

# **A10** GAZETTING OF 1998 TO 2005 BUDGET PROPOSALS

As of the date of this Budget Commentary, most of the 1998 to 2005 Budget proposals announced by the Honourable Finance Minister in the previous Budget Speeches have been gazetted by way of changes to the existing legislation or by issue of statutory orders. The proposals which have not been gazetted are summarised below:

## 1998

1. Private clinics which provide special wards for lower income earners will be given investment tax allowance of 60% on the qualifying capital expenditure incurred.

## 1999

1. Repair and maintenance activities for luxury boats and yachts undertaken in Langkawi will be granted tax exemption for a period of 5 years.

## 2003 Budget

1. Qualifying capital expenditure incurred by a non-rubber plantation company in the preparation of land, planting and maintenance of rubberwood cultivation will be given Accelerated Agriculture Allowance. The write-off period for the relevant expenditure will be accelerated from two years to one year on condition that the company plants at least 10% of its plantation with rubberwood trees.
2. A Pioneer Status company which intends to undertake reinvestment before the expiry of its Pioneer Status will be eligible for Reinvestment Allowance, on condition that the Pioneer Certificate is surrendered for cancellation.
3. A company that invests in a wholly-owned subsidiary company involved in the consolidation of management of smallholdings or idle land will be allowed a deduction equivalent to the amount of the investment, and the wholly-owned subsidiary company involved in the consolidation of management of smallholdings or idle land will be exempted from service tax.
4. Locally-owned companies that reinvest in the promoted food processing activity will be given another round of the following incentives:
  - (i) Companies located outside the promoted areas:
    - (a) Pioneer Status with tax exemption of 70% of the statutory income for 5 years; or
    - (b) Investment Tax Allowance (ITA) of 60% on qualifying capital expenditure incurred within a period of 5 years with the allowance deducted against 70% of statutory income in each year of assessment.
  - (ii) Companies located in the promoted areas:
    - (a) Pioneer Status with tax exemption of 85% of the statutory income for 5 years; or
    - (b) ITA of 80% on qualifying capital expenditure incurred within a period of 5 years with the allowance deducted against 85% of statutory income in each year of assessment.
5. New and existing companies that undertake design, R&D and production of qualifying automotive modules or systems will be given the following incentives:
  - (i) Pioneer Status with tax exemption of 100% of the statutory income for 5 years; or

- (ii) ITA of 60% on qualifying capital expenditure incurred within a period of 5 years with the allowance deducted against 100% of the statutory income in each year of assessment.

The qualifying automotive component modules or systems are as follows:

- (a) front corner module;
  - (b) rear corner module;
  - (c) instrument panel module;
  - (d) strut and absorbers and spring assembly module;
  - (e) bumper module;
  - (f) front cross member module;
  - (g) function integrated door module;
  - (h) fuel tank module;
  - (i) seat module;
  - (j) pedal module;
  - (k) door trim module,
  - (l) floor console module;
  - (m) tyre and wheel module;
  - (n) brake system;
  - (o) wiper system;
  - (p) exhaust system;
  - (q) audio system;
  - (r) HVAC (Heater Ventilation Air-Conditioning System);
  - (s) air bag system;
  - (t) power and signal distribution system;
  - (u) alarm system;
  - (v) seat belt system;
  - (w) exterior lighting system;
  - (x) body in white module; and
  - (y) engine management system, safety system, telematics, navigational system, engine fuel injection, vehicle intelligence system.
6. The manufacture of the following categories of machinery and equipment will be classified as a strategic industry:
- (i) Specialised/process machinery or equipment for specific industries;
  - (ii) Packaging machinery;
  - (iii) Plastic extrusion machinery; and
  - (iv) Parts and components for the above machinery and equipment.
7. Companies which invest in knowledge intensive activities will be given the following tax incentives and deductions:
- (i) A company granted "Strategic Knowledge-based Status Company" will be given pioneer status with tax exemption of 100% of statutory income for a period of 5 years or be given investment tax allowance of 60% on the qualifying capital expenditure incurred within a period of 5 years, with the allowance deducted for each year of assessment to be set-off against 100% of statutory income on certain conditions.

- (ii) Expenditure incurred by a company for drafting the individual Corporate Knowledge-based Master Plan will be allowed as a deduction in the tax computation. The deduction should be claimed when the company begins to implement the Corporate Knowledge-based Master Plan.
8. The existing incentives for the use of biomass as a source of renewable energy will be extended for another 3 years until 31 December 2005. The scope of the existing incentives will be extended to include the use of hydro electric power of not more than 10 megawatts and the use of solar power.

### 2003 Economic Stimulus Package

1. Group relief will be extended under a pre-packaged scheme to forest plantations, including rubber plantations, and to selected products in the manufacturing sectors such as biotechnology, nanotechnology, optics and photonics.
2. The pre-packaged incentive scheme for Pioneer Status with 100% tax exemption for 10 years, or ITA of 100% for 5 years will be extended such that:
  - (i) The maximum period for Pioneer Status will be extended to 15 years.
  - (ii) The period for ITA will be extended to 10 years.
3. Expenditure on R&D activities undertaken overseas, including the training of Malaysian staff, will be considered for a double deduction, on a case-by-case basis.
4. R&D companies will be eligible for either a "second round" of the Pioneer status incentive for another 5 years or the ITA for a further 10 years.
5. Hypermarkets and direct selling companies that export locally produced goods will be given income tax exemption on statutory income equivalent to 20% of their increased export value.

### 2004

1. Manufacturing, agriculture and tourism companies in the promoted areas will be given the following additional tax incentives:
  - (i) Pioneer Status with tax exemption of 100% of statutory income for a period of 5 years; or
  - (ii) ITA of 100% of the qualifying capital expenditure incurred within a period of 5 years. The allowance can be used to set off against 100% of statutory income in each year of assessment.
2. Locally-owned companies which reinvest in the production of heavy machinery will be given the following additional tax incentives:
  - (i) Companies located outside the promoted areas -
    - (a) Pioneer Status with tax exemption of 70% on increased statutory income arising from reinvestment for a period of 5 years; or
    - (b) ITA of 60% on additional qualifying expenditure incurred within a period of 5 years. The allowance can be set off against 70% of statutory income in each year of assessment.
  - (ii) Companies located in the promoted areas -
    - (a) Pioneer Status with tax exemption of 100% on increased statutory income arising from reinvestment for a period of 5 years; or
    - (b) ITA of 100% on additional qualifying expenditure incurred within a period of 5 years. The allowance can be set off against 100% of statutory income in each year of assessment.

3. Locally-owned companies which reinvest in the production of machinery and equipment, including specialised machinery and equipment and machine tools, will be given the following incentives:
  - (i) Pioneer Status with tax exemption of 70% (100% for promoted areas) on the increased statutory income arising from reinvestment for a period of 5 years; or
  - (ii) ITA of 60% (100% for promoted areas) on additional qualifying capital expenditure incurred within a period of 5 years with the allowance deducted in each year of assessment against 70% (100% for promoted areas) of the statutory income.
4. Companies utilising biomass to produce value added products will be given the following additional tax incentives:
  - (i) For new companies –
    - (a) Pioneer Status with income tax exemption of 100% of statutory income for a period of 10 years; or
    - (b) ITA of 100% on qualifying capital expenditure incurred within a period of 5 years with the allowance deducted against 100% of statutory income in each year of assessment.
  - (ii) For existing companies that reinvest –
    - (a) Pioneer Status with income tax exemption of 100% on increased statutory income arising from reinvestment for a period of 10 years; or
    - (b) ITA of 100% on additional qualifying capital expenditure incurred within a period of 5 years with the allowance deducted against 100% of statutory income in each year of assessment.
5. Tax incentives for the venture capital industry will be enhanced as follows:
 

For a venture capital company (VCC) –

  - (i) The method to determine the 70% investment requirement in venture companies (VCs) to qualify for tax exemption will be relaxed by taking into account only the value of funds invested and not the total gross fund which includes cash, fixed deposits and interest earned; and
  - (ii) The condition that investment in VCs be disposed through the exit mechanism of an initial public offering to qualify for tax exemption will be extended to include any exit mechanisms approved by the Securities Commission.
6. Hotel and tourism project operators who invest in expansion, modernisation and renovation will be given another round of incentives for a period of 5 years as follows:
  - (i) Companies located outside the promoted areas –
    - (a) Pioneer Status with tax exemption of 70% of statutory income; or
    - (b) ITA of 60% on qualifying capital expenditure incurred with the allowance deducted in each year of assessment against 70% of the statutory income.
  - (ii) Companies located in the promoted areas –
    - (a) Pioneer Status with income tax exemption increased from 85% to 100%; or
    - (b) ITA increased from 80% to 100% of capital expenditure deducted against 100% of the statutory income in each year of assessment.
7. Locally-owned companies which reinvest in cold chain facilities and services for perishable agricultural produce will be given the following incentives:
  - (i) Pioneer status with tax exemption of 70% (100% for promoted areas) on the increased statutory income arising from reinvestment for a period of 5 years; or

- (ii) ITA of 60% (100% for promoted areas) on the additional qualifying capital expenditure incurred within a period of 5 years with the allowance deducted against 70% (100% for promoted areas) of statutory income in each year of assessment.

**2005**

1. Charitable institution or organisation for charitable purposes will be allowed to disburse annually minimum 50% of the income received in the preceding year.
2. Companies producing *halal* food and have obtained *halal* certification from Jabatan Kemajuan Islam Malaysia and other quality certification will be given ITA of 100% on qualifying capital expenditure incurred within a period of 5 years with the allowance deducted against 100% of statutory income in each year of assessment.
3. Existing companies which relocate their manufacturing activities to the promoted areas will be given another round of the same incentives.

## Appendix B

Issues relating to previous budget proposals (Pages 53 - 57 of Budget Complementary & Tax Information 2006)

Note:

1. ( ) refers to numerical sequence of questions from pages 53 - 57 of Budget Complementary & Tax Information 2006. Only issues under the jurisdiction of IRBM are addressed.

2. Other Budget Proposal are relating to incentives of Pioneer Status and Investment Tax Allowance which are provided under Promotion Of Investment Act (PIA) 1986 and will be dealt with by Malaysian Industrial Development Authority (MIDA).

Budget Proposal 1998	Orders/Rules	Status
(1)	The Income Tax Rules for private clinics which provide special wards for lower income earners will be given investment tax allowance of 60% on the qualifying capital expenditure incurred.	No Income Tax Rules to be issued.  It is recognised as an approved service project under Schedule 7B ITA 1967.  The answer has been given during the dialogue (2005).
<b>Budget Proposal 1999</b>		
(1)	The Income Tax Exemption Order for the income derived from repair and maintenance activities for luxury boats and yachts in Langkawi.	Under discussion (awaiting information from MOF).
<b>Budget Proposal 2003</b>		
(1)	The Income Tax Rules for the accelerated agriculture allowance on qualifying capital expenditure incurred by a non-rubber plantation company in the preparation of land, planting and maintenance of rubberwood cultivation.	Under discussion (awaiting guidelines from the relevant Ministry - Kementerian Perusahaan Perladangan & Komoditi).

(3)	The Income Tax Rules for a company that invests in a wholly-owned subsidiary company involved in the consolidation of management of smallholdings or idle land.	Under discussion (awaiting guidelines from the relevant Ministry - Kementerian Perusahaan Perladangan & Komoditi).
(7)(ii)	The Income Tax Rules for expenditure incurred by a company for drafting the individual Corporate Knowledge-based Master Plan.	Under discussion (awaiting information from MOF).
<b>2003 Economic Stimulus Package</b>		
(1)	The Income Tax Exemption Order for group relief under pre-packaged incentives i.e forest plantations and selected products in sectors such as biotechnology, nanotechnology, optics and photonics.	In the process of drafting.
(2)	The Income Tax Exemption Order for the pre-packaged incentive scheme for pioneer status with 100% exemption for 10 years or investment tax allowance of 100% for 5 years.	The relevant Exemption Orders have been gazetted on 23.03.2006.  Pioneer Status - Income Tax (Exemption) (No.11) 2006.  Investment Tax Allowance - Income Tax (Exemption) (No.12) 2006.
(3)	The Income Tax Rules on double deduction on expenditure incurred for R&D activities undertaken overseas.	No Income Tax Rules to be issued.  Application for approval for that incentive has to be made to MOF.

(5)	The Income Tax Exemption Order for the value of increased export of locally produced product exported by the hypermarket and direct selling companies.	under discussion(awaiting guidelines from the relevant Ministry - Kementerian Perdagangan Dalam Negeri & Hal Ehwal Pengguna.
<b>Budget Proposal 2004</b>		
(5)	The Income Tax Exemption Order for the income derived from activities of venture capital company(VCC) and venture capital management company (VCMC).	The relevant Exemption Orders have been gazetted on 24.02.2005.  VCC - Income Tax (Exemption) (No.11) 2005.  VCMC - Income Tax (Exemption) (No.12) 2005.
<b>Budget Proposal 2005</b>		
(1)	The Income Tax Rules on allowing the charitable institution to disburse annually minimum 50% of the income received in the preceding year.	No Income Tax Rules to be issued.  The provision is provided under the conditions for approval.



	Type of entertainment	100%	50%	ND
4	Cash contributions for annual dinners of customers  [rationale: the expenditure is to maintain existing business relationships.]		X	IRBM
5	Gifts for annual dinners of customers :  -with logo  -without logo (including hampers and other lucky draw prizes)  [rationale: the expenditure is to maintain existing business relationships.]	X (IRBM)	X (IRBM)	
6	Entertainment at AGM (listed and unlisted companies)			X (IRBM)
7	Government authorities (for bidding of projects, securing approvals, etc. whether the payments are legal or illegal)  [rationale: such expenditure, akin to entertainment incurred on potential customers (for new projects) or existing customers (for ongoing projects).	X (after project has started)	X (prior to project being awarded)	IRBM
8	Employees' family members, including -family days / outings  -annual dinners  [rationale: such expenditure could be regarded as expenditure incurred in the production of gross income as it is expended on staff for the purpose of (for example) boosting staff morale which in turn may improve the efficiency, effectiveness and productivity of the staff. Meanwhile, it is not practical to provide entertainment to staff in the form of family days / outings and annual dinners without expending for the staff's family members and therefore, the entire amount should meet the criteria of Section 33(1) and restriction under Section 39(1)(l) is not applicable by virtue of Section 39(1)(l)(i)]	X (IRBM) X (IRBM)		

	Type of entertainment	100%	50%	ND
9	<p>Wedding gifts for customers (with or without logo)</p> <p>[rationale: the expenditure does not meet the criteria of Section 33(1) as it represents a personal expenditure]</p>			X (IRBM)
10	<p>Flowers for customers' opening/launching ceremonies</p> <p>[rationale: the expenditure is to maintain existing business relationships and is akin to the provision of entertainment (ie. hospitality / gifts) to existing customers]</p>		X (IRBM)	
11	<p>Condolences/ congratulations for customers (cash or gifts)</p> <p>[rationale: the expenditure is to maintain existing business relationships]</p>		X	IRBM
12	<p>Hampers for customers on festive seasons</p> <p>[rationale: the expenditure is to maintain existing business relationships]</p>		X (IRBM)	
13	<p>Suppliers, auditors, tax agents, bankers, lawyers, etc.</p> <p>[rationale: in accordance with Para 7(ii) of Public Ruling 3/2004]</p>		X	(IRBM - only existing supplier is allowed 50%)
14	<p>Entertainment allowance</p> <ul style="list-style-type: none"> <li>- general</li> <li>- however, provision of entertainment which is related wholly to sales arising from the business, where the details (amount and purpose) can be identified, the deduction should be 100% pursuant to Section 39(1)(l)(vii).</li> </ul>	X	X (IRBM)  (IRBM)	

	Type of entertainment	100%	50%	ND
15	<p>Cost of travel which is incidental to outings and family day trips (ie. provision of entertainment to staff)</p> <p>[rationale: cost of travel is part and parcel of the provision of entertainment to staff, and not leave passage as mentioned in Section 39(1)(m). In other words, travel does not automatically equate to leave passage and in the current scenario, the nature of the travel cost is "provision of entertainment" and not "leave passage".]</p>	X		IRBM
16	<p>Promotional gifts, including small souvenirs, bags and travel tickets provided as gifts (regardless whether the gifts bear the company's logo, emblem, or insignia) to customers/ visitors at trade fairs/ industrial exhibitions outside Malaysia for the purpose of promoting exports from Malaysia.</p> <p>[rationale: in accordance with Section 33(1) and not restricted under Section 39(1)(l) by virtue of the proviso of Section 39(1)(l)(iii)]</p>	X (IRBM)		
17	<p>Food and drinks provided by a property sales agents during the launching of a new property, or during the sale period, that are provided to potential property buyers regardless whether there are successful sales concluded</p> <p>[rationale: in accordance with Para 6.7 of Public Ruling 3/2004]</p>	X (IRBM)		
18	<p>Entertainment incurred on existing customers (who has signed a contract) during the period of the contract</p> <p>[rationale: such expenditure is regarded as provision of entertainment related wholly to sales arising from the business]</p>	X	IRBM	

	Type of entertainment	100%	50%	ND
19	<p>Entertainment incurred on existing customers who may continue to give new businesses (which is entertainment related wholly to sales arising from business)</p> <p>[rationale: such expenditure is regarded as provision of entertainment related wholly to sales arising from the business, unless no sales have been made to a particular customer for a considerably long period such that that customer should be regarded as a new / potential customer]</p>	X	IRBM	

Notes:

ND = not deductible

X = answer of Association

IRBM = answer of IRBM