *Right of Appeal on Deemed Assessment*

Present

Section 99(1) states that if a taxpayer is aggrieved by any assessment, he may appeal to the Special Commissioners (“SC”) within 30 days after the service of notice of assessment.

The right of appeal shall not apply to a deemed assessment made under Section 90(1) or deemed assessment on amended return under Section 91A, except where a person in respect of such assessment is aggrieved by the public ruling made under Section 138A.

Proposed

Amendment to Section 99(4) be made by allowing an appeal to be made by a person who is aggrieved by a deemed assessment made on him under Section 90(1) or deemed assessment on amended return under Section 91A as a result of complying with any practice of the Director General (“DG”) generally prevailing at the time when the assessment is made.

Effective

1. TAX SYSTEMS AND ADMINISTRATION

Upon coming into operation of the Finance (No.2) Act 2014.

1.5 *Time Bar for Income Tax Assessment in relation to Transfer Pricing Adjustment*

Present

The DG may, within 5 years after the expiration of a YA, make an assessment or additional assessment under the following circumstances :-

- (a) It appears to the DG that no or no sufficient assessment has been made on a person chargeable to tax [Section 91(1)];
- (b) The DG discovers that the whole or part of any repayment of tax to a person has been made by mistake [Section 91(2)];
- (c) Any form of fraud or willful default has been committed by or on behalf of any person or any person has been negligent in connection with or in relation to tax [Section 91(3)]; or
- (d) Any exemption, relief, remission or allowance granted to a person for any YA has been withdrawn, revoked or cancelled [Section 91(4)].

Proposed

A new Section 91(5) be introduced where the DG may make an assessment or additional assessment in respect of that person for a YA in that YA or within 7 years after the end of that YA if it appears to him that no or no sufficient assessment has been made on a person chargeable to tax in consequence of the DG's determination pursuant to Section 140A(3) in relation to a transaction entered into between associated person not at arm's length.

Effective

Upon coming into operation of the Finance (No.2) Act 2014.

1.6 *Offences and Penalties*

Present

Any person who without reasonable excuse, be guilty of the following offences and shall, on conviction, be liable to a fine of not less than RM200 and not more than RM2,000 or to imprisonment for a term not exceeding six months or to both :-

- (a) Failure to furnish return or give notice of chargeability [Section 112(1)];
- (b) Leaving Malaysia without paying all the tax, sums and debts specified in the certificate issued by the DG [Section 115(1)]; and
- (c) Other offences [Section 120(1)].

Proposed

Amendments to Sections 112(1), 115(1) and 120(1) be made to increase the maximum fine from RM2,000 to RM20,000.

Effective

Upon coming into operation of the Finance (No.2) Act 2014.

1. TAX SYSTEMS AND ADMINISTRATION

1.7 *Tax Estimates of Small and Medium Enterprise*

Present

A Small and Medium Enterprise (“SME”) is relieved from submitting an estimate of tax payable or making instalment payments for a period of 2 years beginning from the YA in which the SME commences operations.

Proposed

Section 107C(4) be amended to limit the above benefit to a SME resident and incorporated in Malaysia.

Effective

Upon coming into operation of the Finance (No.2) Act 2014.

1.8 *Due Date for Instalment Payment by Companies*

Present

Section 107C(12) states that the due date for payment of monthly tax instalments for a company, LLP, trust body or co-operative society under the self-assessment system is the tenth day of a calendar month.

Proposed

Amendment to Section 107C(12) to extend the due date to the fifteenth day of a calendar month.

Effective

1 January 2015.

2. TAXATION – INDIVIDUALS

2.1 *Review of Income Tax Rates For Resident Individuals*

The income tax rates for resident individuals shall be revised as follows:-

Chargeable income	Present		Proposed		Tax Savings
	Tax rate	Tax payable	Tax rate	Tax payable	
(RM)	(%)	(RM)	(%)	(RM)	(RM)
1 – 5,000	0	0*	0	0*	0
5,001 – 20,000	2	0*	1	0*	0
20,001 – 35,000	6	800*	5	500*	300
35,001 – 50,000	11	2,850	10	2,400	450
50,001 – 70,000	19	6,650	16	5,600	1,050
70,001 – 100,000	24	13,850	21	11,900	1,950
100,001 – 250,000	26	52,850	24	47,900	4,950
250,001 – 400,000	26	91,850	24.5	84,650	7,200
>400,000	26		25		

* after personal tax rebate of RM400 for chargeable income up to RM35,000.

The income tax rates for non-resident individuals shall be reduced by 1% from 26% to 25%.

Effective

Year of assessment 2015.

2.2 *Increase in Relief on Medical Expenses for Serious Diseases*

Present

A relief of up to RM5,000 a year is given to an individual for medical expenses incurred for the treatment of serious diseases for the taxpayer, or his or her spouse, or child.

Proposed

The tax relief be increased to RM6,000.

Effective

Year of assessment 2015.

2.3 *Increase in Relief for Disabled Child*

Present

A resident individual is given relief of RM5,000 for the maintenance of each unmarried child who is physically or mentally disabled.

Proposed

The tax relief be increased to RM6,000.

Effective

Year of assessment 2015.

2.4 *Increase in Relief for the Purchase of Basic Supporting Equipment for the Disabled*

Present

A resident individual is given a relief up to RM5,000 a year for the purchase of any necessary basic supporting equipment for his/her own use, if he/she is a disabled person or for the use of his wife/her husband, child or parent, who is a disabled person.

Proposed

The tax relief be increased to RM6,000.

Effective

Year of assessment 2015.

3. TAXATION – COMPANIES & UNINCORPORATED BUSINESSES

3.1 *Review of Income Tax Rates – Companies and Other Entities* The income tax rates for the following entities be revised as follows :-

	Income Tax Rate	
	Present	Proposed (YA2016 onwards)
(a) Company with paid-up capital > RM2.5 million	25%	24%
(b) Trust body		
(c) Executor of an estate of an individual who was domiciled outside Malaysia at the time of his death		
(d) Receiver appointed by the court		
(e) LLP with capital contribution > RM2.5 million		
(f) Resident SME* and LLP with capital contribution not exceeding RM2.5 million	20%	19%
• Chargeable income up to RM500,000	25%	24%
• Chargeable income exceeding RM500,000		

* Upon coming into operation of the Finance (No.2) Bill 2014, Paragraph 2A, Schedule 1 of the Act be amended to limit the benefit of the preferential tax rate of 20% to a SME resident and **incorporated** in Malaysia.

3.2 *Review of Income Tax Rates For Co-Operative Societies* The income tax rates for co-operative societies be reduced as follows :-

Chargeable Income (RM)	Present		Proposed		Tax Savings (RM)
	Tax Rate (%)	Tax Payable (RM)	Tax Rate (%)	Tax Payable (RM)	
1 – 30,000	0	0	0	0	0
30,001 – 60,000	5	1,500	5	1,500	0
60,001 – 100,000	10	5,500	10	5,500	0
100,001 – 150,000	15	13,000	15	13,000	0
150,001 – 250,000	20	33,000	18	31,000	2,000
250,001 – 500,000	22	88,000	21	83,500	4,500
500,001 – 750,000	24	148,000	23	141,000	7,000
Exceeding 750,000	25		24		

Effective

Year of assessment 2015.

3. TAXATION – COMPANIES & UNINCORPORATED BUSINESSES

3.3 Clarification of Qualifying Forest Expenditure

Present

Pursuant to Paragraph 8(1) of Schedule 3, qualifying forest expenditure is a capital expenditure incurred by a person on the construction in a forest of:–

- (a) a road or building used for the purposes of a business of his which consists wholly or partly of the extraction of timber from the forest; or
- (b) a building provided by him for the welfare of persons, or as living accommodation for a person, employed in or in connection with such extraction,

and which, if the forest ceases to be used for such extraction, would be likely to be of little or no value to any person except in connection with the extraction of timber from another forest or with a business which consists wholly or partly of the working of a farm.

A forest, in relation to a person, means a forest where such person has a concession or a license to extract timber therefrom for the purposes of his business which consists wholly or partly of that extraction.

Proposed

The definition of qualifying forest expenditure be narrowed to capital expenditure incurred only by a person who has a concession or license to extract timber.

Effective

Year of assessment 2015.

3.4 Special Allowances for Small Value Assets

Present

Where a person incurred qualifying expenditure on assets with values not exceeding RM1,000 each, special allowances equal to the expenditure incurred is given. However, the total special allowances of such assets for each YA is capped at RM10,000.

Proposed

It is proposed that the value of each asset be increased from RM1,000 to RM1,300 and the total special allowances of such assets shall be increased from RM10,000 to RM13,000.

Effective

Year of assessment 2015.

3. TAXATION – COMPANIES & UNINCORPORATED BUSINESSES

3.5 Notification on Election for Building Used as Living Accommodation

Present

Where a person has in use a qualifying industrial building and constructs a new building as living accommodation for his employees, the new building would also qualify as an industrial building. If such expenditure incurred on constructing the living accommodation also qualifies for agriculture allowance or forest allowance, the person can make an election to claim allowances on the said building at the following rates :-

	Rates
Agriculture allowance	20%
Forest allowance	20%
Industrial building allowance	IA : 40% AA : 3%

Such election by notice in writing shall be made to the DG within 3 months (or within such further period as DG may allow) of the beginning of the YA in the basis period for which that expenditure was incurred.

Proposed

The election referred to above shall be made in the tax return for the basis period for a YA in which the expenditure was incurred.

Effective

Year of assessment 2015.

3.6 Special Purpose Vehicle

Present

Where a company establishes a special purpose vehicle (“SPV”) solely for the issuance of Islamic securities that adopts *Syariah* principles approved by the SC or Labuan Financial Services Authority (formerly Labuan Offshore Financial Services Authority), any source of the SPV and any income from that source shall be treated as a source and income of that company and such company shall have the right to receive and utilize any proceeds derived from the issuance of such Islamic securities.

Such company shall also keep and retain in safe custody records and documents in accordance with Sections 82 and 82A for the purpose of ascertaining the chargeable income of the company from the source referred to above.

Proposed

A new subsection 60I(3A) be introduced to extend the definition of the company establishing the SPV to include a unit trust which is approved by the SC as Real Estate Investment Trust or Property Trust Fund.

Effective

Year of assessment 2015.

3. TAXATION – COMPANIES & UNINCORPORATED BUSINESSES

- 3.7 Clarification on Deduction of Expenses Against Single Tier Exempt Dividend**
- Present**
Dividend paid, credited or distributed to any person where the company is not entitled to deduct tax will be exempted from tax in the hands of the recipient. Any expenses incurred in relation to such dividend by the recipient shall be disregarded.
- Proposed**
It is clarified that expenses incurred in relation to such dividend paid shall be disregarded for the purpose of ascertaining the adjusted income of the recipient.
- Effective**
Upon coming into operation of the Finance (No.2) Act 2014.
- 3.8 Exempt Income of Unit Trust**
- Present**
Income of a unit trust in respect of interest derived from Malaysia and paid or credited by any bank or financial institution licensed under the Financial Services Act 2013 (formerly Banking and Financial Institutions Act 1989) or the Islamic Financial Services Act 2013 (formerly Islamic Banking Act 1983) is exempted from income tax.
- Proposed**
Tax exemption on the income from an unit trust be extended to include interest derived from Malaysia and paid or credited by any development financial institution regulated under the Development Financial Institutions Act 2002.
- Effective**
Year of assessment 2015.
- 3.9 Adjusted Loss of a Deferred Annuity**
- Present**
Pursuant to Paragraph 20A of Schedule 6, income from investment of life insurer or family *takaful* operator in respect of a deferred annuity established in accordance with the Retirement Savings Standards approved by the Central Bank of Malaysia is exempted from tax.
- Proposed**
Any adjusted loss from the investment in respect of a deferred annuity scheme be disregarded.
- Effective**
Year of assessment 2015.

3. TAXATION – COMPANIES & UNINCORPORATED BUSINESSES

3.10 *Related Party Transactions*

Present

Where a person is entitled to receive any gross income from a source in Malaysia (other than business income and dividend income) and such income is deemed to be obtainable on demand, the income is treated as being received by the person at the time those circumstances arise.

The above provision also applies to gross income of the relevant person which constitutes interest on loan between persons :-

- (a) one of whom has control over the other; or
- (b) both of whom are controlled by some other person,

when the interest is due to be paid to the relevant person in the relevant period.

Proposed

1. A new Paragraph (aa) to subsection 29(3) be introduced to provide that where gross income consists of interest that relates to a loan between individuals who are relatives of each other, the relevant person is deemed to be able to obtain on demand the receipt of such interest when such interest is due to be paid.
2. Section 29(4) be introduced and subject to subsection 29(3), where a relevant person is entitled to receive any gross income accruing in or derived from Malaysia to which Section 25, Section 27 other than subsection 27(1A), or Section 28 applies and where such amount first becomes receivable arising from transactions between :-
 - (a) persons one of whom has control over the other;
 - (b) individuals who are relatives of each other; or
 - (c) persons both of whom are controlled by some other person; and

any such amount which becomes receivable in the relevant period shall be deemed to be obtainable on demand and treated as gross income in the following basis period.

Definitions of “relative” and “transaction” are defined under subsection 140(8) of the Act (refer to Definitions).

Effective

Year of assessment 2015.

3. TAXATION – COMPANIES & UNINCORPORATED BUSINESSES

3.11 Tax Treatment for Present *Takaful Business*

The tax treatment of *takaful* business is provided under Section 60AA of the Act. The relevant tax treatments on the following funds are :-

(a) Shareholders' Fund

- (i) *Wakalah* fee charged to family fund is included in arriving at the income of the *takaful* operator.
- (ii) Expenses that are allowed in arriving at the adjusted income of the shareholders' fund include:
 - commission payable and discount allowed incurred in connection with the general business; and
 - management expenses incurred in connection with the family and general business.
- (iii) There is no specific tax treatment on transfer of actuarial surplus from the family fund to the shareholders' fund.

(b) General Fund

The expenses that are allowed in arriving at the adjusted income of the general fund include commission payable, discount allowed and management expenses incurred by the *takaful* operator.

Proposed

Amendments to Section 60AA be made as follows :-

(a) Shareholders' Fund

- (i) *Wakalah* fee charged to family fund is excluded in arriving at the adjusted income of the shareholders' fund.
- (ii) The amount of actuarial surplus transferred from the family fund to the shareholders' fund be included in the gross income of the shareholders' fund.
- (iii) The tax deduction on commission payable, discount allowed and management expenses be restricted to those incurred in connection with the general business carried out in accordance with the principle of *Wakalah*.
- (iv) A new Section 110C be introduced to accord tax relief equivalent to the tax charged on the actuarial surplus of family fund against the tax charged on the shareholders' fund.

(b) General Fund

The tax deduction on commission payable, discount allowed and management expenses be restricted to those incurred in connection with the business carried out in accordance with the principle of *Mudharabah*.

Effective

Year of assessment 2015.

3. TAXATION – COMPANIES & UNINCORPORATED BUSINESSES

3.12 Cost of Acquisition and Realization (“CAR”) of Investments and Rights

Present

Pursuant to Sections 60 (Insurance Business) and 60AA (*Takaful* Business), the cost of acquiring and realizing any investments or rights is deducted against the gross proceeds receivable in connection with such investments or rights in arriving at the adjusted income of the life/ family fund, shareholders’ fund and general fund.

Proposed

A new subsection 60(4C) (Insurance Business) and subsection 60AA(10A) (*Takaful* Business) be introduced where the CAR of any investments or rights shall be determined as follows :-

$$\frac{A}{B} \times C$$

Where

- A : is the cost of acquiring any investments or rights which is realized in that period in respect of such fund;
- B : is the total cost of acquiring all investments or rights held during that period in respect of such fund; and
- C : is the total expenses incurred in that period for managing all investments or rights held during that period in respect of such fund.

Effective

Year of assessment 2015.

4. TAX INCENTIVES

4.1 *Extension of Tax Incentive for the Issuance of Sukuk*

Present

Deduction is given on expenses incurred for the issuance of *sukuk* under the principles of *Mudhrabah* (profit sharing), *Musyarakah* (profit and loss sharing), *Ijarah* (leasing), *Istisna'* (purchase order), *Murabahah* (cost plus sale), *Bai' Bithaman Ajil* (deferred payment sale) based on *Tawarruq* (tripartite sale) and *Wakalah* (agency) approved by the SC or the Labuan Financial Services Authority.

This incentive is given from YA2003 to 2015.

Proposed

Tax deduction in respect of expenses incurred for the issuance of *sukuk* under the principles of *Ijarah* and *Wakalah* be extended for another 3 years.

Effective

Year of assessment 2016 to 2018.

4.2 *Tax Incentive for Healthcare Service Providers*

Present

A resident company which is incorporated in Malaysia that provides private healthcare facilities services to healthcare traveller is given exemption on its statutory income derived from a qualifying project equivalent to 100% of qualifying capital expenditure for a period of 5 years.

This incentive is given to new and existing companies that are engaged in new private healthcare facility business or expansion, modernisation or refurbishment of existing private healthcare facility business approved by the Ministry of Health and verified by the Malaysian Healthcare Travel Council.

Qualified healthcare traveller is defined as follows :-

- (a) Malaysia My Second Home participant and his dependents;
- (b) Expatriate holding a Malaysian work permit and his dependents; or
- (c) Non-Malaysian citizen who visits and receives treatment from private healthcare facilities in Malaysia.

This incentive is for applications received by Malaysian Investment Development Authority ("MIDA") from 1 January 2010 to 31 December 2014.

Proposed

It is proposed that new and existing companies engaged in expansion, modernisation or refurbishment that provide private healthcare facilities to at least 5% healthcare traveller from their total patients be given exemption on income equivalent to Investment Tax Allowance ("ITA") of 100% of qualifying capital expenditure for a period of 5 years.

Effective

For applications received by MIDA from 1 January 2015 to 31 December 2017.

4. TAX INCENTIVES

4.3 *Tax Incentive under Investment Account Platform*

Proposed

The Government will introduce a new *Syariah*-compliant investment product in 2015 called the Investment Account Platform (“IAP”). The IAP is to attract participation from individual and institutional investors to boost development of SMEs as well as entrepreneurs.

To promote investment in IAP, it is proposed that profit earned by individual investors from investments made through IAP be given income tax exemption and subject to the following conditions :-

- (a) Tax exemption shall only be accorded for 3 consecutive years starting from the first year profit is earned;
- (b) The investment is made for a period of 3 years starting from the operation date of IAP;
- (c) Tax incentive shall only be accorded for investment activities in Malaysia, in venture companies owned by Malaysian or locally incorporated companies;
- (d) Tax exemption shall only be accorded for investments made in SMEs and venture companies in any sectors; and
- (e) Definition for SMEs is as per the latest definition issued by SME Corporation Malaysia.

Effective

From the operational date of IAP scheduled to be from 1 September 2015 to 31 August 2018.

4.4 *Additional Capital Allowance for Automation in Manufacturing*

Present

Manufacturer is eligible to claim CA based on the qualifying expenditure incurred on the provision of machinery or plant used for the purposes of the business pursuant to Schedule 3 of the Act and the prescribed rates are appended in the table below :-

CA	Heavy Machinery	Plant & Machinery (general)
Initial Allowance	20%	20%
Annual Allowance	20%	14%

Proposed

CA of 200% be given to manufacturers in the following industries who incurred qualifying capital expenditure in automation :-

Industries	Qualifying expenditure
High labour intensive industries (such as rubber products, plastics, wood, furniture and textiles)	first RM4 million qualifying expenditure incurred from YA2015 to 2017.
Others	first RM2 million qualifying expenditure incurred from YA2015 to 2020.

Effective

Year of assessment 2015.

4. TAX INCENTIVES

4.5 *Incentives for Industrial Area Management Operators*

Proposed

The following incentives be given to the private sector in undertaking management activities for industrial estates :-

- (a) 100% income tax exemption for a period of 5 years for managing, maintaining and upgrading industrial estates in less developed areas.
- (b) 70% income tax exemption for a period of 5 years for managing industrial estates in other areas.

Effective

To be determined (budget speech).

4.6 *Tax Incentive for Training*

Present

Expenses incurred by a company to send employees for training at approved training institutions are eligible for further deduction subject to :-

- (a) Manufacturing company
 - (i) Training programmes approved by the MIDA; or
 - (ii) Training programmes conducted by training institutions approved by Minister of Finance (“MOF”).
- (b) Non-manufacturing company
 - (i) Training programmes approved by the MOF or any agency appointed by the MOF; or
 - (ii) Training programmes conducted by training institutions approved by the MOF.
- (c) Company carrying on a hotel or tour operating business
 - (i) Training programmes approved by the Minister of Culture, Arts and Tourism; or
 - (ii) Training programmes conducted by training institutions approved by the MOF.

The incentive is effective from YA1991.

Proposed

The above incentives be extended to include training costs incurred by companies for the employees to obtain industry recognised certifications and professional qualifications such as in the field of accounting, finance and project management. Training programmes are those approved by agencies appointed by the MOF.

Effective

Year of assessment 2015.

4. TAX INCENTIVES

4.7 *Changes in Treatment of Reinvestment Allowance* **Present**

- (a) Pursuant to Paragraph 2A to Schedule 7A, where an asset is disposed of at any time within 5 years from the date of acquisition of that asset, any Reinvestment Allowance (“RA”) claimed in respect of qualifying capital expenditure of that asset shall be deemed to have not been given to the person to which it would otherwise be entitled. Tax returns for the relevant YAs in which the RA was claimed would need to be revised to adjust for the withdrawal of the RA claimed.

However in practice, the DG allows the RA to be withdrawn in the YA when the asset is disposed of (Public Ruling 6/2012, RA).

- (b) RA is allowed to be offset against 70% of the **statutory income** of the business of that person. Any unutilised RA for that YA is allowed to be carried forward to subsequent YAs until the RA is fully absorbed by the statutory income from that business.

Proposed

- (a) The withdrawal of the RA claimed shall be part of the person’s statutory income in the basis period for the YA in which such asset is disposed of.
- (b) The utilisation of RA is restricted to the statutory income of a person from a source consisting of a business in respect of a qualifying project referred to in Paragraph 8 to Schedule 7A.

Effective

Year of assessment 2015.

4.8 *Extension of Tax Incentive for an Approved Internship Programme* **Present**

Double deduction is given on expenses incurred by a person resident in Malaysia for conducting an approved internship programme (refer to Definitions).

The eligible criteria under the approved internship programme are as follows :-

- (a) such person is approved by the Talent Corporation Malaysia Berhad to conduct an approved internship programme;
- (b) the students are Malaysian citizens pursuing a full-time degree programme in Higher Educational Institutions (“HEI”) and complete the approved internship programme before completion of the final semester of his degree programme or its equivalent;
- (c) internship programme conducted for a minimum period of 10 weeks;
- (d) internship monthly allowance of not less than RM500 paid to the students.

4. TAX INCENTIVES

4.8 *Extension of Tax Incentive for an Approved Internship Programme (cont'd)*

Double deduction is given on the following allowable expenses :-

Types of allowable expenses	Allowable sum
(a) internship monthly allowance paid to the students	Not less than RM500 paid
(b) expenditure incurred for the students: <ul style="list-style-type: none">• provision of training• meals, travelling and accommodation	Not exceeding RM5,000 for each student for a YA
(c) fee paid to a person who has been appointed to conduct an approved internship programme	

This incentive is effective from YA 2012 to 2016.

Proposed

The double deduction incentive be extended to include allowable expenses incurred by a person in conducting an approved internship programme for students pursuing courses at the vocational and diploma levels.

Effective

Year of assessment 2015 to 2016.

4.9 *Extension of Tax Incentive for Scholarships*

Present

Double deduction is given on allowable expenses incurred by resident companies which are incorporated under the Companies Act 1965 in respect of scholarships awarded to students pursuing diploma or bachelor's degree courses at HEI. The scholarships are to be awarded to students who :-

- (a) are Malaysian citizens and residents in Malaysia;
- (b) are pursuing full time courses;
- (c) have no source of income; and
- (d) whose parents or guardians have total monthly income not exceeding RM5,000.

The allowable expenses are as follows :-

- (a) payments relating to the course of study as required by HEI; and
- (b) educational aid and reasonable cost of living expenses throughout the student's period of study at the HEI.

This incentive is effective from YA2011 until 2016 and applies to scholarship agreement executed on or after 8 October 2011 but not later than 31 December 2016.

Proposed

The double deduction incentive be extended to include scholarship awarded by companies to Malaysian students studying in the vocational and technical fields in institutions recognised by the Government.

Effective

Year of assessment 2015 to 2016.

5. REAL PROPERTY GAINS TAX

5.1 *Duty of Acquirer to Retain and Pay Part of the Consideration*

Present

Section 21B of the Real Property Gains Tax Act 1976 (“RPGTA”) provides that the acquirer of a real property or shares in a real property company is required to retain a sum not exceeding 2% of the total value of the consideration and remit the sum withheld to the Inland Revenue Board (“IRB”) within 60 days from the date of disposal.

Proposed

The retention sum to be withheld and remit to the IRB be increased to an amount not exceeding 3% of the value of the consideration.

Effective

From 1 January 2015.

5.2 *Acquisition Price*

Present

Subsubparagraph 4(3)(d) Schedule 2 of the RPGTA provides that where an asset, which is disposed of, was acquired by the disposer prior to the 1 January 1970, the market value of the asset as at 1 January 1970 shall be substituted for the value of the asset for estate duty purposes referred to in subparagraph 19(3) of Schedule 2 of the RPGTA.

Proposed

It is proposed that subsubparagraph 4(3)(d) be amended to be consistent with subparagraph 19(3) by clarifying that in the case of the disposal of a deceased person’s asset, which was acquired prior to 1 January 1970, the market value of the asset as at 1 January 1970 shall be substituted for the market value of the asset as at the date of the death of the deceased person.

Effective

From 1 January 2015.

5.3 *Gifts*

Present

If an asset is disposed of by way of a gift where the donor and recipient are husband and wife, parent and child or grandparent and grandchild, the donor shall be deemed to have received no gain and suffered no loss on the disposal and the recipient shall be deemed to have acquired the asset at an acquisition price equal to the acquisition price paid by the donor plus the permitted expenses incurred by the donor.

Proposed

The existing provisions stated above is no longer applicable to a gift of assets made 5 years after the date of acquisition by the donor who is a citizen or permanent resident.

The recipient of assets under the aforesaid circumstances is deemed to have acquired the assets at the market value at the time of the gift.

Effective

From 1 January 2015.

6. INDIRECT TAX

6.1 *Extension of Stamp Duty Exemption for the Purchase of First Residential Property*

Present

50% stamp duty exemption is given on the instrument of transfer and instrument of loan agreement in respect of the purchase of first residential property with a price not exceeding RM400,000 by a Malaysian citizen. A residential property includes a house, a condominium unit, an apartment and a flat built as a dwelling house.

The exemption given is subject to the following conditions:-

- (i) The Sale and Purchase Agreement is executed on or after 1 January 2013 but not later than 31 December 2014;
- (ii) The purchaser does not own any residential property at the date of execution of that Sale and Purchase Agreement; and
- (i) The exemption is to be claimed once only within the exemption period.

Proposed

The above stamp duty exemption be extended to 31 December 2016 and the ceiling price of residential property that is eligible for 50% exemption be increased from RM400,000 to RM500,000.

Effective

For Sale and Purchase Agreements executed from 1 January 2015 to 31 December 2016.

7. OTHERS - GOODS AND SERVICES TAX

Goods and Services Tax

Goods and Services Tax (“GST”) will be implemented in Malaysia with effect from 1 April 2015. GST is a multi-stage consumption tax on goods and services. In this connection, we wish to highlight the following matters for your attention :-

1. Scope of tax

GST is charged and levied on :-

- (a) any supply of goods or services made in Malaysia, including supply of imported services and anything treated as a supply under the GST Act 2014; and
- (b) any importation of goods into Malaysia.

Subject to provisions on exempt, zero-rated and out-of scope supplies, tax shall be charged on any supply of goods or services made in Malaysia where it is a taxable supply made by a taxable person in the course or furtherance of any business carried on by him.

2. Types of supply

- (a) Types of supply for GST purposes are categorized as follows :-

Categories	Types of supply	Rate of tax
Taxable supply	Standard-rated	6%
	Zero-rated	0%
Non-Taxable supply	Exempt	-
	Out-of-Scope	-

- (b) The following items have been added to the zero rated list :-

- (i) All types of fruits whether local or imported;
- (ii) White bread and wholemeal bread;
- (iii) Coffee powder, tea dust and cocoa powder;
- (iv) Yellow mee, kuey teow, laksa and meehoon;
- (v) The National Essential Medicine covering almost 2900 medicine brands. These medicines are used to treat 30 types of diseases including heart failure, diabetes, hypertension, cancer and fertility treatment;
- (vi) Reading materials such as children’s coloring books, exercise and reference books, text books, dictionaries and religious books;
- (vii) Newspaper; and
- (viii) Supply of the first 300 units of electricity to a domestic household.

Full listing of the zero rated and exempt items can be obtained from the website of the Royal Malaysian Customs (“RMC”): www.gst.customs.gov.my

- (c) The retail sale of RON95 petrol, diesel and LPG has been given relief from payment of GST.

7. OTHERS - GOODS AND SERVICES TAX

Good and Services Tax (Cont'd)

3. GST mechanism

A registered person is required to charge and collect GST (i.e. output tax) on all taxable goods and services supplied by him to his consumers. The registered person is required to pay the output tax to RMC at fixed intervals after deducting allowable input tax on his purchases. Where the allowable input tax exceeds the output tax, a refund will be made by the RMC.

4. Registration requirement

A. Mandatory registration [Section 21, GST Act 2014]

Any person who has reasonable grounds for believing that the total annual sales value of his taxable supplies will exceed the prescribed threshold, i.e. RM500,000, is liable to be registered not later than 3 months before the effective date of 1 April 2015 (i.e. **before 1 January 2015**). Notwithstanding the above, any person can commence his GST registration with effect from 1 June 2014 with the RMC.

Persons include an individual, sole proprietor, partnership, company, trust, estate, society, union, club, association or any other organization including a government department or a local authority which is involved in the business of making taxable supplies in Malaysia.

The annual sales turnover for the purpose of determining the threshold for registration on or after the effective date is calculated based on either:-

- (i) The total value of taxable supplies of the current month and the previous 11 months, or
- (ii) The total value of taxable supplies of the current month and the next 11 months.

For registration before the effective date of 1 April 2015, determination of taxable turnover will be based on forecast value of his taxable supply for the period from 1 April 2015 to 31 March 2016.

B. Voluntary registration [Section 24, GST Act 2014]

A person may choose for voluntary registration notwithstanding that his annual sales turnover of taxable supplies is below the prescribed threshold. Any person who registers voluntarily shall remain registered for a period of not less than two years.

7. OTHERS - GOODS AND SERVICES TAX

Good and Services Tax (Cont'd)

C. Penalty for failure to register [Section 21(6), GST Act 2014]

A person shall be liable to pay a late registration penalty from the date he should have been registered to the date immediately before the date he is so registered (hereinafter referred to as late registration period) as follows :-

Late Registration period (days)	Cumulative penalty (RM)
1-30	1,500
31-60	3,000
61-90	4,500
91-120	6,000
121-150	7,500
151-180	9,000
181-210	10,500
211-240	12,000
241-270	13,500
271-300	15,000
301-330	16,500
331-360	18,000
Exceeding 360	20,000

5. **Basis of accounting for GST to RMC**

All taxable persons will be required to account for GST based on the accrual basis, i.e. all output tax shall be accounted based on the time when the invoice is issued or when goods are delivered or services are performed or when advance payment are received. Input tax shall be accounted for based on the date of suppliers' invoices.

However, certain categories of taxable persons may be allowed to use the cash basis of accounting.

7. OTHERS - GOODS AND SERVICES TAX

*Good And Services Tax
(Cont'd)*

6. Filing of GST return

The taxable period for a taxable person is as follows :-

Taxable period	Condition
Monthly	Taxable person with annual sales of RM5 million and above
Quarterly	Taxable person with annual sales less than RM5 million
As prescribed	Special cases and subject to approval



GST return shall be furnished to the Director General in the prescribed manner not later than the last day of the month following after the end of the taxable period to which the return relates.

Any person who fails to furnish the return within the stipulated due date, commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding three years or to both.

7. Repeal and savings of Sales Tax Act 1972 and Service Tax Act 1975 (“SST”)

SST will be repealed effective 1 April 2015. Notwithstanding the repeal of SST, any liability incurred, tax due, tax overpaid or erroneously paid under SST may be collected, refunded, remitted or enforced as if the relevant Act had not been repealed.

For further information, please refer to the RMC’s website : www.gst.customs.gov.my

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