

# TAX BULLETIN



## 2016 BUDGET HIGHLIGHTS

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## FOREWORD

The Budget proposals for 2016 were tabled in Parliament on 23 October 2015 by YAB Dato' Sri Mohd Najib Tun Haji Abdul Razak, the Prime Minister and Minister of Finance of Malaysia.

With the theme "Prospering The *Rakyat*", the 2016 Budget outlines 5 priorities:-

1. Strengthening Economic Resilience;
2. Increasing Productivity, Innovation and Green Technology;
3. Empowering Human Capital;
4. Advancing Bumiputera Agenda; and
5. Easing the Cost of Living of the *Rakyat*.

Some of the notable tax measures as proposed in the 2016 Budget are as follows:-

### ❖ Goods and Services Tax ("GST")

Additional goods and services are included in the range of zero rated and tax exempt supplies to manage the impact of GST. Among others:-

- (a) An additional 4,215 brands of drugs have been categorized as zero rated supply, bringing the total brand of drugs that are zero rated to 8,630;
- (b) Certain food products such as organic and soy based milk for infants and children, additional types of bean, lotus root and water chestnut, mustard seeds and *mee kolok* (dry) are included as zero rated supply;
- (c) Domestic passenger air transportation services for economy class passengers on Rural Air Services routes in Sabah and Sarawak has been proposed as an exempt supply.

Relief from payment of GST are given on re-importation of goods exported temporarily for purpose of promotion, exhibition and research, rental and leasing.

On the other hand, additional penalty provisions have been added to tighten the collection of GST.

### ❖ Personal Income Tax

A significant and unexpected proposal is the raising of tax rates despite the implementation of GST as follows:-

- (a) 26% (from 25%) for chargeable income in the band of RM600,001 to RM1 million;
- (b) 28% (from 25%) for chargeable income above RM1 million;

The rationale for the proposal is to strengthen the tax structure to be more competitive and progressive.

Some personal reliefs were increased and new reliefs have been introduced.

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❖ Corporate Tax

The following measures are expected to have a positive impact on businesses:-

- (a) Special reinvestment allowance be made available for additional 1 to 3 years to existing companies in the manufacturing and agriculture sectors whose incentive periods have expired.
- (b) Income tax exemption for tour operators be extended from the year of assessment 2016 to 2018.
- (c) The existing scope of food production be widened and the qualifying period for application for the incentive be extended to 31 December 2020.

❖ General

- (a) The amendments to Sections 24(1)(b) and 24(1)(c) will mean that debt due in respect of services to be rendered or use or enjoyment of property to be dealt with shall be brought to tax. The introduction of Section 24(1A) will render a sum received to be brought to tax in the period it is received notwithstanding that the service or use or enjoyment of property will be dealt with in the subsequent period(s).

The proposed treatment will also mean that the cost to be incurred for the production of income may only be claimed in a future period, where services have not yet been rendered or use or enjoyment of property not yet dealt with.

- (b) Limitation on the claim of industrial building allowance (“IBA”)

The proposal to disallow the owners of industrial buildings of certain industries to claim IBA if the buildings or part of the buildings are used for the purpose of letting will have significant tax impact to the owners. The affected businesses include hotels, airports, hospitals, warehouses, schools, employees’ hostels, building used for research, motor racing circuits and buildings used for approved service project.

**IMPORTANT NOTE**

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# CONTENT

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	<i>Page</i>
<b>ABBREVIATIONS</b>	(i)
<b>DEFINITIONS</b>	(ii)
<b>1. TAX SYSTEM AND ADMINISTRATION</b>	
1.1 <i>Submission of Employer's Return</i>	1
1.2 <i>Submission of Tax Estimates</i>	1
1.3 <i>Definition of "Sukuk"</i>	1
1.4 <i>Other Offences</i>	1
1.5 <i>Review of Penalty for Failure to Furnish Tax Return or Give Notice of Chargeability</i>	2
1.6 <i>Power to Make Rules</i>	2
1.7 <i>LBATA – Exchange of Information</i>	2
1.8 <i>Assessments Raised Arising from Adjustment Made on Input Tax</i>	3
1.9 <i>Section 108 Balance</i>	3
1.10 <i>Deduction of Interest Expense</i>	4
<b>2. TAXATION – INDIVIDUALS</b>	
2.1 <i>Review of Income Tax Rates For Individuals</i>	5
2.2 <i>Increase in Child Reliefs</i>	5
2.3 <i>Relief on Employees' Contribution to SOCSO</i>	5
2.4 <i>Increase in Relief for Spouse and/or Alimony to Former Wife</i>	6
2.5 <i>Increase in Relief for Tertiary Education</i>	6
2.6 <i>Relief for Parental Care</i>	6
2.7 <i>Basis Period for Employment Income</i>	7
2.8 <i>Exemption of Gratuity</i>	8
<b>3. TAXATION – COMPANIES &amp; UNINCORPORATED BUSINESSES</b>	
3.1 <i>Basis Period to which Gross Income from A Business is Related</i>	9
3.2 <i>Remuneration or Other Income in respect of Services Performed or Rendered in Malaysia by A Public Entertainer</i>	9
3.3 <i>Disposal of Part of an Asset</i>	10
3.4 <i>Industrial Building Allowance</i>	10
3.5 <i>Special Allowance for Small Value Assets</i>	11
<b>4. TAX INCENTIVES</b>	
4.1 <i>Tax Incentives for the Establishment of ICAB</i>	12
4.2 <i>Review of Tax Incentive for Food Production Projects</i>	13
4.3 <i>Extension of Tax Incentive Period for REITs</i>	13
4.4 <i>Allowance for Increased of Exports</i>	14
4.5 <i>Tax Incentive for Issuance of Retail Debenture and Retail Sukuk</i>	14

# CONTENT

---

	<i>Page</i>
<b>4. TAX INCENTIVES (cont'd)</b>	
4.6 <i>Tax Deduction on Issuance of Sustainable and Responsible Investment (“SRI”) Sukuk</i>	15
4.7 <i>Extension of Tax Exemption on Income from Managing Shariah-Compliant Funds</i>	15
4.8 <i>Extension of Tax Incentives for Tour Operating Companies</i>	16
4.9 <i>Automatic Double Deduction for Research &amp; Development Project</i>	16
4.10 <i>Reinvestment Allowance Incentive</i>	17 – 18
<b>5. REAL PROPERTY GAINS TAX</b>	
5.1 <i>RPGT Exemption on Individual</i>	19
5.2 <i>Expenditure to be Included in the Incidental Costs</i>	19
5.3 <i>Expenditure to be Excluded from Acquisition Price or Disposal Price</i>	20
5.4 <i>Penalty for Failure to Notify or Make Return of Disposal</i>	20
<b>6. INDIRECT TAX</b>	
6.1 <i>Extension of Stamp Duty Exemption to Revive Abandoned Housing Projects</i>	21
6.2 <i>Extension of Stamp Duty Exemption on Shariah Financing Instruments</i>	21
<b>7. GOODS AND SERVICES TAX</b>	
7.1 <i>Amendments to the Act due to Implementation of GST</i>	22 – 23
7.2 <i>Amendments to PIA due to Implementation of GST</i>	23 – 24
7.3 <i>Additional Food Products Subject to GST at Zero Rate</i>	25
7.4 <i>Scope of Drugs Subject to GST at Zero Rate</i>	25
7.5 <i>GST Treatment on Domestic Air Passenger Transport Services in Sabah and Sarawak</i>	25
7.6 <i>Relief from Payment of GST on Re-Importation of Goods Temporarily Exported for the Purpose of Promotion, Research or Exhibition</i>	25
7.7 <i>Review of Persons Eligible for Approval under the Approved Trader Scheme</i>	26
7.8 <i>Relief from Payment of GST on Procurement of Goods Skills and Vocational Training Centres</i>	26
7.9 <i>Relief from Payment of GST on Re-Importation of Goods Exported Temporarily for the Purpose of Rental and Lease</i>	26
7.10 <i>Time of Supply for Imported Services under the GSTA</i>	27
7.11 <i>Power of DG to Raise Assessment under the GSTA</i>	27
7.12 <i>GST Suspended and Disregarded under Warehousing Scheme</i>	27
7.13 <i>Penalty for Failure to Make Payment within the Stipulated Due Date under the GSTA</i>	28
7.14 <i>Return or Disposal of Moveable Goods under the GSTA</i>	29
7.15 <i>Penalty for Offences by Unauthorised Persons under the GSTA</i>	29
7.16 <i>Recovery of Penalty by Court Order</i>	29

## ABBREVIATIONS

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Act	Income Tax Act 1967
ATS	Approved Trader Scheme
CA	Capital Allowance
DG	Director General
GST	Goods and Services Tax
GSTA	Goods and Services Tax Act 2014
IBA	Industrial Building Allowance
ICAB	Independent Conformity Assessment Bodies
IRB	Inland Revenue Board
ITA	Investment Tax Allowance
LBATA	Labuan Business Activity Tax Act 1990
LLP	Limited Liability Partnerships
MIDA	Malaysian Investment Development Authority
MOF	Minister of Finance
NEML	National Essential Medicines List
NPCB	National Pharmaceutical Control Bureau
PIA	Promotion of Investment Act 1986
PS	Pioneer Status
QE	Qualifying Expenditure
R&D	Research & Development
RA	Reinvestment Allowance
REITs	Real Estate Investment Trusts
RMC	Royal Malaysian Customs
RPGT	Real Property Gains Tax
RPGTA	Real Property Gains Tax Act 1976
SA	Stamp Act 1949
SC	Securities Commission
Schedule 3	Schedule 3 of the Act – Capital Allowances and Charges
Schedule 6	Schedule 6 of the Act – Exemptions From Tax
Schedule 7A	Schedule 7A of the Act – Reinvestment Allowance
Schedule 7B	Schedule 7B of the Act – Investment Allowance for Service Sector
SME	Small and Medium Enterprise
SOCSSO	Social Security Organisation
WHT	Withholding Tax
YA	Year of Assessment

## DEFINITIONS

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Input Tax	<p>as defined under Section 2 of the GSTA:-</p> <p>(a) Tax on any supply of goods and services to a taxable person; and (b) Tax paid or to be paid by a taxable person on any importation of goods,</p> <p>and the goods and services are used or are to be used for the purposes of any business carried on or to be carried on by the taxable person:</p> <p>provided that where the goods or services are used or are to be used partly for the purposes of any business carried on or to be carried on by the taxable person and partly for other purposes, tax on the supply and importation shall be apportioned so that only so much as is attributable to the purposes of his business is counted as his input tax.</p>
Mutual Administrative Assistance Arrangement	<p>an Arrangement between the Government of Malaysia with the Government of any territory outside Malaysia with a view to the mutual administrative assistance in tax matters which includes simultaneous tax examinations, automatic exchange of information or tax administrations abroad under Section 132B of the Act.</p>
Output Tax	<p>as defined under Section 2 of the GSTA means tax on any taxable supply of goods or services made by a taxable person in the course or furtherance of his business in Malaysia.</p>
REITs	<p>a unit trust which is approved by the SC as REITs or Property Trust Fund.</p>
SME	<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 YA. However, it excludes a company where:-</p> <p>(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> <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 YA.</p>
<i>Sukuk</i>	<p><i>Sukuk</i> has the same meaning as provided in the Commission's guidelines in respect of <i>Islamic</i> securities. <i>Sukuk</i> refers to certificates of equal value which evidence undivided ownership or investment in the assets using <i>Shariah</i> principles and concepts endorsed by the <i>Shariah</i> Advisory Council but does not include any agreement for a financing/investment where:-</p> <p>(i) the financier/investor and customer/investee are signatories to the agreement; and (ii) the provision of financing/investment is in the ordinary course of business of the financier/investor, including any promissory note issued pursuant to the terms of such an agreement.</p> <p>(source : Guidelines on <i>Sukuk</i> issued by SC of Malaysia dated 8 January 2014).</p>



# 1. TAX SYSTEMS AND ADMINISTRATION

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- 1.1 *Submission of Employer's Return***
- Present**  
Pursuant to Section 83(1), every employer shall furnish a return not later than 31 March in the immediate following year either by way of manual filing or electronic transmission.
- Proposed**  
A new Section 83(1B) be introduced where the employer is a company, it shall furnish the Employer's Return by way of **electronic transmission**.
- Effective**  
Year of assessment 2016.
- 1.2 *Submission of Tax Estimates***
- Present**  
Pursuant to Section 107C(1) and Section 107C(7), every company, LLP, trust body or co-operative society shall submit an estimate or revised estimate of tax payable for each YA either by way of manual filing or electronic transmission.
- Proposed**  
A new Section 107C(7A) be introduced where a company shall furnish an estimate or revised estimates for each YA by way of **electronic transmission**.
- Effective**  
Year of assessment 2016.
- 1.3 *Definition of "Sukuk"***
- Proposed**  
The definition of "*Sukuk*" will be introduced under Section 2(1) of the Act and has the same meaning assigned to it in the Capital Markets and Services Act 2007.
- With the new definition, the word "*Sukuk*" will replace the existing word, "Islamic securities" under Section 60I(4), Paragraph 33A(b), 33B and 35(b) of Schedule 6 of the Act.
- Effective**  
Upon coming into operation of the Finance Act 2015.
- 1.4 *Other Offences***
- Present**  
Section 120 provides penal provisions for various offences under the Act but exclude instances of failure to furnish the correct particulars in a return as required by the DG under Section 77(4)(b) or Section 77A(3)(b).
- Proposed**  
A new Section 120(1)(h) be introduced to provide that failure to furnish the correct particulars in a return as required by the DG shall, on conviction, be liable to a fine of not less than RM200 and not more than RM20,000 or to imprisonment for a term not exceeding 6 months or to both.
- Effective**  
Upon coming into operation of the Finance Act 2015.

# 1. TAX SYSTEMS AND ADMINISTRATION

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## 1.5 *Review of Penalty for Failure to Furnish Tax Return or Give Notice of Chargeability*

### **Present**

Pursuant to Section 112(1), any person who fails to furnish a return [Section 77(1) or 77A(1)\*] or give notice of chargeability without reasonable excuse, shall be guilty of an offence and upon conviction, be liable to a fine of not less than RM200 and not more than RM20,000 or to imprisonment for a term not exceeding 6 months or to both.

### **Proposed**

- (a) Section 112(1) be amended to include the words “in respect of any one (1) YA” [to be inserted after Section 77A(1)\* above].
- (b) A new Section 112(1A) be introduced to provide that any person who fails to furnish a return in respect of two (2) YAs or more, shall be guilty of an offence and upon conviction, be liable to:-
  - (i) a fine of not less than RM1,000 and not more than RM20,000 or to imprisonment for a term not exceeding 6 months or to both; and
  - (ii) a special penalty equal to treble (300%) the amount of tax charged on the chargeable income as determined by the DG to the best of his judgment.

### **Effective**

Upon coming into operation of the Finance Act 2015.

## 1.6 *Power to Make Rules*

### **Present**

Pursuant to Section 154(1)(c), the Minister (Finance Minister) is empowered to make rules for implementing or facilitating the operation of the double taxation arrangements and tax information exchange arrangement.

### **Proposed**

Section 154(1)(c) be widened where the Minister is empowered to make rules for implementing or facilitating the operation of the mutual administrative assistance arrangement.

### **Effective**

Upon coming into operation of the Finance Act 2015.

## 1.7 *LBATA – Exchange of Information*

### **Present**

The DG may require any person to furnish information as may be required or for compliance with any double taxation arrangements or tax information exchange arrangements entered into by the Government of Malaysia.

### **Proposed**

The DG may require any person to furnish information for compliance with the Mutual Administrative Assistance Arrangement entered into by the Government of Malaysia with any foreign government.

### **Effective**

Upon coming into operation of the Finance Act 2015.

# 1. TAX SYSTEMS AND ADMINISTRATION

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## 1.8 *Assessments Raised Arising from Adjustment Made on Input Tax*

### **Present**

No existing provision in the Act.

### **Proposed**

A new Section 91(6) be introduced where in a basis period for a YA, an adjustment is made in respect of the input tax paid or to be paid under the GSTA, the DG may at any time, as may be necessary to give effect to such adjustment, make an assessment or a reduced assessment for the YA to which the adjustment relates, or if the YA to which the adjustment relates cannot be ascertained, for the YA in which the DG discovers the adjustment.

### **Effective**

Year of assessment 2015.

## 1.9 *Section 108 Balance*

### **Present** [Saving and Transitional Provision : Finance Act 2007 & 2009]

Where during the period from the first day of the basis period for YA2008 to 31 December 2013:-

- (a) tax charged on the chargeable income of a company for the YA2000 current year basis and prior YA is discharged or remitted; or
- (b) any amount of tax paid by that company which has been taken into account for the purpose of computing the 108 balance is refunded,

the Section 108 balance shall be reduced by such amount of tax discharged, remitted or refunded.

If the amount reduced exceeds the Section 108 balance, the excess shall be a debt due from the company to the Government and that debt shall be due and payable on the due date (Form R submission).

### **Proposed**

Saving and Transitional provision has been proposed to extend the above transitional period to cover the basis period for the YA2016 or any subsequent basis period.

Where any revised Section 108 balance exceeds the Section 108 balance or revised balance as at 31 December 2013, the DG shall serve on the company a written requisition in the prescribed form calling upon the company to pay the excess. 10% penalty shall be imposed if any excess due and payable is not paid within 30 days after the service of the requisition. The excess unpaid and the penalty shall be a debt due to the Government and shall be payable immediately to the DG.

### **Effective**

Upon coming into operation of the Finance Act 2015.

# 1. TAX SYSTEMS AND ADMINISTRATION

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## 1.10 *Deduction of Interest Expense*

### **Present**

Pursuant to Section 33(4), where any sum payable in respect of interest expense for a basis period for a YA which is not due to be paid in that period, shall when it is due to be paid be deducted in arriving at the adjusted income of a person for that period.

### **Proposed**

A new Section 33(5) be introduced for the purpose of Section 33(4) to provide for the following:-

- (a) a person shall notify the DG in writing for deduction in respect of the sum not later than 12 months from the end of the basis period for the YA when the sum is due to be paid; and
- (b) upon receipt of the notice, the DG may reduce the assessment that has been made in respect of such sum.

### **Effective**

Year of assessment 2016.

## 2. TAXATION – INDIVIDUALS

- 2.1 **Review of Income Tax Rates for Individuals** The income tax rates for resident individuals shall be revised as follows:-

Chargeable income (RM)	Tax rate		Cumulative Tax payable		Net change (RM)
	Present (%)	Proposed (%)	Present (RM)	Proposed (RM)	
1 – 5,000	0	0	0*	0*	0
5,001 – 20,000	1	1	0*	0*	0
20,001 – 35,000	5	5	500*	500*	0
35,001 – 50,000	10	10	2,400	2,400	0
50,001 – 70,000	16	16	5,600	5,600	0
70,001 – 100,000	21	21	11,900	11,900	0
100,001 – 250,000	24	24	47,900	47,900	0
250,001 – 400,000	24.5	24.5	84,650	84,650	0
400,001 – 600,000	25	25	134,650	134,650	0
600,001 – 1,000,000	25	26	238,650	240,650	4,000
>1,000,000	25	28			

\* After personal tax relief of RM400 for chargeable income up to RM35,000.

The income tax rate for non-resident individuals shall be revised from 25% to 28%.

### Effective

Year of assessment 2016.

- 2.2 **Increase in Child Reliefs**

The reliefs for children shall be revised as follows:-

Category		Present	Proposed
		RM	RM
(a)	Child under age of 18 years old	1,000	2,000
(b)	Disabled child	6,000	6,000
(c)	Child who is pursuing full time instruction at any university, college, school or other similar educational establishment, serving under articles/ indentures	1,000	2,000
(d)	Child over age of 18 years old who is pursuing full time tertiary education at a recognized local institution of higher learning at diploma level and above, or a recognized institution of higher learning abroad at degree level and above	6,000	8,000

### Effective

Year of assessment 2016.

- 2.3 **Relief on Employees' Contribution to SOCSO**

### Proposed

A new Section 46(1)(n) be introduced for relief up to RM250 per year for contribution to SOCSO.

### Effective

Year of assessment 2016.

## 2. TAXATION – INDIVIDUALS

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### 2.4 *Increase in Relief for Spouse and/or Alimony to Former Wife*

#### **Present**

A relief of RM3,000 is given to a resident individual where his/her spouse:-

- (a) has no total income; or
- (b) has elected for his/her total income to be aggregated with the total income of that individual.

The relief of RM3,000 includes any alimony payment to a former wife.

#### **Proposed**

The tax relief be increased to RM4,000.

#### **Effective**

Year of assessment 2016.

### 2.5 *Increase in Relief for Tertiary Education*

#### **Present**

A relief up to RM5,000 a year is given to an individual who pursues any course of study up to tertiary level in fields of law, accounting, Islamic financing, technical, vocational, industrial, science and technology, or Masters or Doctorate level in any field.

#### **Proposed**

The tax relief be increased to RM7,000.

#### **Effective**

Year of assessment 2016.

### 2.6 *Relief for Parental Care*

#### **Present**

Section 46(1)(c) provides that a relief up to RM5,000 is given on medical treatment and care of parents. The claim must be supported with receipts and evidenced by certification of a registered medical practitioner.

#### **Proposed**

A new Section 46(1)(o) be introduced where a relief of RM1,500 shall be given to an individual for each of his parent subject to the following conditions:-

- (a) Parents are resident in Malaysia and at any time in that basis year, aged 60 years and above;
- (b) Each of the parent has annual income not exceeding RM24,000 per year of assessment;
- (c) Deduction shall be allowed for a maximum of 2 parents who are legitimate natural parents and foster parents in accordance to the respective law;
- (d) The individual has not made a claim for relief on medical expenses for parents under Section 46(1)(c) in the same basis year; and
- (e) Where two or more individuals are entitled to claim this relief, the relief shall be equally apportioned according to the number of individuals making the claim.

#### **Effective**

Years of assessment 2016 to 2020.

## 2. TAXATION – INDIVIDUALS

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### 2.7 *Basis Period for Employment Income*

#### **Present**

The basis period in which the employment income is assessable to tax under Section 25 are as follows:-

- (a) employment income in respect of a YA is treated as gross income for that YA when it is received [Section 25(1)];
- (b) the employees share option scheme (ESOS) benefit is treated as gross income in the year the right is exercised [Section 25(1A)];
- (c) director's fee and bonus are treated as gross income in the year such income is received [Section 25(2A)];
- (d) income received in arrears is treated as gross income in the respective YA to which the income relates subject to the 5 years rule [Section 25(3)];
- (e) where the employment income is received in respect of a period which overlaps two basis year, gross income is apportioned based on numbers of days in each basis year to which the employment income relates, unless the DG direct otherwise [Section 25(4)];
- (f) where a lump sum by way of gratuity or deferred pay is received by an employee on cessation of employment, the aforesaid sum shall be treated as gross income for the current year and the immediate preceding 4 years [Section 25(4)];
- (g) where gross employment income relates to future period or to the present and future period, the income shall be treated as income in the year it is received [Section 25(5)]; and
- (h) any income which is receivable by an employee who has left or will be leaving Malaysia for the basis period following the year of his departure shall be treated as income for the basis period in which he leaves Malaysia unless the employee in making his return of income for the relevant year makes a written request to the DG to apportion the income to the respective YA [Section 25(6)].

#### **Proposed**

- (i) Section 25(1) has been amended to provide that any gross income from an employment which is receivable in any YA is taxed in the year it is received.

Concurrent with this amendment, Sections 25(2A), 25(3), 25(4) and 25(5) have been deleted [Item (c) to (g)]. [Provision under item (b) remains unchanged].

- (ii) Section 25(6) [Item (h) above] has been amended to provide that any income receivable by an employee who will be leaving Malaysia is deemed to have been received for the period before the employee leaves Malaysia [Effectively, there is no change in the tax treatment].

#### **Effective**

Year of assessment 2016.

## 2. TAXATION – INDIVIDUALS

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### 2.8 *Exemption of Gratuity* **Present**

Gratuity and leave pay received by an individual upon retirement under prescribed circumstances in paragraphs 25, 25A, 25B and 30A of Schedule 6 are exempted from tax.

#### **Proposed**

A new Paragraph 25D be introduced to provide tax exemption of RM1,000 for every completed year of service on sums received by way of gratuity on retirement from an employment under any written law or termination of a contract of employment other than when Paragraphs 25, 25A, 25B and 30A of Schedule 6 applies.

#### **Effective**

Year of assessment 2016.



### 3. TAXATION – COMPANIES & UNINCORPORATED BUSINESSES

#### 3.1 *Basis Period to which Gross Income from A Business is Related*

##### **Present**

A debt owing to a relevant person under Sections 24(1)(b) and 24(1)(c) shall be treated as gross income of the relevant person in the relevant period in respect of:-

- (a) any services **rendered** at any time in the course of carrying on a business; or
- (b) the use or enjoyment of any property **dealt** with at any time in the course of carrying on a business.

##### **Proposed**

(a) Amendments have been made under Sections 24(1)(b) and 24(1)(c), where the debt owing to a relevant person that arises in respect of:-

- (i) any services **rendered** or **to be rendered** at any time in the course of carrying on a business; or
- (ii) the use or enjoyment of any property **dealt** or **to be dealt** with at any time in the course of carrying on a business,

shall be treated as gross income of the relevant person from the business for the relevant period.

(b) A new Section 24(1A) be introduced to provide that where any sum is received by a relevant person in a relevant period in the course of carrying on a business in respect of any services to be rendered or the use or enjoyment of any property to be dealt with in the relevant period or in the following basis period, the sum shall be treated as the gross income of that person from the business for the relevant period the sum is received.

(c) A new Section 34(7A) be introduced to provide that if the sum is received by the relevant person under Section 24(1A) is subsequently refunded, such amount shall be deducted from the relevant gross income of the relevant person for the basis period for that YA.

##### **Effective**

Year of assessment 2016.

#### 3.2 *Remuneration or Other Income in respect of Services Performed or Rendered in Malaysia by A Public Entertainer*

##### **Present**

Where the payment is made to a non-resident public entertainer and where the payer fails to deduct and remit the WHT under Section 109A, the DG is empowered to impose a penalty of 10% on the unpaid WHT.

##### **Proposed**

A new Section 39(1)(q) be introduced to provide that no deduction shall be allowed if WHT under Section 109A and penalty have not been paid.

In addition, the DG is empowered to impose a further penalty for incorrect returns under Section 113(2) if a tax deduction on the payment under Section 109A is claimed and where the WHT and related penalty are not paid by the due date for submission of the tax return for a YA that relates to such payments.

##### **Effective**

1 January 2016.

### 3. TAXATION – COMPANIES & UNINCORPORATED BUSINESSES

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#### 3.3 *Disposal of Part of an Asset* **Present**

There is no specific provision governing the tax treatment in respect of any part of an asset which ceases to be used for the purposes of a business due to its replacement with a new part of an asset if the part is depreciated separately in accordance with generally accepted accounting principles.

#### **Proposed**

A new Paragraph 61B, Schedule 3 be introduced to provide that any part of an asset of a person from a business that ceases to be used for purposes of a business in a basis period for a YA due to replacement with a new part of asset shall be deemed to have been disposed of in accordance with the generally accepted accounting principles.

For that part of the asset disposed:-

- (a) The QE shall be taken to be the amount as determined in accordance with the generally accepted accounting principles
- (b) The residual expenditure shall be the QE reduced by the amount of allowance that have been made or would have been made under the Schedule 3 of the Act prior to the disposal of that part of the asset.

The provision of Schedule 3 of the Act shall apply to the new replacement part.

#### **Effective**

Year of assessment 2016.

#### 3.4 *Industrial Building Allowance (“IBA”)* **Present**

A person who has incurred qualifying building expenditure and is the owner of the building will be eligible to claim IBA.

#### **Proposed**

Amendment is made to Schedule 3 of the Act by adding a new Paragraph 16B where the owner of the following industrial buildings will not be eligible for IBA if the building or part of the building is used for the purpose of letting of property:-

- (a) licensed private hospital, maternity home and nursing home
- (b) building used for research
- (c) building used for warehouse
- (d) building used for approved service project
- (e) building used for hotel
- (f) airport
- (g) motor racing circuit
- (h) building used as living accommodation of employees of persons carrying on manufacturing, hotel, tourism business or an approved service project
- (i) school or an educational institution approved by the Minister of Education or Minister of Higher Education or any relevant authority.

#### **Effective**

Year of assessment 2016.

### 3. TAXATION – COMPANIES & UNINCORPORATED BUSINESSES

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3.5 *Special Allowance  
for Small Value  
Assets*

**Present**

Special allowance is given for QE on assets with values not exceeding RM1,300 each subject to a maximum claim of RM13,000 in a YA but without a maximum restriction for SME **resident** in Malaysia.

**Proposed**

Amendment is made to Paragraph 19A(3) of Schedule 3 to impose an additional condition that the SME must be **incorporated** in Malaysia.

**Effective**

Year of assessment 2016.

## 4. TAX INCENTIVES

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### 4.1 *Tax Incentives for the Establishment of Independent Conformity Assessment Bodies (“ICAB”)*

#### **Present**

ICAB is a company that offers independent conformity assessment services to its clients to test their products, materials, systems or services to conform with international specifications or safety standards and other conformities.

There is no tax incentive for companies carrying out independent conformity assessment activities.

#### **Proposed**

The ICAB be given the tax incentives as follows:-

##### (a) New ICAB

- (i) PS of 100% on statutory income derived from qualifying activities for 5 years; or
- (ii) ITA of 60% on the qualifying capital expenditure incurred within a period of 5 years and to be offset against 100% of the statutory income for each YA.

##### (b) Existing ICAB

ITA of 60% on the qualifying capital expenditure incurred within a period of 5 years on additional qualifying activities and to be offset against 100% of the statutory income for each YA.

The above incentives are given to the ICAB (which has obtained accreditation from the Department of Standards Malaysia, Accrediting bodies recognised by the International Laboratory Accreditation Cooperation under Mutual Recognition Arrangement, International Accreditation Forum under Multi-Lateral Agreement, or OECD Good Laboratory Practice Mutual Acceptance Data) in the following sectors:-

- Machinery and Equipment;
- Electrical and Electronics;
- Chemicals;
- Aerospace;
- Medical Devices; and
- Fresh and Processed Food.

Eligible activities are as follows:-

- Testing Laboratories;
- Calibration Laboratories;
- Certifications;
- Inspections; or
- Good laboratory practice.

#### **Effective**

For applications received by MIDA from 1 January 2016 to 31 December 2018 (Appendix 21, budget speech).

## 4. TAX INCENTIVES

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### 4.2 *Review of Tax Incentive for Food Production Projects*

#### **Present**

Companies involved in qualifying food production projects are given tax incentives as follows:-

- (a) A company which invest in a subsidiary company carrying out new food production project is given tax deduction equivalent to the value of investment made in that subsidiary for that YA.
- (b) A company that carries out:-
  - (i) a new food production project is given 100% income tax exemption of statutory income for 10 YAs; or
  - (ii) an expansion of the existing food production project is given 100% income tax exemption of statutory income for 5 YAs.

Food production project that qualifies for the above incentives as approved by the Minister are planting of vegetables, fruits, kenaf, herbs, spices, rearing of cows, buffaloes, goat or sheep aquaculture and deep sea fishing.

The above incentives are for applications received by Ministry of Agriculture and Agro-Based Industry from 1 October 2005 to 31 December 2015.

#### **Proposed**

Tax incentives for food production projects application be extended for another 5 years.

Qualifying approved food production projects also be extended to include planting of coconuts, mushrooms, and cash crops, rearing of deer, cultivation of seaweed, rearing of honey (bees and *kelulut*) and planting of animal feed crops as determined by the Ministry of Agriculture and Agro-Based Industry and approved by the MOF.

#### **Effective**

Applications received by the Ministry of Agriculture and Agro-Based Industry from 1 January 2016 to 31 December 2020 (Appendix 22, budget speech).

### 4.3 *Extension of Tax Incentive Period for REITs*

#### **Present**

Pursuant to Paragraphs 1(a) and (c) of Part X to Schedule 1 of the Act, income distributed by REITs listed on Bursa Malaysia to the following persons will be subject to final WHT of 10% from 1 January 2012 to 31 December 2016:-

- (a) Foreign institutional investors (pension funds and collective investment funds); and
- (b) Non-corporate investors including resident and non-resident individuals and other local entities.

#### **Proposed**

The above tax exemptions be extended for another 3 years.

#### **Effective**

1 January 2017 to 31 December 2019 (Appendix 11, budget speech).

## 4. TAX INCENTIVES

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### 4.4 Allowance for Increased of Exports

#### Present

Resident companies engaged in manufacturing are eligible for an income tax exemption of 10% or 15% of the value of the increased exports provided the goods exported attained a preset value added.

The above tax exemption is restricted to 70% of statutory income.

#### Proposed

It is proposed that income tax exemption be given to manufacturing companies with paid-up capital not exceeding RM2.5 million with the following revised value added criteria:-

- (a) Statutory income exemption equivalent to 10% of the value of increased exports provided that the products exported attained at least 20% of value added (reduced from the current 30%); or
- (b) Statutory income equivalent to 15% of the value of increased exports provided that the products exported attained at least 40% of value added (reduced from the current 50%).

#### Effective

Years of assessment 2016 to 2018 (Appendix 25, budget speech).

### 4.5 Tax Incentive for Issuance of Retail Debenture and Retail Sukuk

#### Present

Deduction is given on additional expenses incurred for issuance of retail debenture and retail *Sukuk* from the YA2012 to YA2015 as follows:-

- (a) Double deduction on additional issuance expenses of retail debenture; and
- (b) Further deduction on additional issuance expenses of retail *Sukuk*.

The additional expenses which qualify for deduction are as follows:-

- (i) Professional fees relating to due diligence, drafting and preparation of prospectus;
- (ii) Printing cost of prospectus;
- (iii) Advertisement cost of prospectus;
- (iv) Securities Commission prospectus registration fee;
- (v) Bursa Malaysia processing fee and initial listing fee;
- (vi) Bursa Malaysia new issue crediting fee; and
- (vii) Primary distribution fee.

#### Proposed

The deduction on the additional expenses incurred for retail debenture and retail *Sukuk* be extended for another 3 years as follows:-

- (a) Double deduction on additional issuance expenses for retail debenture and retail *Sukuk* under the principle of *Mudharabah*, *Musyarakah*, *Istisna'*, *Murabahah*, and *Bai' Bithaman Ajil* based on *Tawarruq*; and
- (b) Further deduction on additional issuance expenses of *Sukuk* under the principles of *Ijarah* and *Wakalah*.

#### Effective

Years of assessment 2016 to 2018 (Appendix 9, budget speech).

## 4. TAX INCENTIVES

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### 4.6 *Tax Deduction on Issuance of Sustainable and Responsible Investment (“SRI”) Sukuk*

#### **Present**

Deduction is given on expenses incurred for the issuance of *Sukuk* under the principles of *Mudharabah* (profit sharing), *Musyarakah* (profit and loss sharing), *Ijarah* (leasing), *Istisna’* (purchase order), *Murabahah* (cost plus sale), *Wakalah* (agency) and *Bai’ Bithaman Ajil* (deferred payment sale) based on *Tawarruq* (tripartite sale) approved by the SC or the Labuan Financial Services Authority from YA2003 to YA2015.

*Sukuk* issued under the principles of *Ijarah* (leasing) and *Wakalah* (agency) has been extended for another 3 years from the YA2016 to YA2018.

The same tax treatment is also accorded to issuance of *Sukuk* that complies with the requirements of SRI. SRI *Sukuk* refers to the financing of projects with the following objectives:-

- (a) Preserve and protect the environment and natural resources;
- (b) Conserve the use of energy;
- (c) Promote the use of renewable energy;
- (d) Reduce greenhouse gas emission; or
- (e) Improve the quality of life for society.

#### **Proposed**

The deduction on the expenses incurred for issuance of SRI *Sukuk* will be given for 5 years.

#### **Effective**

Years of assessment 2016 to 2020 (Appendix 8, budget speech).

### 4.7 *Extension of Tax Exemption on Income from Managing Shariah-Compliant Funds*

#### **Present**

A resident company incorporated in Malaysia that provides *Shariah* compliant and management services and certified by the SC is exempted from income tax on the statutory income derived from the business of providing fund management services to the following:-

- (a) foreign investors in Malaysia;
- (b) local investors in Malaysia; and
- (c) Business Trusts or REITs in Malaysia.

#### **Proposed**

The above tax exemptions be extended for another 4 years.

#### **Effective**

Years of assessment 2017 to 2020 (Appendix 10, budget speech).

## 4. TAX INCENTIVES

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### 4.8 *Extension of Tax Incentives for Tour Operating Companies*

#### **Present**

Resident tour operators licensed under the Tourism Industry Act 1992 to carry on a tour operating business are given the following tax incentives up to the YA2015:-

- (a) 100% tax exemption on statutory income derived from group inclusive tours participated by not less than 750 inbound tourists per year; and
- (b) 100% tax exemption on statutory income derived from domestic tours participated by not less than 1,500 local tourist per year.

“Group inclusive tour” means a tour package to or of Malaysia or any place within Malaysia undertaken by tourists from outside Malaysia, inclusive of transportation by air, land or sea and accommodation.

“Domestic tour” means a tour package for travel within Malaysia undertaken by local tourists inclusive of transportation by air, land or sea and accommodation.

#### **Proposed**

The above tax exemptions be extended for another 3 years.

#### **Effective**

Years of assessment 2016 to 2018 (Appendix 23, budget speech).

### 4.9 *Automatic Double Deduction for R&D Project*

#### **Present**

Companies that carry out R&D project are eligible to claim double deduction on expenditure incurred on R&D project approved by the IRB.

The application for approval is to be made to the Tax Policy Division of the IRB in Borang 1 (Sek 34A ACP 1967) 6 months before the financial year end of the business.

Companies are also required to submit a supplementary worksheet [Borang 2 (Sek 34A ACP 1967)] upon submission of its income tax return.

#### **Proposed**

Companies with paid up capital not exceeding RM2.5 million be allowed to claim a double deduction automatically for R&D project expenditure up to RM50,000 for each YA. However, companies are required to submit R&D project application to the IRB.

#### **Effective**

Years of assessment 2016 to 2018 (Appendix 24, budget speech).



## 4. TAX INCENTIVES

### 4.10 Reinvestment Allowance (“RA”) Incentive

#### Present

RA is given to a company that incurred capital expenditure on factory, plant and machinery for the purposes of a qualifying project for a period of 15 consecutive years beginning from the YA that the RA is claimed.

“Qualifying project” as defined in Schedule 7A is:-

*“a project undertaken by a company, in expanding, modernising or automating its existing business in respect of manufacturing of a product or any related product within the same industry or in diversifying its existing business into any related product within the same industry”*

The words “expanding”, “modernising”, “automating” or “diversifying” are not defined under Schedule 7A. The meaning to the words are provided in the Public Ruling 6/2012 Reinvestment Allowance.

#### Proposed

- (a) Companies whose RA incentive period has expired be allowed Special RA claim on qualifying expenditure incurred in the following manner:-

YA in which existing 15 consecutive YAs incentive period ended	YA in which the capital expenditure is incurred that qualifies for claim of special RA
YA2015 or prior YAs	YA2016 to YA2018
YA2016	YA2017 and YA2018
YA2017	YA2018

- (b) Definitions to be included in Schedule 7A are as follows:-

Term	Definition
Automating	A process whereby manual operations are substituted by mechanical operations with minimal or reduced human intervention.
Diversifying	Enlarge or vary the range of product of a company related to the same industry
Expanding	Increase of product capacity or expansion of factory area
Modernising	Upgrading of manufacturing equipment and process
Ceased to be used	In relation to an asset includes an asset classified as held for sale under Paragraph 61A of Schedule 3

## 4. TAX INCENTIVES

- 4.10 *Reinvestment Allowance (“RA”) Incentive (cont’d)* (b) Definitions to be included in Schedule 7A are as follows:-

Term	Definition
Plant	An apparatus used in respect of a manufacturing activity, which is directly used in carrying out that activity in a factory
Machinery	A device or apparatus consisting of fixed and moving parts that work together to perform function in respect of a manufacturing activity, which is directly used in carrying out that activity in a factory

The existing definition of the following terms has been revised as follows:-

Term	Existing definition	New definition
Disposed of	Sold, conveyed, transferred, assigned, or alienated with or without consideration	Sold, conveyed, transferred, assigned, <b>ceased to be used</b> , alienated with or without consideration
Simple	Generally describes an activity which does not need special skills, machines, apparatus or equipment especially produced or installed for carrying out the activity	Generally describes an activity which does not need special skills, <b>special</b> machines, <b>special</b> apparatus or <b>special</b> equipment especially produced or installed for carrying out that activity

### Effective

- (a) Years of assessment 2016 to 2018 (Appendix 26, budget speech).  
 (b) Year of assessment 2016.

## 5. REAL PROPERTY GAINS TAX

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### 5.1 *RPGT Exemption on Individual*

#### **Present**

Pursuant to Paragraph 2 of Schedule 4, a tax exemption amounting to RM10,000 or 10% of the chargeable gain, whichever is higher, is given in respect of a chargeable gain accruing to an individual.

Where the chargeable asset is partly disposed, the amount exempted in respect of such disposal shall be ascertained in accordance with the following formula:-

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

Where A is part of the area of the chargeable asset disposed;  
B is the total area of the chargeable asset;  
C is RM10,000 or 10% of the chargeable gain whichever is greater.

#### **Proposed**

The amount exempted in respect of part disposal of chargeable asset will be calculated based on the following amended formula :-

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

Where A is part of the area of the chargeable asset disposed;  
B is the total area of the chargeable asset;  
C is RM10,000;

or 10% of the chargeable gain whichever is greater.

#### **Effective**

Upon coming into operation of the Finance Act 2015.

### 5.2 *Expenditure to be Included in the Incidental Costs*

#### **Present**

Incidental costs of the acquisition or disposal of an asset consist of:-

- (a) fees, commission or remuneration paid for the professional services of any surveyor, valuer, accountant, agent or legal adviser;
- (b) costs of transfer (including stamp duty);
- (c) in the case of an acquisition, the cost of advertising to find a seller; and
- (d) in the case of a disposal, the cost of advertising to find a buyer and costs reasonably incurred in making any valuation or in ascertaining market value.

#### **Proposed**

A new Paragraph 6(1)(e) of Schedule 2 be introduced to include any amount paid or to be paid in respect of GST by the disposer if he is not liable to be registered under the GSTA or if he is a registered person and is not entitled under that Act to credit that amount as input tax as incidental costs of acquisition or a disposal of an asset.

#### **Effective**

Year of Assessment 2015.

## 5. REAL PROPERTY GAINS TAX

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### 5.3 *Expenditure to be Excluded From Acquisition Price or Disposal Price*

#### **Present**

The following expenditure are excluded in computing the acquisition price or disposal price of an asset:-

- (a) any outgoings and expenses allowable as a deduction in computing any adjusted income or adjusted loss for income tax purposes;
- (b) any outgoings and expenses which would have been allowable for income tax purposes, but for an exemption or insufficiency of gross income; and
- (c) any outgoings and expenses which, if the asset on or in respect of which they were incurred was and had at all times been held or used as part of the fixed capital of a business the profits or gains of which were chargeable with income tax, would be allowable as a deduction in computing the adjusted income or adjusted loss of the business for income tax purposes.

#### **Proposed**

A new Paragraph 7(d) of Schedule 2 be introduced where any amount paid or to be paid in respect of GST as input tax by the disposer if he is liable to be registered under the GSTA and has failed to do so, or if he is entitled under that Act to credit that amount as input tax be excluded from the acquisition price or disposal price of an asset.

In addition, a new Paragraph 7(e) of Schedule 2 be introduced to further exclude any amount of output tax paid or to be paid under the GSTA which is borne by the disposer if he is registered or liable to be registered under that Act from the acquisition price or disposal price of an asset.

#### **Effective**

Year of Assessment 2015.

### 5.4 *Penalty for Failure to Notify or Make Return of Disposal*

#### **Present**

Section 29(3) of the RPGTA provides that the DG may require a person to pay a penalty equal to treble the amount of tax chargeable if the person fails to make a return of disposal of chargeable assets or fails to make a declaration of such disposal in his income tax return and where no prosecution under Section 29(1) has been instituted in relation to that failure.

#### **Proposed**

A new Section 29(5) be introduced where the DG is empowered to impose additional penalty in accordance with Section 29(3) in respect of any additional tax which is payable for a YA.

#### **Effective**

Upon coming into operation of the Finance Act 2015.

## 6. INDIRECT TAX

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### 6.1 *Extension of Stamp Duty Exemption to Revive Abandoned Housing Projects*

#### **Present**

Stamp duty exemption is given for the revival of abandoned housing projects to the following parties:-

- (a) Rescuing contractors who is appointed or approved by the Minister of Housing and Local Government to carry on rehabilitation works for an abandoned project in respect of:-
  - (i) Any loan instrument or loan agreement approved by the bank and financial institution to finance the abandoned project; and
  - (ii) Any instrument of transfer for the purpose of transferring revived residential property in relation to the abandoned projects.

The exemption shall apply to the instruments executed between 1 January 2013 to 31 December 2015.

- (b) Original purchaser that is a purchaser whose name is stated in the Sale And Purchase Agreement in relation to an abandoned project in respect of:-
  - (i) Any loan instrument or loan agreement approved by the bank and financial institution for the purpose of financing the revived residential property in relation to the abandoned project; and
  - (ii) Any instrument of transfer for the purpose of transferring the revived residential property in relation to the abandoned project.

The exemption shall apply to the instruments executed between 1 January 2013 to 31 December 2015.

#### **Proposed**

The above stamp duty exemption be extended for another 2 years.

#### **Effective**

Loan agreements and memorandums of transfer executed from 1 January 2016 to 31 December 2017 (Appendix 12, budget speech).

### 6.2 *Extension of Stamp Duty Exemption on Shariah Financing Instruments*

#### **Present**

Shariah Financing Instruments approved by the *Shariah* Advisory Council of the Bank Negara Malaysia or the *Shariah* Advisory Council of the Securities Commission Malaysia are given stamp duty exemption of 20% on the principal or primary instrument of financing in accordance to the *Shariah* principles executed between 2 September 2006 to 31 December 2015.

#### **Proposed**

The stamp duty exemption of 20% on the abovementioned instruments on home financing product be extended until 31 December 2017.

#### **Effective**

For instruments executed from 1 January 2016 to 31 December 2017 (Appendix 13, budget speech).

## 7. GOODS AND SERVICES TAX

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### 7.1 *Amendments to the Income Tax Act 1967 due to Implementation of GST*

#### **Present**

There is no provision in the Act to deal with the income tax treatment of the input tax and output tax incurred by a person arising from the implementation of GST in Malaysia on 1 April 2015.

#### **Proposed**

The following provisions in the Act be amended to account for input tax and output tax.

#### **I. Deductions not allowed**

No deduction of expense is allowed in respect of:-

- (a) input tax expense if a person is liable to be registered and has failed to do so, or if he is entitled to credit that amount as input tax [new Section 39(1)(o)].
- (b) any amount of output tax paid or to be paid which is borne by a person if he is registered or liable to be registered [new Section 39(1)(p)].

#### **II. Qualifying expenditure**

New Paragraph 2E and Paragraph 67D of Schedule 3, Paragraph 1D of Schedule 7A, and Paragraph 1A of Schedule 7B be introduced to provide:-

- (1) QE shall not include input tax expense:-
  - (a) if he is liable to be registered and has failed to do so,  
or
  - (b) if he is entitled to credit that expense as input tax.
- (2) Where a company is a mixed supplier and has incurred capital expenditure in relation to an asset and the input tax on the asset is subject to any adjustment made under the GSTA, the amount of such expenditure in relation to that asset shall be adjusted in the basis period for a YA in which the period of adjustment relating to the asset ends.
- (3) In the event the adjustment of the amount of the QE made above results in:-
  - (a) An additional amount, such amount shall be deemed to be part of the QE incurred and :
    - (i) the residual expenditure under Paragraph 68, Schedule 3 in relation to the asset shall include that additional amount [Paragraph 67D, Schedule 3];
    - (ii) it shall be given to the company for a YA an allowance in respect of such additional amount [Paragraph 1D, Schedule 7A and Paragraph 1A, Schedule 7B];
  - or

## 7. GOODS AND SERVICES TAX

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### 7.1 *Amendments to the Act due to Implementation of GST (cont'd)*

- (b) A reduced amount :
- (i) the QE incurred and the residual expenditure under Paragraph 68 shall be reduced by such amount, and if the amount of the allowance made or ought to have been made under this Schedule exceeds the residual expenditure, the excess shall be part of the statutory income of that person from a source consisting of a business in the basis period the adjustment is made [Paragraph 67D, Schedule 3].
  - (ii) any amount of allowance that ought not to have been given in consequence of such reduction shall be part of the statutory income of that person from a source consisting of a business in the basis period the adjustment is made [Paragraph 1D, Schedule 7A and Paragraph 1A, Schedule 7B];

(4) Where the asset is disposed of at any time during the period of adjustment specified under the GSTA, the adjustment to such expenditure shall be made in the basis period for the YA in which the disposal is made.

(5) Disposal of assets subject to control shall apply for the purpose of the adjustment referred to in subparagraph (4) [Schedule 3 and 7A].

#### **Effective**

Year of assessment 2015.

### 7.2 *Amendments to PIA due to the Implementation of GST*

#### **Present**

There is no provision in the PIA to deal with the tax treatment of the input tax incurred by a person on the acquisition of capital expenditure arising from the implementation of GST in Malaysia on 1 April 2015.

#### **Proposed**

Two new sections be introduced as follows:-

##### (a) Section 29P

Determination of capital expenditure in respect of promoted activity or promoted product subject to GST for ITA.

Where a company which has been granted approval under Sections 27, 27A, 27C, 27D, 27E, 27F, 27G, 27I, 27J, 27K, 27M or 27N has incurred in the basis period for a YA capital expenditure in respect of promoted activity or promoted product for the period specified under Paragraphs 29(2)(b), (c) or (d), 29A(3)(b), (c) or (d), 29AA(3)(b), 29B(2)(b), 29D(2)(b), 29E(2)(b), 29F(2)(b), 29G(2)(b), 29H(2)(b), 29J(2)(b), 29K(2)(b), 29L(2)(a)(ii), 29L(3)(a)(ii), 29L(4)(a)(ii), 29L(5)(a)(ii), 29L(6)(a)(ii), 29N(3)(b) or 29O(3)(b), the capital expenditure incurred by a company shall not include any GST expense:-

## 7. GOODS AND SERVICES TAX

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### 7.2 *Amendments to PIA due to the Implementation of GST (cont'd)*

- (i) if the company is liable to be registered and has failed to do so, or
- (ii) if the company is entitled to credit that expense as input tax.

#### (b) Section 29Q

Adjustment of ITA on capital expenditure incurred by mixed supplier:-

- (1) Where capital expenditure is subject to any adjustment made in respect of input tax for a period specified under the GSTA, the amount of such expenditure shall be adjusted in the basis period for the YA in which the period of adjustment relating to the asset ends.
- (2) In the event the adjustment made above results in:-
  - (a) an additional amount, such amount shall be deemed to be part of the capital expenditure incurred for the purpose of this Act, and subject to Sections 29, 29A, 29B, 29D, 29E, 29F, 29G, 29H, 29J, 29K, 29L and 29O, there shall be given to the company for a YA an allowance in respect of such additional amount; or
  - (b) a reduced amount, any amount of allowance that ought not to have been given in consequence of such reduction shall be part of the statutory income of that company from a source consisting of a business in the basis period the adjustment is made.
- (3) Where the asset is disposed of at any time in the period of adjustment specified under the GSTA, the adjustment to such expenditure shall be made in the basis period for the YA in which the disposal is made.
- (4) Where an adjustment is made in respect of the input tax under the GSTA, the DG may make a computation or recomputation of ITA made under the PIA or the amount of statutory income for a YA in the similar manner as provided above, in the basis period for the YA the adjustment is made or at any time as may be necessary to give effect to such adjustment.

#### **Effective**

Year of assessment 2015.



## 7. GOODS AND SERVICES TAX

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- 7.3** *Additional Food Products Subject to GST at Zero Rate* **Present**  
The list of goods and services which are subject to GST at zero rate are set out under the GST (Zero Rated Supplies) Order 2014 [P.U. (A) 272/2014].
- Proposed**  
The list of zero rated supplies be extended to include additional food products such as organic and soy based milk for infant and children, additional type of beans, lotus root and water chestnut, mustard seeds, jaggery powder and *mee kolok* (dry).
- Effective**  
1 January 2016.
- 7.4** *Scope of Drugs Subject to GST at Zero Rate* **Present**  
A total of 4,215 brands of medicine and medical gases in the National Essential Medicines List (“NEML”) issued by the Ministry of Health and approved by the MOF and put up in measured doses or in the form of packaging for retail sale are subject to GST at zero rate.
- Proposed**  
The list of zero rated medicines be widen to include up to 8,630 brands of drugs.
- Effective**  
1 January 2016 (Appendix 14, budget speech).
- 7.5** *GST Treatment on Domestic Air Passenger Transport Services in Sabah and Sarawak* **Present**  
Domestic air transportation services for passengers are subject to GST at 6%.
- Proposed**  
Domestic air transportation services for passengers within and between Sabah, Sarawak and Labuan for economy class passengers under the Rural Air Services be treated as an exempt supply.
- Effective**  
1 January 2016 (Appendix 16, budget speech).
- 7.6** *Relief from Payment of GST on Re-Importation of Goods Temporarily Exported for the Purpose of Promotion, Research or Exhibition* **Present**  
Goods which have been exported temporarily for the purpose of promotion, research or exhibition are subjected to imposition of GST at standard rate when they are re-imported into Malaysia.
- Proposed**  
Relief from payment of GST be given for the re-importation of such goods.
- Effective**  
1 January 2016 (Appendix 19, budget speech).

## 7. GOODS AND SERVICES TAX

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- 7.7** *Review of Persons Eligible for Approval under the ATS* **Present**  
The ATS under Section 71, GSTA allows the suspension of GST payment on imported goods by any registered person which fulfil the stipulated criteria.
- Proposed**  
Persons who are eligible to apply for ATS be extended to a company that is carrying out maintenance, repair and overhaul activities solely in the aerospace sector and comply with the following conditions:-
- (a) Obtained an Approval of Organisation of Aircraft & Components which is still valid and issued by the Department of Civil Aviation under Section 2B Civil Aviation Act 1969 [Act 3]; and/or
  - (b) Have a valid approval from:-
    - (i) Design Authority of Original Equipment Manufacturer; and/or
    - (ii) Design Organisation Approval.
- Effective**  
1 January 2016 (Appendix 17, budget speech).
- 7.8** *Relief from Payment of GST on Procurement of Goods by Skills and Vocational Training Centres* **Present**  
Private educational institutions for child care, pre-school, primary and secondary schools and private higher educational institutions have been given relief from payment of GST on procurement of teaching materials and equipment as follows:-
- (a) Multimedia equipment directly used as teaching aid;
  - (b) Equipment for science and linguistic laboratory;
  - (c) Tools and equipment for technical or vocational studies; and
  - (d) Chemicals, solution and gas for the use in science laboratory.
- Proposed**  
The relief be extended to training providers that conduct approved and accredited programs under National Skills Development Act 2006.
- Effective**  
1 January 2016 (Appendix 18, budget speech).
- 7.9** *Relief from Payment of GST on Re-Importation of Goods Temporarily Exported for the Purpose of Promotion, Research or Exhibition* **Present**  
Goods which have been exported temporarily for the purpose of promotion, research or exhibition are subjected to imposition of GST at standard rate when they are re-imported into Malaysia.
- Proposed**  
Relief from payment of GST be given for the re-importation of such goods.
- Effective**  
1 January 2016 (Appendix 19, budget speech).

## 7. GOODS AND SERVICES TAX

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### 7.10 *Time of Supply for Imported Services under the GSTA*

#### **Present**

The time of supply of imported services shall be treated to have been made when the supplies are paid for.

#### **Proposed**

Time of supply of imported services shall be treated to have been made at the earlier of the following dates:-

- (a) the date when any payment is made by the recipient; or
- (b) the date when any invoice is issued by the supplier who belongs in a country other than Malaysia or who carries on business outside Malaysia.

#### **Effective**

1 January 2016.

### 7.11 *Power of DG to Raise Assessment under the GSTA*

#### **Present**

Where any taxable person:-

- (a) fails to apply for GST registration;
- (b) fails to furnish a GST return within the stipulated due date; or
- (c) furnishes a return which to the DG appears incomplete or incorrect,

the DG may make assessment to the best of his judgment and the amount assessed shall be payable whether or not that person appeals against the assessment.

#### **Proposed**

The power of the DG is extended to impose the penalty under Section 41(8) for non-compliance of the above and the penalty imposed shall be due and payable.

#### **Effective**

1 January 2016.

### 7.12 *GST Suspended and Disregarded under Warehousing Scheme*

#### **Present**

Section 70(1) provides that there shall be a scheme to be known as the "Warehousing Scheme" which allows supplies of goods made within the warehouse to be disregarded.

#### **Proposed**

The scope of Warehousing Scheme be expanded to include:-

- (a) tax chargeable on the imported goods to be suspended when the imported goods are deposited in the warehouse; and
- (b) supplies of goods made between the warehouses to be disregarded.

#### **Effective**

1 January 2016.

## 7. GOODS AND SERVICES TAX

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### 7.13 *Penalty for Failure to Make Payment within the Stipulated Due Date under the GSTA*

#### **Present**

Any person who fails to pay the amount of tax due and payable under Section 41(4) commits an offence and shall, on conviction, be liable to a fine not exceeding RM50,000 or to imprisonment for a term not exceeding 3 years or to both pursuant to Section 41(7).

#### **Proposed**

- (a) A new Section 41(8) be introduced where any tax due and payable is not paid by any taxable person after the last day on which it is due and payable (stipulated due date) under Section 41(4) and no prosecution is instituted, the taxable person shall pay a penalty of:-

<b>Section</b>	<b>Period of default</b>	<b>Penalty rate</b>
41(8)(a)	First 30 days after the stipulated due date	5% of the amount of tax due and payable
41(8)(b)	Second 30 days after the stipulated due date	Additional 10% of the amount of tax due and payable
41(8)(c)	Third 30 days after the stipulated due date	Additional 10% of the amount of tax due and payable

The above is subject to a maximum penalty of 25% of the amount of tax due and payable.

Prosecution for the offence under Section 41(7) may be instituted after the expiry of the period specified in Section 41(8)(c).

The court may order that any taxable person who is convicted for the offence under Section 41(7) shall pay the penalty as specified in Section 41(8).

No prosecution for the offence under Section 41(7) shall be instituted against the taxable person who has paid the amount of tax due and payable and the penalty specified under Section 41(8) within the period specified in Section 41(8).

- (b) A new Section 51(1A) be introduced where the tax is allowed to be paid by instalments, the penalty under Section 41(8) shall cease to be calculated from the date the DG allows the payment by instalments.

#### **Effective**

1 January 2016.

## 7. GOODS AND SERVICES TAX

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**7.14** *Return or Disposal of Moveable Goods under the GSTA*

**Proposed**

Section 86(2) be amended to rectify that the document purporting to be a certificate shall be issued by the senior officer of GST in accordance with Section 105(2) instead of Section 112(1) of the GSTA.

**Effective**

1 January 2016.

**7.15** *Penalty for Offences by Unauthorised Persons under the GSTA*

**Present**

Section 94(b) provides that any person who is not authorised under the GSTA and who collects or attempts to collect any tax commits an offence.

**Proposed**

The offence under Section 94(b) be extended to include any unauthorised collection of penalty.

**Effective**

1 January 2016.

**7.16** *Recovery of Penalty by Court Order*

**Present**

Section 122(1) provides that where any person is found guilty of an offence under the GSTA, the court before which the person is found guilty shall order the person to pay to the DG the amount of tax due and payable under the GSTA, if any, as certified by the DG and the tax due shall be recoverable in the same manner as a fine as provided under Section 283 of the Criminal Procedure Code.



**Proposed**

The Court Order under Section 122(1) be extended to include the recovery of any penalty due and payable under the GSTA.

**Effective**

1 January 2016.

For further information, please refer to the RMC's website : [www.gst.customs.gov.my](http://www.gst.customs.gov.my)

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