



# **MALAYSIAN**

---

# **BUDGET**

# **1994**

# **TAX NASIONAL**

OFFICIAL JOURNAL OF THE  
MALAYSIAN INSTITUTE OF TAXATION  
ISSN 0128-7850 KDN PP 7829/12/92  
QUARTERLY DECEMBER 1993

**1994 Malaysian Budget  
Proposals**

---

**Preparing For the  
New Tax Regime**

---

**Approved Operational  
Headquarters**

---

**Incentives For Approved  
Training**

---

**Taxation Aspects Of Company  
Liquidation**

---

**Financial Instruments**

---

**1994/95 UK Budget Summary**



**Malaysian Institute Of Taxation**



# TAX NASIONAL

OFFICIAL JOURNAL OF THE  
MALAYSIAN INSTITUTE OF TAXATION  
ISSN 0128-7850 KDN PP 7829/12/92  
QUARTERLY DECEMBER 1993

## Budgets

1994 Malaysian Budget Proposals	1
1994/95 UK Budgets Summary	28

## Articles

Preparing For the New Tax Regime	10
Approved Operational Headquarters	16
Incentives For Approved Training	18
Taxation Aspects Of Company Liquidation	22
Financial Instruments	24

### OFFICE & ADDRESS

The Secretariat, Malaysian Institute of Taxation,  
c/o Dewan Akauntan, No. 2, Jalan Tun Sambanthan 3,  
Brickfields, 50470 Kuala Lumpur. Tel: 03-274 5055. Fax: 03-274  
1783.

The Tax Nasional is the official publication of the Malaysian  
Institute of Taxation and is distributed free to all members of  
the Institute. The views expressed in this Journal are not  
necessarily those of the Institute or its Council. All contribu-  
tions, inquiries and correspondence should be addressed to  
the Secretariat of the Institute.

### IMPORTANT DISCLAIMER

No person should rely on the contents of this publication without first  
obtaining advice from a qualified professional person.

This publication is provided on the terms and understanding that:

- the authors, advisors and editors and the Institute are not responsible for the results of any actions taken on the basis of information in this publication, nor for any error in or omission from this publication; and
- the publisher is not engaged in rendering legal, accounting, professional or other advice or services. The publisher, and the authors, advisors and editors, expressly disclaim all and any liability and responsibility to any person, whether a purchaser or reader of this publication or not, in respect of anything, and of the consequences of anything, done or omitted to be done by any such person in reliance, whether wholly or partially, upon the whole or any part of the contents of this publication. Without limiting the generality of the above no author, advisor or editor shall have any responsibility for any act or omission of any other author, advisor or editor.

The Malaysian Institute of Taxation (MIT) is a company limited by guarantee incorporated on October 1, 1991 under Section 16(4) of the Companies Act, 1965.

The objectives of the Institute are, inter alia:

- To provide an organisation for persons interested in or concerned with taxation matters in Malaysia.
- To advance the status and interest of the taxation profession and to work in close co-operation with the Malaysian Institute of Accountants (MIA).
- To exercise professional supervision over the members of the Institute and frame and establish rules made herein for observance in matters pertaining to professional conduct.
- To provide examination for persons interested in or concerned with the taxation profession.

### ADVISER

Honorary Adviser : Tan Sri Lim Leong Seng RA, FCCA, CPA.

### COUNCIL MEMBERS

<b>President</b>	: Ahmad Mustapha Ghazali PA(M), FTII, FCCA, CPA.
<b>Deputy President</b>	: Micheal Loh FTII, MBA.
<b>Vice President</b>	: Hamzah HM Saman KMN, FTII.
<b>Vice President</b>	: Lee Hwa Beng PA(M), FTII, ACCA, ACIS.
<b>Secretary</b>	: Chuah Soon Guan RA(M), CPA.
<b>Members</b>	: Atarek Kamil Ibrahim PA(M), ATII, FCCA.
	: Chow Kee Kan PA(M), FTII, ACCA.
	: Harpal S. Dhillon RA(M), FCCA, ATII, LLB (Hons)
	: Lee Beng Fye KMN, FTII.
	: Lee Lee Kim B. ECONS. (HONS), ATII.
	: Quah Poh Keat PA(M), ATII, CIMA, ACCA.
	: Ramli Ibrahim PA(M), FTII, ICA, CPA.
	: Ranjit Singh B. ECONS. (HONS), FTII.
	: Seah Cheoh Wah PA(M), ATII, ACA.
	: Teh Kok Leong KMN, FTII, B. ECONS. (HONS).
	: Yong Poh Chye M. ECONS., B. ECONS. (HONS), FTII.

### EDITORIAL BOARD

<b>Advisors</b>	: Ahmad Mustapha Ghazali PA(M), FTII, FCCA, CPA.
	: Hamzah HM Saman KMN, FTII.
<b>Editor</b>	: Harpal S Dhillon RA(M), FCCA, ATII, LLB (Hons)
<b>Deputy Editor</b>	: Chuah Soon Guan RA(M), CPA.
<b>Associate Editors</b>	: <b>Banking &amp; Finance</b>
	: Baldev Singh RA(M), ACCA, ACIS, ATII
	: <b>Case Law</b>
	: Ranjit Singh B. ECONS. (HONS), FTII.
	: <b>Incentives</b>
	: Yong Poh Chye M. ECONS., B. ECONS. (HONS), FTII.

#### Indirect Tax

Eddy Chan CPA.

#### International Tax

Richard Thornton FCA, ATII(UK).

#### Legislation

Chow Kee Kan PA(M), FTII, ACCA.

#### Oil & Gas

Chin Pak Weng ATII.

#### Production Editor

: Nashita Aziz B. Sc (HONS)

#### Secretary & Advertisements Officer

: Ho Foong Chin B. ECONS, LLB (HONS)



# 1994 MALAYSIAN BUDGET PROPOSALS

MALAYSIAN INSTITUTE OF TAXATION  
225750-T



Chuah Soon Guan is the Technical Secretary of MIA. He is also a Council Member and Honorary Secretary of MIT

## ECONOMIC OVERVIEW

The world economy is predicted to improve marginally from 2.1 per cent in 1993 to slightly above 3 per cent in 1994. Against the unimpressive international performance, Malaysia's real Gross Domestic Product shines with an expected strong growth of 8.2 per cent in 1994 compared to 8 per cent in 1993, continuing six consecutive years of more than 8 per cent growth.

The momentum of external demand for Malaysian manufactured goods and improving domestic demand will support the projected overall growth. A substantial sum of RM 13.35 billion allocated for development expenditure to overcome infrastructural bottlenecks will contribute to support the forecast growth.

The Federal Government Budget will be balanced for the first time in the history of the country. The overall balance is expected to record a marginal surplus of 0.1 per cent or RM 195 million compared with a deficit of RM 1.24 billion or 0.9 per cent of the Gross National Product of 1992. This follows prudent financial management of government finance.

The Government is determined to fight inflation by undertaking measures to upgrade and expand infrastructure, to reduce bottlenecks and encourage greater competition among producers, to reduce pressure on prices while at the same time adopting a prudent fiscal and monetary policy. Measures will continue to reduce excessive consumption and to encourage greater savings. The Government would like the domestic inflation to moderate to 3.5 per cent in 1994 compared to 3.8 per cent in 1993.

The unemployment rate for the whole of 1993 is estimated to decline to 3 per cent from 3.9 per cent in 1992. The labour market is expected to remain tight in 1994 as employment growth is expected to exceed the anticipated slower growth of 2.8 per cent of the labour force.

## BUDGET STRATEGY

Given the comfortable economic scenario, the 1994 Budget strategy is four pronged focusing on the following areas:-

- ensuring strong, vibrant and sustainable economic growth;
- reducing inflation;
- enhancing skills and technological competence and
- fostering a balanced and equitable society.

## BUSINESS TAXATION

### Reduction of corporate tax

As was widely expected, a cut in the corporate income tax rate to 32% for the year of assessment 1994 was proposed. The rate will be further reduced to 30% for the year of assessment 1995. These reductions are in line with the Government's policy towards lower income tax rates. This policy began in 1985 when the rate stood at 50% (40% for income tax, 5% for development tax and 5% for excess profit tax). Our government has had the foresight to recognise the negative effects of excessive taxation that will cause disinterest for hard work on the part of workers and represent disincentive to entrepreneurs who see lower returns for risk taking.

A low tax rate is desired by all taxpayers. But how low can it go? It is

## FEDERAL GOVERNMENT BUDGET 1994

### BUDGET RM47,135 million

WHERE IT COMES FROM	%
Income taxes	37.3
Non-tax revenue and other taxes	24.0
Other indirect taxes	19.0
Import duties	11.5
Export duties	3.1
Borrowing and use of Government's assets	5.1

Total 100.0

### WHERE IT GOES TO

<i>Operating Expenditure</i>	
Emoluments	26.5
Debt service charges	15.6
Supplies and services	9.3
Pension and gratuities	5.0
Grants and transfers to State Governments	2.9
Other expenditure	11.3

Sub-total 70.6

<i>Development expenditure</i>	
Economic services	15.0
Social services	6.8
Security	5.4
Contingency reserves	1.1
General administration	1.1

Sub-total 29.4

Total 100.0

### Source:

Economic Report 1993/94,  
Ministry of Finance, Malaysia

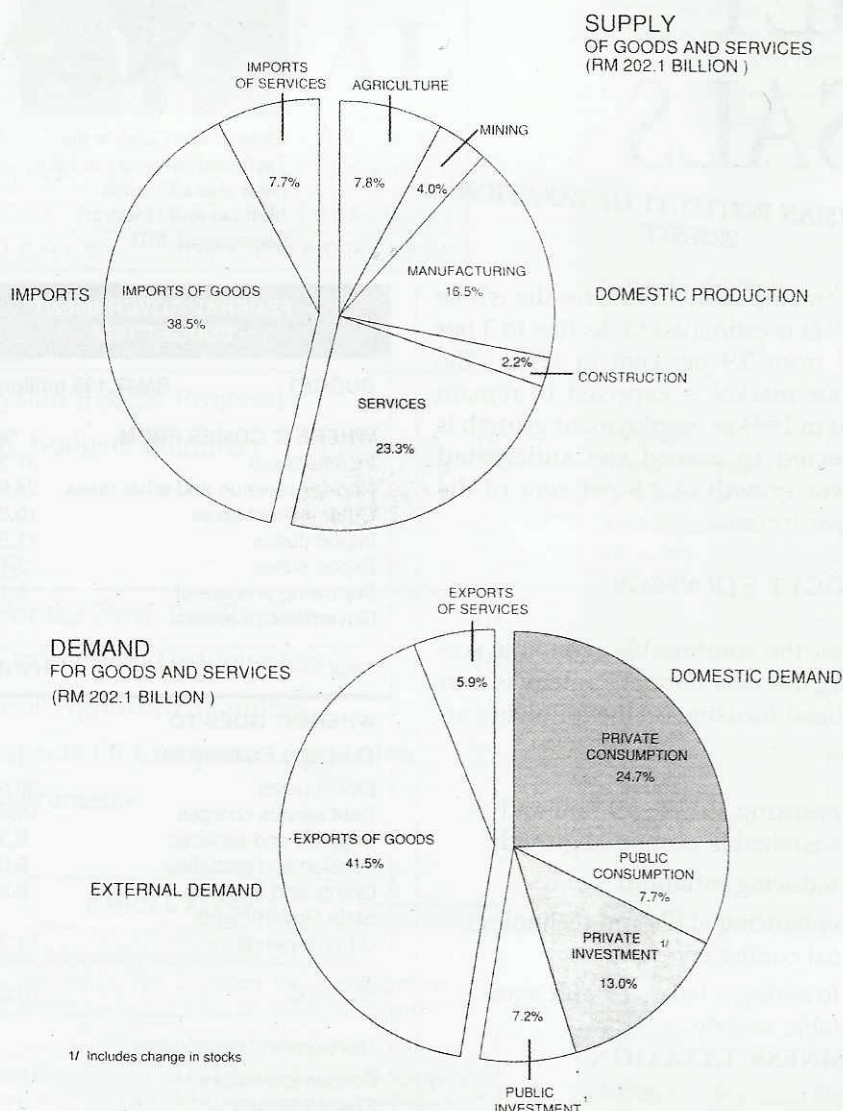
recognised that the Government has to raise revenue. A optimal rate of tax that will not burden the business sector has to be set. Could we have a tax rate of 17.5% as in Hong Kong? Or have one the same as our successful neighbour, Singapore, at a rate of 27%? Maybe eventually our rate could fall to 25% in the year 2000.

### Dividend franking

Malaysia adopts the imputation sys-



## THE ECONOMY 1994 AT 1978 PRICES



allowance of 10 per cent per annum on the qualifying expenditure incurred over a period of 10 years. The qualifying expenditure on the purchase or construction of buildings used for accommodation of employees are meant for staff who are not directors, individuals having control of the business or members of management, administration or clerical staff.

- **Provision of child care facilities**

The 1994 Budget proposed that where capital expenditure in the construction or purchase of a building for the provision of child care facilities for his employees, the building would be treated as an industrial building. The industrial building allowance of 10 per cent per annum will be given over a period of 10 years. The definition of employees will be restricted as in the above incentive for accommodation.

The child care facilities will encourage mothers to rejoin the working population if the lack of such arrangements contributed to their dropping out previously. The participation of married women in the workforce is important in view of the increasing labour shortage.

- **Research Buildings**

Further tax incentive has been proposed to encourage high technology industry and research and development activities. Buildings used for research by approved research companies or institutions will qualify for industrial building allowance.

tem of taxation whereby the income tax paid by a company is available to frank dividends paid or credited to its shareholders. Consequent to the proposed reduction in the corporate income tax rate, the rate of tax deductible from the dividends paid or credited effective 1 January 1994 will be at 32 per cent notwithstanding the fact that tax at the rate of 34 per cent may actually have been deducted. Such dividends paid in 1993 will have to be recalculated as in Table I.

For the dividend paying company, the amount of tax to be deducted from its Section 108(6) account will be RM 31.06 instead of RM 34.00.

**Table I: Tax deducted from 1993 dividends recalculated**

	Original	Revised	
Gross dividend	RM 100.00	RM 97.06	(RM 66 x 100/68)
Tax deducted/ deemed deducted	34.00	31.06	(RM 97.06 x 32%)
	RM 66.00	RM 66.00	

### Building Allowance

- **Employees' Accommodation in the Manufacturing Sector**

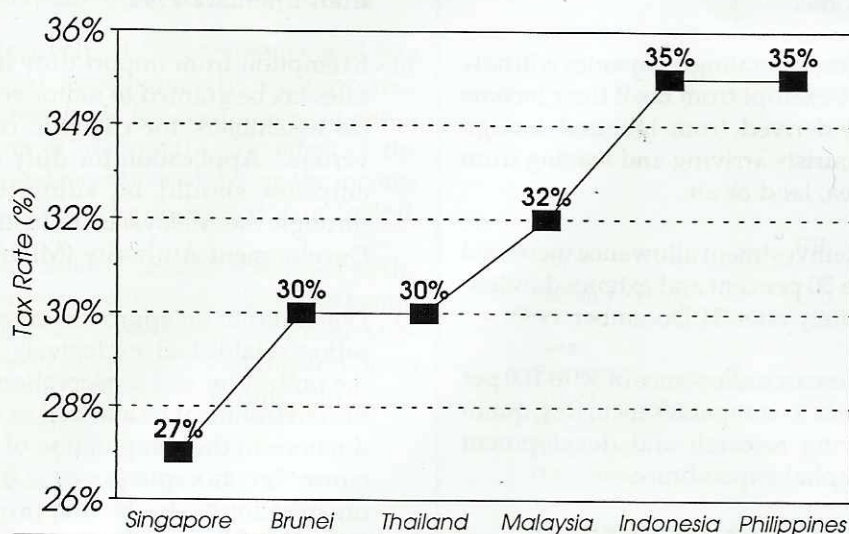
As a measure to encourage a continuous supply of manpower to support the expanding manufacturing sector and to benefit employees, it is proposed that employers be given a special building

### Operational Headquarters Company (OHQ)

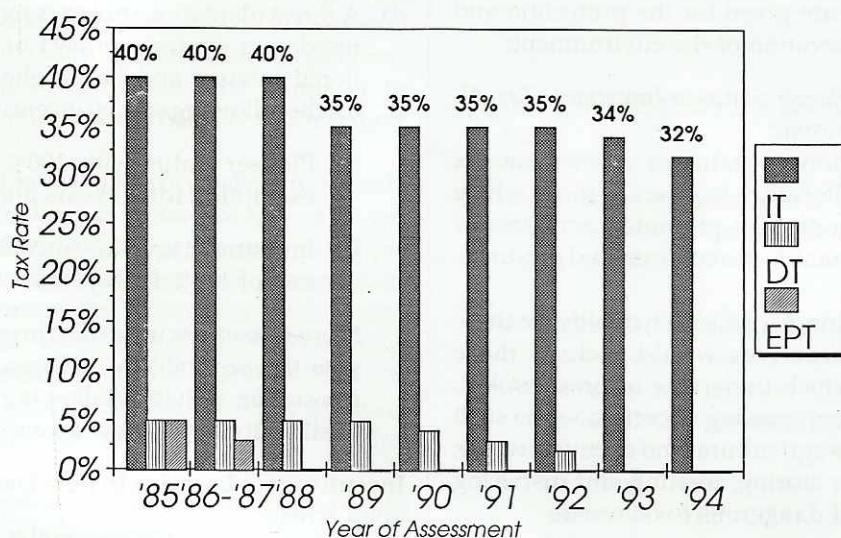
Before the Budget proposals, reduced rate of tax at 10 per cent for a period of up to 10 years for approved OHQs established in Malaysia providing qualifying services to their related companies was not available to companies carrying on a business of finance and



Comparative Tax Rates -  
Asean Countries (1994)



Trend In Corporate Income Tax Rates



provision of professional services.

The incentive is now extended to include not only the business of finance and provision of professional services but also the provision of treasury and fund management services. However, where such services provided include provision of credit facilities, the funds for providing such facilities must be obtained from outside Malaysia.

The scope of services of OHQs has to be expanded in view of the relative lack of success when compared to the setting up of such headquarters in Singapore by multinationals. Such headquarters companies spend and employ locals and their combined impact on the economy will be significant when they proliferate.

## Reverse Investment

Currently, tax incentives are given for investment overseas including a 50 per cent abatement of income remitted to Malaysia for a period of 5 years after a company commences operation and earns profits.

To qualify for the incentive, the overseas investment requires the prior approval of the Minister of International Trade and Industry and should meet the following criteria:

- The company undertaking the overseas investment must be a Malaysian incorporated company with at least 70% of the equity owned and controlled by Malaysian citizens.
- The Malaysian company directly

holds at least 30% of the equity in the overseas investment company.

- The Board of Directors must reflect the equity structure of the overseas investment company.
- Either
  - the project is undertaken to overcome market access problems and will utilise Malaysian raw materials, parts and/or components or
  - the project will supply inputs required by domestic industry in Malaysia or
  - the project will contribute to "South-South co-operation".

In addition, for overseas construction projects, a 50 per cent exemption on income remitted into Malaysia is given a period of 5 years effective from the date of commencement of the project. However, this incentive is restricted to construction projects that commenced during the period 21 October 1988 to 31 December 1993. It is proposed that the rate of exemption be increased from 50 per cent to 70 per cent. Companies will therefore pay tax at an effective rate of less than 10 per cent of the income so remitted. It also proposes to abolish the present restriction of a 5 year exemption period and to remove the restriction that the construction projects must commence during the period 21 October 1988 to 31 December 1993. Thus companies which commence a construction project overseas will enjoy an indefinite period of exemption.

The Government has agreed in principle to extend the above incentives to income remitted to Malaysia for companies which export services in the oil and gas industry.

## Venture Capital Companies (VCC)

VCCs are currently exempt from tax on gains arising from the disposal of shares in a venture company. VCCs are defined as companies with 100 per cent investment in high risk and new technology projects.

The 1994 Budget proposes to relax the definition of VCC to include companies with a least 70 per cent of its investment in high risk and new tech-



nology. Another onerous condition that a VCC must hold shares exclusively in an unlisted venture company is also relaxed. What constitutes 'high risk' and 'new technology' have been defined by the Tax Division of Ministry of Finance. High risk venture would generally incorporate the following characteristics:-

- (i) High investment cost/capital investment
- (ii) New project/product
- (iii) New market
- (iv) Late returns
- (v) Specialised skills/trained manpower
- (vi) Specific location
- (vii) Specific equipment
- (viii) Lack of or no government protection
- (ix) Highly competitive
- (x) Highly 'classified'

New technology refers to incremental improvements in existing processes and products and the use of technologies which are new to Malaysia even if these technologies are technically mature and commonly used elsewhere. This would include emerging technologies such as automated technology, advanced material technology, bio technology, electronics, information technology and renewable energy technology.

#### BUSINESS TAXATION - OTHERS

- Increasing the maximum employer's deduction for Employees Provident Fund (EPF) or any other approved provident fund contributions to 16 per cent
- Contributions to public libraries, rural libraries or libraries at schools or at institutions of higher education up to RM100,000 allowed as deduction for income tax purposes.
- Donations to Low-Cost Housing Fund/organisations for the con-

servation of environment are deductible in ascertaining taxable income.

- Tour operating companies will now be exempt from tax if their income is derived from inbound foreign tourists arriving and leaving from sea, land or air.
- Reinvestment allowance increased to 50 per cent and extended indefinitely after 31 December 1995.
- Research allowance of 50 to 100 per cent to companies incurring qualifying research and development capital expenditure.

#### INVESTMENT INCENTIVES

##### Incentives for the environment

At the moment the following incentives are given for the protection and conservation of the environment:

- a) *Pioneer Status or Investment Tax Allowance*  
Pioneer status or investment tax allowance is given to those which undertake promoted activities or manufactured promoted products.

Companies which qualify for these incentives would include those which undertake a forest project, reprocessing of certain waste such as agricultural and chemical waste, or storing, treating and disposing of dangerous toxic waste.

- b) *Special capital allowances*  
Special capital allowances are allowed for companies which provide facilities for storing, treating and disposing of dangerous toxic waste produced by it own factory.
- c) *Exemption of import duty, sales tax and excise tax*  
Exemption of import duty, sales tax and excise duty is allowed on machinery or equipment purchased by manufacturing companies for the control of pollution. Similar exemption is also allowed on machinery or equipment and on raw materials required for undertaking the storing, treating and disposing of dangerous toxic waste.

As a measure to protect and conserve the environment, it is proposed that:-

- a) The price for unleaded petrol be reduced by 3 sen a litre with effect from 1 January 1994;
- b) Exemption from import duty and sales tax be granted to motor vehicle assemblers for catalytic converters. Application for duty exemption should be submitted through the Malaysian Industrial Development Authority (MIDA);
- c) Donations to an approved organisation established exclusively for the protection and conservation of the environment be allowed as deductions in the computation of income for tax purposes. The organisation has to obtain approval from the Director General of Inland Revenue under Section 44(6) of the Income Tax Act 1967 and
- d) A forest plantation project is recognised as a strategic project of national interest and hence eligible for the following special incentives:
  - (i) Pioneer status with 100% tax exemption for 10 years and
  - (ii) Investment tax allowance at the rate of 100% for 5 years.

More research is needed to investigate the profitability of forest reforestation activities following the availability of this new incentive.

##### Incentives for Locating in Less Developed Areas

Currently, most tax incentives are uniformly applicable to all parts of the country. Industries located in Sabah, Sarawak and the eastern corridor of Peninsular Malaysia do not especially enjoy additional incentives.

To promote balanced growth between regions and to attract more investment to states located in Sabah, Sarawak and the eastern corridor of Peninsular Malaysia, which are less developed, it is proposed that projects eligible for pioneer status located within these areas be given exemption of 85% (70% for companies in other parts of Malaysia) of their statutory income. Companies which qualify for Investment Tax Allowance (ITA) and located within these areas are eligible for 80% allowance (60% for companies in other parts of Malaysia) and the amount of allowance to be exempted for each year of



assessment will be increased to 85% (70% for companies in other parts of Malaysia) of the statutory income.

Effectively, these companies will pay tax at approximately 5% (approximately 10% for companies in other parts of Malaysia). The effect of the special incentives above on the income tax rate can be illustrated as in *Table II*.

The Eastern Corridor is defined as the whole state of Kelantan and Trengganu and areas to be designated by the Minister in the states of Pahang and north eastern Johor not exceeding the district of Mersing.

## PERSONAL TAXATION

As expected reduction in the individual tax rate to be consistent with reduction in the corporate tax rate this year and the next did not materialize. This could be due to the concern of the Government that such reduction will put more disposal income in the hands of its people and that this may fuel inflation.

Unless the disparity between the individual's maximum tax rate of 34 per cent and the corporate tax rate 32 per cent and 30 per cent proposed or years of assessment 1994 and 1995 respectively is eliminated, individuals with income above RM80,000 would be more tax effective incorporating their business undertakings.

A sprinkling of amendments to benefit the whole spectrum of individual taxpayers have been proposed. These changes proposed in the Finance (No. 2) Bill 1993 are in the following paragraphs:

- Tax rebate for individual whose chargeable income is RM10,000 and below, from RM60 to RM90 for the taxpayer and from RM30 to RM50 for his wife.
- Rate of tax for a non-resident individual reduced to 32 per cent.
- Relief for contribution to EPF and life insurance or Takaful premiums up to RM5,000 (existing RM3,500).
- Relief for children pursuing higher education locally available at four times the normal relief.
- Relief for children pursuing education abroad reduced from four

**Table II:** Effective Income Tax Rate for Locating in Less Developed Areas

	Pioneer Status		Investment Tax Allowance	
	Other parts of Malaysia	Eastern Corridor of Peninsular Malaysia, Sabah and Sarawak	Other parts of Malaysia	Eastern Corridor of Peninsular Malaysia, Sabah and Sarawak
	RM	RM	RM	RM
Statutory Income	1,000	1,000	1,000	1,000
<b>Less</b>				
Exemption				
70% of income	700			
85% of income		850		
ITA at 70%			700	
ITA at 85%				850
Chargeable income	300	150	300	150
Tax at 32%	96	48	96	48
Effective rate of tax	9.6%	4.8%	9.6%	4.8%

times to two times the normal relief.

- Tax exemption on income of a resident individual from payments received from:-
  - translation of academic and literary works into Bahasa Malaysia increased from RM6,000 to RM12,000 per annum;
  - academic and literary works increased from RM12,000 to RM20,000 per annum;
  - works of original paintings granted up to RM20,000 per annum;
  - music composition granted up to RM12,000 per annum.
- Tax exemption on interest paid or credited to depositors of Bon Simpanan Malaysia issued by Bank Negara Malaysia.
- Profits and gains derived from saving deposits up to RM50,000 of all banking institutions which practise the interest-free banking scheme will be exempted from withholding tax.
- Schedular tax deduction for employers in Peninsular Malaysia

based on schedules as in Sabah and Sarawak.

The rates of monthly standard deductions from emoluments operational in East Malaysia depend on the employee's income and marital status. Married employees are treated differently depending on the number of children each has.

Part of the rate table of the Income Tax (Deduction from Emoluments East Malaysia) Rules 1967 is reproduced in *Table III*.

## PETROLEUM INCOME TAX

### Reduction of petroleum income tax rate

In order to encourage further exploration and to enhance the investment climate for the petroleum industry, the 1994 Budget proposes to reduce the rate of petroleum income tax from 45 per cent to 40 per cent.

### Reduction of rate of export duty on crude oil

In line with the aim of enhancing the investment climate for upstream petroleum operations, the rate of export duty on crude oil will be reduced from 25 per cent to 20 per cent.

**Malaysia - Thailand Joint Authority**  
On 21 February 1979 Malaysian and Thailand signed the memorandum of



**Table III :** Part of the Rate Table of the Income Tax (Deduction from Emoluments East Malaysia) Rules 1967

Total Monthly Emoluments \$	Where wife is NOT employed							Where wife is IN employment					
	S \$	M \$	M1 \$	M2 \$	M3 \$	M4 \$	M5 \$	M \$	M1 \$	M2 \$	M3 \$	M4 \$	M5 \$
3801-3900	502	447	432	417	403	388	374	502	487	472	458	443	428
3901-4000	524	469	454	439	425	410	395	524	509	494	480	465	450
4001-4100	546	491	476	461	447	432	417	546	531	516	502	487	472
4101-4200	568	513	498	483	469	454	439	568	553	538	524	509	494
4201-4300	590	535	520	505	491	476	461	590	575	560	546	531	516
4301-4400	612	557	542	527	513	498	483	612	597	582	568	553	538
4401-4500	634	579	564	549	535	520	505	634	619	604	590	575	560
4501-4600	657	601	586	571	557	542	527	657	641	626	612	597	582
4601-4700	684	623	608	593	579	564	549	684	663	648	634	619	604
4701-4800	711	645	630	615	601	586	571	711	685	675	657	641	626
4801-4900	738	670	652	637	623	608	593	738	707	702	684	666	648
4901-5000	765	697	679	661	645	630	615	765	747	729	711	693	675
5001-5100	792	724	706	688	670	652	637	792	774	756	738	720	702
5101-5200	819	751	733	715	697	679	661	819	801	783	765	747	729
5201-5300	846	778	760	742	724	706	688	846	828	810	792	774	756
5301-5400	873	805	787	769	751	733	715	873	855	837	819	801	783
5401-5500	900	832	814	796	778	760	742	900	882	864	846	828	810
5501-5600	927	859	841	823	805	787	769	927	909	891	873	855	837
5601-5700	954	886	868	850	832	814	796	954	936	918	900	882	864
5701-5800	981	913	895	877	859	841	823	981	963	945	927	909	891
5801-5900	1008	940	922	904	886	868	850	1008	990	972	954	936	918
5901-6000	1035	967	946	931	913	895	877	1035	1017	999	981	963	945
6001-6100	1062	994	976	958	940	922	904	1062	1044	1026	1008	990	972
6101-6200	1089	1021	1003	985	967	949	931	1089	1071	1053	1035	1017	999
6201-6300	1118	1048	1030	1012	994	976	958	1118	1098	1080	1062	1044	1026

understanding on the establishment of resources of the sea-bed in the defined area of the Continental Shelf of the two countries in the Gulf of Thailand called the joint development area (JDA). This was followed with an agreement between both countries on 30 May 1990 which dealt with the constitution and other matters relating to the establishment of the Malaysia-Thailand Joint Authority (MTJA). The MTJA was created upon the subsequent enactment of the MTJA Act 1990.

The 1994 Budget proposed to include the income from petroleum operations carried out in the JDA within the ambit of the Petroleum Income Tax 1967. A different rate of tax is applicable as follows:

0 % for the first 8 years of production

10 % for the next 7 years of production

20 % for subsequent years of production.

## CUSTOM AND EXCISE DUTIES

In line with one of the budget strategies of reducing inflation, the import duties on over 500 items have been reduced or abolished. The proposal is to reduce 180 items from the building materials and construction equipment category (33 per cent), 79 items on components/medical equipment (15 per cent), 44 items on motor vehicles spare-parts (8 per cent) and 135 food items (23 per cent). The continuing trend of reducing duties is also in part due to the nation's stated commitment to trade liberalisation. This is to demonstrate our sincerity towards avoiding increased protectionism which could be seen in the inability of GATT talks to conclude.

Changes in import duties are also reflected in the following:-

- Import duties on motorised homes reduced from 300 per cent to 35 per cent as a measure to promote the homes as budget accommodation for tourists.
- Dutiable goods brought in for personal use reduced to 30 per cent from 50 per cent.
- Import duties on 'superbikes', that is, motorcycles with cylinder capacity of 500 cc and above is increased from 60 per cent to 120 per cent.

To enhance the competitiveness of the local manufacturers which were affected by the reduction in import duties, excise duties on goods such as food seasoning, dry batteries, air-conditioning equipment and tyres for motor vehicles are now reduced.



## CONSUMPTION TAX

### Sales Tax

To encourage the production and increase the competitiveness of local manufacturers it has been announced that sales tax on parts/components of the production of machines which are not taxable, be abolished.

### Service Tax

There has been a gradual extension of the scope of services which attract service tax in each budget announcement, since the 1992 Budget and the focus is on professional services.

The Honourable Minister of Finance has now proposed to further widen the scope of service tax to include services provided by:-

- (a) companies, firms, sole proprietors, government and semi-government agencies providing parking space for motor vehicles;
- (b) courier service firms with annual turnover of RM150,000 and above;
- (c) dentists having an annual turnover of RM300,000 and above; and
- (d) veterinary doctors with an annual turnover of RM300,000 and above.

Presently, service tax is collected based on the charge for the service provided and where no charge is imposed, a value would be imputed by customs authorities. Where car parks provide free car parking space for the first hour of parking upon presenting receipts from designated supermarkets, service tax based on the complimentary parking may be imputed by the customs authorities.

In the case of courier services, it is uncertain whether the concept of "export service" such as in respect of telecommunications would apply where focus is on the sender rather than the recipient in determining if the service is consumed within or outside Malaysia. If applicable, the exemption on export services should also be available for such courier service.

It is not clear whether the extension of the service tax on "dentists" would only include dental practitioners registered under the Dental Act 1971. It is

also unclear whether service tax would be imposed on amounts charged for the provision of dental supplies e.g. dentures.

### Sales and Service Tax

In the 1993 Budget Speech, the Government announced its intention to introduce a single broader based tax called the Sales and Service Tax (SST). The Honourable Minister of Finance in his 1994 Budget Speech stated that the Government will hold discussion with the private sector and consumer associations early next year to facilitate the implementation of the SST. The Minister did not reveal any of the features of the SST except to state that the SST will be more efficient, transparent and will have less tax leakages.

## STAMP DUTY

### Stamp duty payable on contract notes

Currently, stamp duty is payable on contract notes for the sale and purchase of shares at the rate of RM1 on every RM1,000 or fractional part of RM1,000 of the value of any shares, stock or marketable securities. The 1994 Budget proposes to increase the stamp duty payable by 50 sen to RM1.50 for every RM1,000 or fractional part of RM1,000 of the value of the shares purchased or sold.

### Settlement of compound duties by banker, stockbroker or insurer

Currently, an authorised banker, stockbroker or insurer is allowed to settle the compounded duties on unstamped cheques, contract notes and certificates of insurance within 8 days from 1 January and 1 July of each year. The 1994 Budget proposes that the compounded duties payable to the Collector be paid within 14 days of 1 January, 1 April, 1 July and 1 October of each year.

### Stamp duty payable on share certificates

Currently, stamp duty is payable at the rate of RM2 on the issue of a share certificate. The 1994 Budget proposes to abolish the duty payable on a share certificate. The change appears to anticipate the reduction in revenue that would arise from scripless trading. Under scripless trading, share transactions are recorded as movements in accounts maintained with the Central Depository System, eliminating the

need for dealing with and handling share certificates.

## CONCLUSION

The 1994 Budget is balanced in more ways than one. Our Prime Minister Datuk Seri Dr Mahathir Mohamad observed that the Budget is able to strike a balance between income and expenditure making it better than its predecessors. This is despite the excellent annual budgets that the Government has tabled over the past few years. He added that in the past, Budgets that were described as being balanced did not take into account development expenditure. The 1994 Budget account for very sizeable development expenditure of RM13 billion. It is indeed a very outstanding achievement.

The Budget also addresses current issued vital for the sustained growth of the country's economy. Issues such as environment, labour, education, inflation and housing are tackled. Incentives to spur 'invest in Malaysia' are provided for reverse investment, promotion of tourism, enhancement of the country's competitiveness with reduction in corporate tax rate and promotion of research and development.

The economy is poised to pave the way to realise the country's Vision 2020 goals. The motivated working population and the stable political climate will provide the foundation for the sustained growth. We as professionals will continue to do our very best to contribute our expertise to the nation and be partners with the fiscal authorities in their role as the country's revenue managers.

## QUOTE

*'The Secret of contentment is knowing how to enjoy what you have, and to be able to lose all desire for things beyond your reach'*

**Lin Yufang**



# MIT/MIA 1994 Budget Activities

**T**he 1994 Budget Hotline service by MIT-MIA in collaboration with the New Straits Times Group was opened to members of the public on Saturday, October 30, a day after the 1994 Budget was presented by the Honourable Minister Finance, YB Dato' Seri Anwar Ibrahim on October 29, 1993.

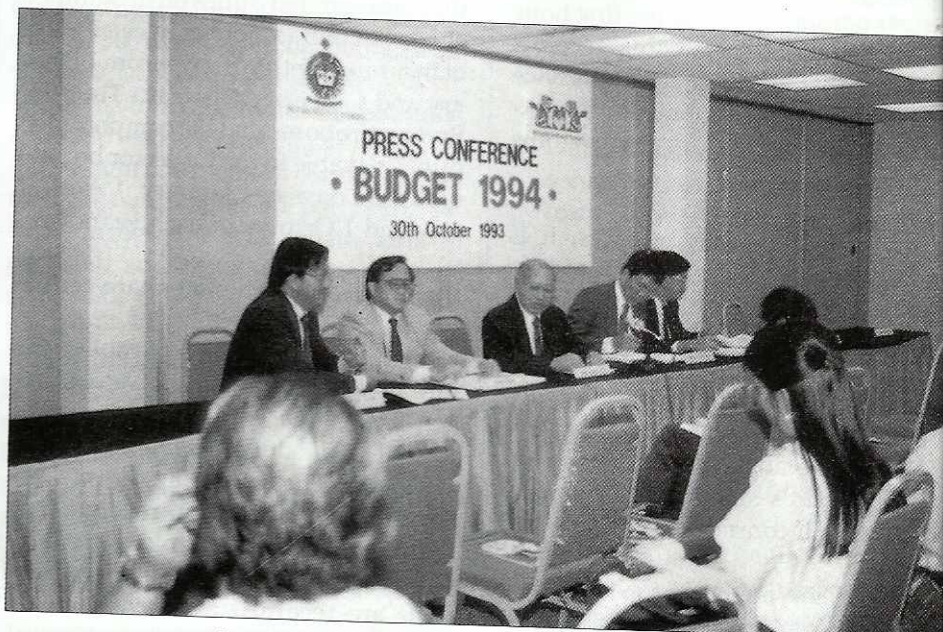
The hotline was operated from 9.30 am to 12.30 pm in three languages, English, Bahasa Malaysia and Mandarin. About 150 calls were received by the hotline handlers. The callers ranged from housewives to company officials who sought clarifications among others on the 50 cents increase in the rate of stamp duty on contract notes for every 1,000 shares, increase in tax rebates for individuals whose chargeable income is RM10,000 and below and the relief for parents with children at the institutions of higher learning.

The expansion of the service tax base to include parking space services for motor vehicles and courier services by courier service firms with an annual turnover of RM150,000 and above elicited many enquiries on the details of the implementation.

At the press briefing held exclusively with the NSTP Group reporters at the Secretariat on the Budget day, MIA President, Yang Berbahagia Dato' Hanifah Noordin and MIT President, Encik Ahmad Mustapha Ghazali both described the Budget as 'fantastic' as it addressed current issues vital for the development of the country.



*The Budget Hotline Handlers at work*



*One of the panelists responding to a question from the press*



"The budget is positive, balance and well thought-out", said the two presidents.

Encik Ahmad Mustapha Ghazali, MIT President said that the increased Employees' Provident Fund and life assurance reliefs and rebates have spared another 60,000 lower income earners from paying tax.

Meanwhile, Y. Bhg. Dato' Hanifah added that in keeping with the spirit of free trade, the budget has reduced and abolished certain taxes over nearly 500 items including baby and infant food, building materials, medical equipments and also motor vehicle spare parts. This would help to maintain a stable work force in the work places, build the spirit of caring society, stimulate building industries and encourage the relocation of factories and industrial sites.

At the post - Budget press conference on October 30, MIT representative described that in general the 1994 Budget was very balanced and the spur to invest in Malaysia has been encouraging.

It was added that the reduction of the corporate tax rate to 32% and the promise of further cuts in the near future was the move in the right direction to attract foreign investments in the country.

It was further elaborated that other investment incentives such as the increase of reinvestment allowance of large companies to 50% and the extension of Operational Headquarters (OHQ) status to commercial and investment banking companies also aimed at wooing foreign companies to invest in the country.

The Institute would like to extend its appreciation and heartfelt thanks to the hotline volunteers Chee Pei Pei, Thang Mee Lee, Lau Chin Wee, Fatimah Mohd Salleh, Wong Sheue Yann, Patsy Choong, Phoon Sow Cheng, Chow Kee Kan, Lee Beng Fye, Victor Ng Sho Shee, Lee Lee Chin for their kind contribution to the Institute.

As in previous years, the Institute held a series of forums on the 1994

Tax Budget simultaneously at Penang, Ipoh, Johor Bahru, Kota Kinabalu, Kuching, Miri and Sibu on November 6, 1993. Such a forum was also held in Kuala Lumpur on November 13. The forums organised jointly by the MIT and MIA with the assistance of the respective Branch Committees of MIA were well attended by participants at those locations.

Participants sought clarifications on tax implications of the 1994 Budget and the applications of the recent amendments to tax legislation announced by the Honourable Minister of Finance. They also took the opportunity to seek clarifications on problems they encountered in their work or practice as a result of the new tax legislation.

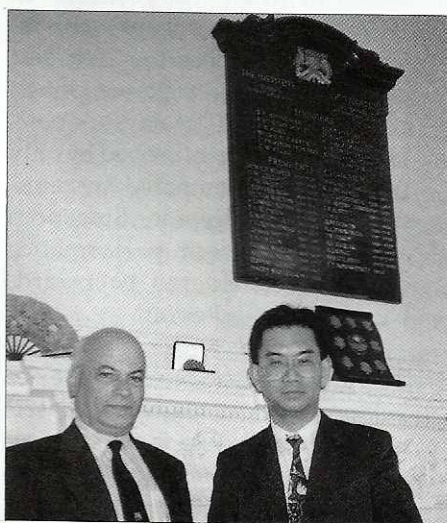
The speakers who took part in this year's Budget forum were as the following:-

Yap Soon Hin	-	Penang
Lee Yat Kong	-	Ipoh
Tang Sim Chow	-	Johor Bahru
Goh Chee San	-	Kota Kinabalu
Lim Kah Fan	-	Kuching
Teh Kok Leong	-	Miri
Chin Chee Kong	-	Sibu
Michael Loh	-	Kuala Lumpur

## Visit to the Institute of Taxation, U.K.

On 29 July 1993, the Institute's Council member and Honorary Secretary, Mr Chuah Soon Guan visited the Institute of Taxation, U.K.'s office at Upper Belgrave Street, London. He spent an afternoon with the Institute of Taxation's Secretary, Mr R.J. Ison.

Mr Chuah who is also the MIA's Technical Secretary was undergoing a 6 weeks attachment with the Institute of Chartered Accountants in England and Wales (ICAEW) at that time. His attachment was funded by a charitable trust of the ICAEW. During the visit Mr Chuah briefed Mr Ison on the incorporation and current projects of the Institute such as its proposed examinations. He also informed Mr Ison on the formation of the Asian-Oceania Tax Consultants' Association and its planned activities. In turn Mr Ison



Chuah Soon Guan with R. J. Ison

explained the set-up, on-going activities and current developments of his Institute.

## MIA AGM

MIA will hold its seventh AGM on 19th December, 1993. Besides tabling the Institute's audited accounts for the year-ended 30th June 1993, members will also re-elect six members of the Council who are due to retire. They are Dato' Hanifah Noordin (MIA President), Goh Joon Hai and Lee Hwa Beng from the Public Accountants category and Soon Kwai Choy (MIA Vice-President), Choong Tuck Yew and Toh Han Soh from the Registered Accountants category. Except for Toh Han Soh, all the five retiring Council Members are seeking re-election.

The other nominees from the Public Accountants category contesting the election are Abdul Samad Haji Alias, Beh Lye Huat, Mohamad Daruis bin Zainuddin, Seah Cheoh Wah and Tan Kim Leong while Azlan bin Mohd Zainol, Cheah Hoi Meng, Francis Anthony, Patrick Low Han Hing, Hj Maidan Syed Ali, Tan Soo Soon and Yusop bin Keling are from the Registered Accountants category. This is the first time so many candidates are contesting for the six available seats. By the time this is read the outcome for the election would be known.



# PREPARING FOR THE NEW TAX REGIME

by

Barjoyai bin Bardai

Department of Accounting  
Faculty of Business Management  
UNIVERSITI KEBANGSAAN MALAYSIA

## 1 INTRODUCTION

The May 26th, 1993 ASEAN WEEK carry a small column entitled 'New world order'. The week's focus was on the taxman cometh. A brief but very sharp remark was made by the editor, and I quote "Poor countries collect three quarters of their revenues by taxing sales, services and trade. These are relatively easy to collect. In rich countries, income, capital gains and other direct taxes account for more than two-thirds of revenue". How true is this statement? Some public finance expert would regard this statement as about 10 years behind time. The World Bank in its recommendation in the 1987 report on tax reform stated that "consumption taxes are preferred as they do not affect the efficiency of domestic production". The Bank had actually prescribed the tax in any reform to be undertaken by developed and developing countries. Having said that the bank reported its observation that in-

come and other direct taxes played a significant role in the industrialised countries.

If the statement on the new world order above is true, then Malaysia would be in an odd position. In 1972, the Malaysian tax system was ranked as the 29th best based on this direct taxes emphasis criterion. In 1990, Malaysia's position had actually improved by only two points. Compared to countries like the Philippines, Singapore and Thailand, our performance could be considered backward, based on this criterion.

But, if we analyse carefully the development in our tax system, based on this direct taxes emphasis criterion, we could probably observe that our tax system is actually going backward. In 1985, the system reached its peak (in terms of this direct taxes emphasis criterion). As it was about to reach the developed countries tax system status, it turned back into the indirect tax

system. Are we doing this on purpose to stay as an under developed economy or are we actually following a different wave in the tax ideology.

If we say that we are actually following this new wave in the public finance thought and had shifted our attention on efficiency, are we then saying that developed countries are not concerned about efficiency? A good rationale perhaps is that in most developed countries, corporate tax has been seen as a prominent. Note that these countries have not moved an inch from this position for a long time. Countries like USA had attempted a switch to the imputation system in order to reduce the inefficiency in corporate taxation without avail simply because they cannot afford the tax system is inequitable and we are not concerned for equity or distributional impact in the tax system? The proponent for indirect taxes argue that these tax instrument are more efficient. The con-



cept of efficiency is normally being examined in relation to the distortion impact. This is identified with the two main effects of taxation on the taxpayers. Taxation that resulted in substitution effect' is said to be distorting while instrument that resulted in 'income effect' is not.

It is normally believed that income taxes are more distorting because of the substitution effect. It is said that, to avoid the substitution effect in income taxes we must introduce a lump sum tax such as a poll tax. In the case of commodity taxes such as sales, services and import taxes, it is easier to achieve higher efficiency by focusing on the least elastic commodities in the economy as the tax base.

Lets explore these issues by projecting the various impacts of the tax instruments available in Malaysia. Perhaps this exercise could cast some light on the readiness of our tax system in facing the challenging century ahead.

## 2. TAX IDEOLOGY AND PHILOSOPHY

There are many ideologies and concept related to tax policy that have been pursued by tax scholars. These includes 'optimal taxation', 'neutrality taxation', taxation as incentives and deterrent' 'equity taxation' 'Utilitarian taxation' 'Rawlsian taxation', however, boiled down to the two basic philosophies of taxation, namely that of upholding 'equity' and 'efficiency' in the economy. The efficiency and equity or distributional dominated the public finance literature for decade. The proponents of equity or distributional taxation argue that taxation is one of the most important instruments in the economy to achieve a just and equitable society. The argument rely heavily on the premise that public sector expenditure and subsidies could be designed effectively to distribute back this tax collection equitably based on the Rawlsian principle. The proponents of efficiency taxation, on the other hand argue that distributional objectives should be

tackled through other instruments and policies in the economy. They argue that an efficient tax system would create a formidable impact on the efficiency of an economy.

Instead of viewing equity and efficiency as conflicting objectives in a tax system, we are moving into reconciling and evaluating the trade-offs between the two objectives. Perhaps we could search(21) for a tax instrument that could fit both the efficiency and equity objectives as discussed above. In practice, however there is no country in the world that practise only indirect taxes on direct taxes. It is just a matter of degree. We in Malaysia, for example, emphasize more on indirect taxation perhaps with a view of projecting efficiency and equity objectives as discussed above. In practice, however, there is no country in the world that practise only indirect taxes on direct taxes. It is just a matter of degree. We in Malaysia, for example, emphasize more on indirect taxation perhaps with a view of projecting efficiency in the economy. This combination of direct and indirect tax system is called the hybrid tax system.

## 3. DESIRABLE CHARACTERISTICS OF A TAX SYSTEM

It is widely believed that there are five properties of a good tax system, namely economic efficiency(22), administrative efficiency(23), flexibility (24), political responsibility (25) and fairness (26) (Stiglitz - 1988). Of the five characteristics, two of the most pertinents are economic efficiency and fairness i.e. equity criterion. Adam Smith (1776) 'maxims of taxation' (27) must also be mentioned in passing because while they are old, most of them are as relevant as ever. Adam Smith actually more concerned about equity (fairness) and administrative efficiency than anything else.

One other important criterion that must be taken into account in designing a tax system is the tax revenue productivity (28). Based on

the observation we could actually summed up that a good tax system must be productive in generating tax revenue, least distorting (29) and equitable (30). As it might not be possible to have an instrument that would meet all the three criterion, it is important that we combine several instruments in the economy to form a comprehensive system that would represent the different criteria pursued. We therefore need to evaluate the whole tax system rather than an individual instruments in order to evaluate the attainment of the various goal in a tax system.

## 4. EVALUATION OF THE MALAYSIAN TAX INSTRUMENT

As a first stage in the step toward designing a new tax regime for the economy in preparing ourselves for the 21st century, let us evaluate each of the tax instruments in our system. We shall try to evaluate the system based on the three main criteria above, namely economic efficiency, equity (or distribution) and tax revenue productivity. In performing the analysis, a general equilibrium model(31) is employed which is regarded as a more credible tool in a tax policy analysis, like this. This of course does not infer that the model is perfect (32). The model which was Walrasian in nature was developed purposely for the evaluation of the Malaysian tax reform proposal (33). The model basically attempts to simulate the Malaysian economy which had been reduced into a miniature size in terms of the number of goods, consumers and producers as shown on figure 1 (34). One basic limitation of the model is that it could only project a marginal impact of tax changes (35). A research by Keller (1980) had shown that the result from the model is valid up to a ten percent changes in the tax rate. The model was also linear in nature though Bovenberg and Keller (1984) proved that similar results would be obtained from a nonlinear model with a very small margin of error. Tax instruments were introduced into the economy as a wedge between producers and



consumers. By imposing a 1% increase in the tax rate of each instrument, we want to gauge the impact created on the taxpayers in terms of tax burden and its distribution. We will account for the economic efficiency, tax burden distribution and the tax revenue generation from this result.

#### a. Analysis Based On Economic Efficiency

Table 3 below shows the ranking given to each tax instrument available in the Malaysian tax system in terms of the efficiency criterion. Economic efficiency of each of the tax instruments has been measured by taking the excess burden resulting from the 1% increase in the rate of each of these instruments. Only the total private burden had been taken into account. They were then compared to the total tax revenue collected and total public utility generated from the tax.

Some comments on the tax instruments are quite pertinent here. The first nine tax instruments are indirect taxes. All of them are actually collected by the producers except for the services tax. The next five tax instruments actually represent the complete schedular system of income taxes. Each of the five tax instrument represents a group of taxpayers in a particular tax bracket. The number of tax brackets had been reduced and lumped into a manageable level for analytical purposes. The tax payers at the informal level escape the tax net owing to their low income. Payroll tax here is actually the employers' contributions to the Employees Provident Fund scheme (EPF) and these are collected from the industries and the public sector. Finally, lump sum tax has been introduced in the model just to gauge the impact of a neutral tax instrument in the economy. This could act as a yardstick to measure the economic efficiency impact.

The results of the analysis show that Sales and Import taxes are the most efficient tax instruments. An exception, however, is the tax on beverages and tobacco and on other goods which mostly comprise industry's inputs. As expected, income taxes are shown to be inefficient, notably because of the substitution effects. Surprisingly, corporate tax came out as one of the most efficient tax instruments in the economy. The imputative nature of the tax had actually contributed to this result (36). Note the efficiency impact of the employers EPF contribution. It is one of the worst instrument in the economy. Beside the Services tax (37), which was found to be inefficient economically, the other indirect taxes fared very well in the efficiency measure. In the case of the tax on beverages and tobacco, the inefficiency was due to the high consumption by the low income groups who lose more utility relatively as a result incurred were relatively higher, inelastic goods yielded high tax collection, the tax burden incurred were relatively higher. The Sales tax on other goods actually attacked the imported goods used by manufacturers in Malaysia resulting in a high burden.

#### b. Tax Productivity Analysis

Table 4 project the results of the tax revenue productivity analysis. Here we relate the tax revenue increase as a result of 1% increase in the rate to a tax increase projection (38). This is an attempt to measure the indirect impact of the collection (39). The percentage of actual tax collection to the expected tax collection measure the tax elasticity.

Notice how productive the tax on beverage and tobacco and the tax on primary commodities are (40). Corporate taxes is again very productive presumably because a corporate body is just a conduit rather than a

true taxpayers, which make them less responsive to tax rate changes. Income taxes are also quite productive because taxpayers in Malaysia, particularly in the employment sectors, have little opportunities to avoid taxes. Again, the employers' contribution to the EPF have been found to be a inferior instrument. A small change in the EPF rate is expected to alter employer behaviour. Petroleum products and other goods were also found to be least productive because these goods are sensitive to price changes. This could have been due to the high import content of these goods. The same is true for manufacturing durables. Import taxes were also found to be least productive because all import items are basically quite elastic in nature.

#### c. Equity Of Distributional Analysis

Distributional impacts are measured in terms of net welfare change in relation to the lump sum tax changes as shown in table 5. (41). Notice that the tax rate increase had resulted in a large reduction in the private welfare of the taxpayers (42). Most tax instruments have therefore shown better performances than lump sum tax. We need to focus on the three sets of figures in the last three columns which take into account the different concerns for the poorer group in the economy.

Notice how equitable income taxes are in these distributional analysis (43). Surprisingly, corporate tax is quite regressive (44). We could trace two reasons for this. One is the flat rate nature which could have affected the smaller companies (45). It could also be because of the tax shifting to the employees (46). Strangely, the taxes on clothing and footwear and petroleum were found to be quite progressive. This could be due to the smaller quantities of these goods consumed by the



poorer taxpayers. The employers' contributions to the EPF had also been found to be quite progressive though the rate is proportional. This result could have been resulted by the significant number of middle class employees that are not contributing to the fund as they are on the government pension scheme.

What can we make out of the analysis above? We have observed the most efficient tax instrument, the most productive and the most equitable. It is now a matter of 'juggling' these taxes to form an optimal tax structure. Based on the normative approach (47), we could perhaps evaluate some of the tax reform strategies advocated by the government and chart a path for the future trend in the Malaysian tax regime.

## 5. EXAMINING THE VARIOUS PATHS TAKEN IN THE PREVIOUS TAX REFORM PROPOSALS

As a pragmatic approach in the tax regime analysis, we seek to examine the projected impact of the various tax proposals made earlier. It is hoped that this will lead us to the desired path in pursuing a tax regime for rapid development.

### a. The Sales And Services Tax Agenda

Analysis of the Sales taxes as shown on Table 6, revealed that the taxes on clothing and footwear are the most efficient economically (see Barjoyai - 1993 (a) for details). The taxes on these items are also found to be most equitable relatively. Taxing clothing and footwear items are also the most productive. The tax on beverage and tobacco is one of the most productive tax instruments making it a good candidate for improving the productivity of our tax system (48). It was, however, found to be most regressive (49). Other goods and petroleum are the opposite. These are the worst items to be in-

cluded in the tax base predominantly because they are used as input the manufacturing activities. Even though the ring system provide credit, the system does not work effectively, which sometimes created some snowballing effects. The tax on food items was found to be the most regressive tax (50). Unfortunately, this tax was also found to be quite inefficient, least productive and quite regressive. This is contrary to the belief that a tax imposed at the retailers' end would be more efficient. Contrary to the comprehensive tax base principle, perhaps we need to examine again the tax base for the Sales and Service tax and discriminate them to achieve the optimal goal in the new tax regime.

### b. The Value Added Tax

A comparative analysis between the current Sales and Services tax the Value Added tax (VAT) shown on table 7 revealed that an immediate switch to the consumption type VAT would improve economic efficiency by about 60%, a significant improvement in equity and in tax productivity (51) (see Barjoyai-1993 (a) for a comprehensive analysis of vat). It is important to stress here that the VAT must be of the consumption type with a zero rating on foods items. The efficiency improvement would come from the elimination of the possible snowballing effect and the effect of zero rating the food items.(52)

### c. The Import Tax Reform Agenda

The strategy to slowly abolish import taxes in Malaysia is a step toward the right direction. Beside removing all kinds of tariff protection, it would also improve economic efficiency and distribution. The tax is least productive presently as shown in analysis on table 8 (refer to Barjoyai - 1993 (a)). At the initial stage, step should be taken to exempt all durable goods from import taxes, which

will have quite a substantial impact on economic efficiency, equity and tax productivity.

### d. The Corporate Tax Reform Agenda

To determine the appropriateness of integrating the corporate tax with the individual income tax, we ran a simulation on the three systems, namely the classical system (53), the imputation system (54) and the pure corporate tax system (55). The result is shown on table 9 below (refer to Barjoyai - 1993 (a)).

Even though the classical system promised a large tax revenue (56), it is the least productive when compared to the expected tax revenue. The pure corporate tax system was found to be most productive, presumable because it does not involve individual taxpayers. In terms of distributional burden, the current imputation system was found to be the most economy. The classical system was found to be the most regressive. In terms of economic efficiency, the pure corporate tax system generated the least excess burden (57). The selection between the imputation and the pure corporate tax system would depend on the priority of the policy makers. If economic efficiency is the main criterion then pure corporate tax system must prevail. On the other hand, if distributional objective is to be projected then the current imputation system could stay intact. Since the current tax system is almost as good as the pure corporate tax system, we practically do not have to do anything.

### e. The Employees provident Fund

Employee will get emotional if a proposal is made to reduce the contributions of employers to the fund. But, our analysis on table 10 has shown that the contribution to the EPF by both employees and employers are the most inefficient, least pro-



ductive and regressive in terms of its distributional impact (see Barjoyai- 1993 (a) - for detail). This could be traced to several reasons. Firstly, it was EPF currently only provides an average return on investment of 8% per annum, and this falls short of the current market return on investment (59). A scheme of share option to be redeemed using the employers portion of EPF contribution would be a positive move toward the management buy out policy in Malaysia (60).

#### f. The Income Tax Bracket On Individual

An analysis of the individual tax bracket based on the 1993 budget proposal revealed the following observations based on table 11. The rate of increase in the taxable income class the rich. Based on the tax rate increase, we could also make a parallel observation. Some public policy scholars had suggested a flat-rate tax system as a way to improve efficiency (61). the basic idea in flat -rate tax is that it would eliminate the substitution effect in the income taxes. Going towards a flat-rate income class and tax immediately will be considered too extreme (62). The basic premise here is that the lesser the income class and tax bracket, the smaller will be the distorting expected out of the income tax sytem.

Table 12 show the comparison of the total effect between the current tax bracket and the proposed three brackets and the proposed three brackets for the individual income tax system (see also Barjoyai - 1993 (B). In terms of tax revenue productivity, the three brackets system is superior since taxes are collected at a broader base average. Based on the efficiency criterion, again the three brackets system is more outstanding (63). The new three brackets system would improve the distributional impact of the tax system as it is more progres-

sive in nature (64) Reducing the tax bracket must therefore be pursued as it will not cost us anything but only result in improvement in all aspect of efficiency, equity and tax productivity (65).

#### g. Integrating zakat and income taxes

In theory the Malaysian tax system had integrated income taxes with zakat (66). The system is however still deficient in that the assessment and timing of collection are not parrellel. Effort is being made to appoint the Inland Revenue Department as the official 'a' mil' (67). If we could implement a complete integration between zakat and income tax and this is done at the Inland Revenue Department level, we could assure that all Muslims will fulfill their zakat obligation. What is most crucial is that zakat collection will then be distributed to the poorest group in the economy (68). This would at least improve the distributional impact of the tax and zakat system (69).

To satisfy our curiosity as to whether this complete integration between zakat and the income tax would improve the economy we ran a simulation on the scenario. Tables 13 provide a comparison between the present tax scenario and the scenario with zakat fully integrated with the income tax system. (For a more detail discussion see Barjoyai - 1993 (c). In terms of tax revenue productivity, the integrated system appears to be more productive as it now covers a wider tax base and more taxpayers (70). In terms of economic efficiency, the impact is negative as expected. Since zakat is collected at a flat rate from all taxpayers, the impact is expected to be regressive (71). But this is just a temporary phenomenon as the distributional aspect of zakat collection will correct this initial regressive impact. The overall distributional impact is more

progressive under the integrated system. What is interesting form the observation is that the non Muslims would actually benefit in terms of this distributional impact even though they are actually the neutral party in this exercise.

#### 6. A NEW TAX REGIME

The discussion above had hope to depict the critical picture of our tax system. Beside projecting the strengths and weaknesses of each tax instrument, it has also attempted several specific evaluations of possible tax reform proposals. In concluding the discussion perhaps we should summarised our stand which should then be taken as the pathway toward the new tax regime.

First is the question of tax ideology. Are we following the West emphasising on direct taxes for administrative efficiency and equity or following the new trend advocated by the World Bank to give emphasis on economic efficiency. Perhaps, we do not want ourself to be dragged into this tussle between equity and efficiency. After, in some instances, the two objectives could be achieved simulteneously. Tax instruments, such as the corporate tax, for example, are known to be productive, efficient and equitable. The Sales tax on clothing and footwear also fit the objective of efficiency and equity. It would be better to look at the micro level and evaluate each instrument closely before balancing the overall structure of the tax system. We must not be trapped by the basic assumption such as the progressive nature of income taxes and the regressive nature of indirect taxes.

Corporate tax as an important tax in contributing to the total tax revenue must be strengthened and broadened in terms of its base by slowly removing exemptions and incentives. Income taxes on individuals as the only direct taxes on individual taxpayers must always be evaluated periodically. The tax brackets reduction reform should



be one immediate step toward a broader reform in the income tax. Moving towards the full integration of income tax and zakat will be a very pertinent move. Value added must come to the picture soon, as it has been proven to be superior to the current system. The drawback in the Sales and Services taxes must be tackled immediately if the tax is to remain in the system.

As a general point, the tax system must be sensitive to the investment and saving level in the economy. It must not reduce saving but at the same time must not force saving unnecessarily. The tax system must also be sensitive to the development of our business sector and the economy as a whole. As we are venturing into the international economy, the tax system must be responsive to the need and expectations of the business sector inter-

nationally. The remittance basis on taxation might need to be reviewed in line with this development. The existence of Labuan as an offshore financial centre must also be reviewed. Is it not better to make Labuan an investment centre form the world conglomerate including those companies that wish to venture into Malaysia?

Finally, several guidelines on the reform of tax system (advocated by Pechman - 1967 and Stiglitz - 1988) is worth pondering.

First, the magnitude of distortions in a tax system is associated with the magnitude of the marginal tax rate. thus, we must design a tax system, with low marginal rates.

Second, tax avoidance schemes are associated primarily with the progressivity of the tax capital. Re-

ducing the differential treatment of income would reduce the incentive to engage in tax arbitrage.

Third, the complexity of the tax code arises from many of the same sources that give rise to tax avoidance.

Fourth, if we could eliminate or reduce tax avoidance and tax evasion, we could make the tax system more progressive and improve efficiency in the economy.

Fifth, a simple direct taxes is a good tax because it has the property that one should know upon whom it falls.

It is hope that the above points would serve as a good provocation to trigger some feedback so we will have a good discussion following this presentation.

## New Order The Tax Man Cometh

Rank		Direct	Direct	Rank		Direct	Direct	Rank		Direct	Direct
1990	1972	Country	taxes (%)	1990	1972	Country	taxes (%)	1990	1972	Country	taxes (%)
1	3	Japan	71.2	27	25	South Korea	34.0	53	28	Sweden	18.1
2	6	Australia	65.1	28	12	Liberia	33.9	53	56	Guatemala	18.1
3	8	Vanezuela	57.5	29	-	Mauritania	32.3	55	-	Hungary	17.9
3	11	Indonesia	57.5	30	20	Netherlands	30.7	56	46	France	17.3
5	41	Ecuador	56.9	31	29	Malaysia	30.5	57	33	Norway	16.6
6	9	Canada	53.7	32	-	Poland	30.4	58	40	Germany	16.4
7	4	New Zerland	53.1	33	24	Finland	30.2	59	-	Egypt	15.9
8	5	United States	51.6	34	61	Syria	29.5	60	37	India	15.4
9	7	South Africa	48.6	35	34	Zaire	28.9	61	31	Panama	14.7
10	-	Cameroon	45.2	36	43	Ghana	28.7	62	32	Mauritius	13.9
11	-	Zimbabwe	44.9	37	49	Spain	28.4	63	49	Tunisia	12.9
12	-	P. New Giunea	44.6	38	54	Philippines	28.3	64	60	Iran	12.6
13	23	Turkey	43.3	39	17	Colombia	27.8	65	52	Lesotho	12.4
14	-	Namibia	42.7	40	18	Kenya	27.4	66	42	Sri Langka	10.8
15	36	Hong Kong	40.6	41	19	Sierra Leone	26.3	66	63	Nepal	10.8
16	15	Britain	40.3	42	30	Singapore	24.3	66	-	Mali	10.8
17	39	Botswana	38.6	43	57	Thailand	24.2	69	48	Peru	10.0
18	10	Zambia	38.1	44	-	C. Arican Rep.	23.9	69	55	Pakistan	10.0
19	23	Ireland	38.0	45	-	Portugal	23.8	69	58	Jordan	10.0
19	13	Denmark	38.0	46	1	Oman	23.4	72	44	Costa Rica	9.8
21	47	Italy	36.6	47	52	Chile	23.3	73	59	Paraguay	9.3
22	16	Mexico	36.5	48	-	Chezoslovakia	21.7	74	26	Burma	9.0
23	-	Bulgaria	36.4	49	45	Dominican Rep.	20.9	75	64	Bangladeh	8.6
24	13	Israel	35.9	50	38	Austria	19.0	76	-	Bhutan	7.9
25	22	Belgium	35.2	51	-	Romania	18.9	77	62	Uruguay	6.7
26	21	Balawi	35.0	52	51	El Salvador	18.8				



# APPROVED OPERATIONAL HEADQUARTERS

**T**he development of the approved operational headquarters incentive in Malaysia has been rather modest. Since its introduction in October 1988, 6 operational headquarters (OHQ) have been granted approval by the Ministry of Finance and established. To accelerate its growth, the Government in the 1993 Budget announced that the incentive would be extended to selected service sectors. This discussion focuses on the following areas:-

1. What is new about the incentive
2. An evaluation of the expanded incentive; and
3. A cursory comparison with the OHQ status offered by Singapore.

## NEW FEATURES OF THE INCENTIVE

Basically, the structure of the incentive (both fiscal and non-fiscal), has not been altered. Revised guidelines issued by the Ministry of Finance to take effect from 1 January 1993 contain the following new features:

### 1. Scope of the concept of OHQ

Under the former guidelines, the OHQ concept was available to foreign owned companies in all sec-

tors other than the finance and service sectors and the activities of the OHQ's network of companies must include manufacturing. These guidelines had been a narrower interpretation of the definition of an approved OHQ in Section 60E(7) of the Income Tax Act which reads as follows:-

Therefore whilst statutory provisions may previously allow an OHQ (not being a finance or professional services company) to serve a network of companies in the finance and services sectors without any manufacturing activities, under the former guidelines the concept of OHQ would probably not apply and the application may not be considered favourably.

The new guidelines provide that the OHQ concept applies only to foreign-owned companies in the manufacturing and the following service sectors:-

#### a) sea and air services

- transport services by sea and air (except cabotage)
- passenger transportation by sea and air (except cabotage)
- freight transportation

- rental services of sea-going vessels
- towing and pushing services
- cargo handling services
- storage and warehousing services
- vessel salvage and refloating services

#### b) communication services

- postal services
- courier services (air and land)
- telecommunications services

#### c) tourism services

- travel agency, hotel and other lodging services

#### d) professional and consulting services

- legal services
- accounting and auditing services
- taxation services



- market research
- management consulting services including economic and financial
- architectural services
- engineering services
- computer services including software development

The above amendment to the scope of application of the OHQ concept however did not bring about any change to the above statutory definition of an approved OHQ. Reading the new guidelines, the current legislation and the application form for the OHQ status and incentive, it may be concluded that whilst an approved OHQ itself cannot carry on a finance business or provide professional services, it can serve a network of companies engaged in the manufacturing and selected services sectors as listed above. In this context, it must be read that the provision of credit facilities and treasury and fund management activities (see below) by themselves do not constitute the carrying on of a finance business.

## 2. Qualifying services

The list of qualifying services was amended to include the provision of treasury and fund management services to its foreign offices/related entities so long as the following conditions are observed:

- a) the funds are raised from borrowings outside Malaysia and do not involve funds raised in Malaysia without the approval of Bank Negara; and
- b) the foreign currency funds managed by the OHQ cannot be converted into ringgit and any ringgit holdings cannot be converted into foreign currency, without the approval of Bank Negara.

In this regard, the new guideline broadens the scope of activities allowed

under the statutory definition of qualifying services which read as follows:-

Under the new guidelines, approved OHQs would be able to tap both local and offshore funds provided local borrowings are approved by Bank Negara.

## 3. Tax legislation

The proposal to extend the OHQ concept to the services sector was announced in the 1993 Budget. As discussed above, no changes were made to the legislation governing the OHQ incentive. Therefore we will not delve into the technicalities of the tax incentive in this discussion.

## EVALUATION OF THE INCENTIVE

The expansion of the incentive to allow approved OHQs to serve companies in the services sector albeit selected ones represents a move away from our heavy reliance on the manufacturing sector. Towards Vision 2020, this move inevitably enhances the development of an economy that would be less susceptible to fluctuations within a particular sector.

Having said that, apart from the tourism industry that has in the past few years been a favourite recipient of incentives, the services sectors selected constitute the supporting services for the main player, the manufacturing industry. With a network of adequate international supporting services in the transportation, communications and professional sectors, Malaysia would be well-poised to become the regional base for the manufacturing facilities of any multinational company.

To a certain extent, the exhaustive list of sectors which an approved OHQ can now serve may limit the network of companies which can be linked to the OHQ. This feature would however assist the Government to manage the internationalisation and influx of foreign expertise and funds into the country in an orderly and gradual manner.

In delivering this keynote address at the Asia Society Conference in Tokyo

May 1993, our Prime Minister described the Malaysian economic integration as a "clear example of market-driven open regionalisation". This concept has been extended to Malaysia's proposal for the EAEC, a consultative forum for the economies in the region with the mission to enhance regional economic co-operation and perpetuate the open global trading system. In short, the emphasis for the present and future is regionalisation of economic activities and open economies. Therefore it is no surprise that the approved OHQ status and incentive has been reviewed and extended so as to play a more effective role in this direction.

The spill-over effect of the link of a Malaysian base to international services sectors should not be underestimated. On World Telecommunications Day 1993 it was reported that the vision of the privatised Telekom Malaysia is for Malaysia to attain the status of an advanced nation in telecommunications by 2005. Other local players such as Sapura and NEC have also joined the race to place Malaysia in the world's records for new technologies in the telecommunication industry. With approved OHQs established to serve the telecommunications sector, it can only be expected that even the sky may not be our limit any longer. Demand for sophisticated and state-of-the-art technology would promote research and development efforts in this sector. The ultimate beneficiary would be none other than the consumer, particularly the manufacturer who can have an edge over his competitor who may still be relying on yesterday's technology to make business decisions.

An approved OHQ serving the services sectors basically provides Malaysian consumers information on and possibly access to the current foreign expertise and technology available in the international arena. With a market-driven open regionalism trading concept, competition should ultimately drive Malaysian businesses to demand quality services from the services sectors. Survival of the local service providers can only be achieved by a regular upgrading of the quality of the services provided and managing and exceeding the clients' expectations and demands on a proactive basis.



In line with Visit Malaysia Year 1994, the tourism sector is given a further boost through the extension of the incentive. Influx of foreign expertise in this sector should benefit both Malaysia and the foreign partner by a mutual promotion of tourism in both countries.

To provide a further boost to the development of the capital market, approved OHQs are now allowed to provide treasury and fund management services to its overseas offices or related entities. It is speculated that this move will spearhead the growth of treasury and fund management activities in Malaysia particularly in view of the proposed deregulation of the banking industry by Bank Negara.

Treasury and fund management activities are at present commonly carried out by merchant banks in Malaysia. The main services provided include portfolio management services and dealing in Government Securities, treasury bills, bankers acceptances, corporate bonds, etc. Portfolio management services would include equity management, cash management, portfolio restructuring, portfolio administration, research services, consumer and nominee services for clients such as public and private pension funds, statutory bodies, corporations, charitable foundations and individuals.

The scope of treasury and fund management activities that an approved OHQ can engage in is not contained in the guidelines. Therefore where offshore funds are raised, there seems to be little or no restriction on the types of services that an approved OHQ can render to its offshore affiliates. It may well be that so far as offshore funds are concerned, the Government is encouraging the import of foreign expertise into this aspect of the capital market for maximum potential achievement. Foreign exchange regulatory controls over

funds raised locally allow Bank Negara to maintain its watchdog role over the OHQ activities.

It is hoped that the influx of foreign expertise into the area of treasury and fund management would stimulate the local financial services industry to expand and upgrade their services to meet the demands of the growing consumer base. Spin offs from the competition created should be substantial.

### COMPARISON WITH SINGAPORE

The OHQ concept, introduced in Singapore in 1986 was extended to the services sector in 1992. Thus far the Singapore Government has awarded the status to at least 40 companies in Singapore.

The status and incentive offered to an OHQ in Singapore is rather similar to that offered by Malaysia, with the following major differences :

1. Singapore locally-owned companies meeting the requirements qualify to apply for the incentive.
2. The time frame for the concessionary rate of tax of 10 years may be extended for longer periods subject to the approval of the government.
3. Qualifying services and activities to be provided and which can be carried out by an OHQ are prescribed by the Government in the Regulations.
4. Non-fiscal incentive are not mentioned in the Regulations on approved OHQs.

Given the above similarities and differences plus various other factors for consideration before arriving at an investment decision, what would differentiate us from Singapore from the

foreign investors' viewpoint ? Infrastructure, political stability, strength of currency, human resources, expatriate postings, cost of doing business, governmental approvals, taxation regime, natural resources.....it is difficult to place either Malaysia or Singapore in front of each other given the subjectivity of such a comparison in the absence of an objective and comparable measure.

What then can we learn from the Singapore experience given that it has a headstart of a few years and has awarded the status to more than 6 times the number of companies in Singapore? This discussion merely provides food for thought and does not attempt to provide answers to these questions, Suffice it is to caution that one obvious pitfall to avoid is this : we should merely emulate Singapore to the extent beneficial to the development of our economy. For instance, Singapore has liberalised its exchange control regulations in the early 1970s. Therefore, it is expected that Singapore can dictate the types of treasury, investment and financial activities that the approved OHQ should carry out to enjoy the concessionary tax rate. Further, our expatriate and other non-fiscal policies require that we specify such non-fiscal incentives are available to an approved OHQ while Singapore may deem these incentives as unnecessary in their laissez-faire economy.

### QUOTE

*'The deepest principle in human nature is the craving to be appreciated'*

**William James**



# INCENTIVES FOR APPROVED TRAINING

**T**he strong growth of the economy in recent years has triggered a high demand for skilled labour. The unemployment rate has dropped from 8.8% in 1986 to 4.3% in 1991.

The focus of human resource development in Malaysia is to raise productivity of the labour force through education and training. In skilled training the need to continuously upgrade the skills of the labour force and to increase the supply of skilled manpower will continue to be given priority. The labour force is expected to increase from 7 million in 1990 to about 9.4 million in the year 2000 representing an increase of 2.9%.

The overall development strategy for the manufacturing sector requires an increased number of technically trained workers. Training is a Human Resource Development strategy linked with increasing profitability, business effectiveness, employee performance, customer satisfaction and total quality.

Since the early eighties, there has been an increase in the number of training institutions, including vocational and technical schools, polytechnics and industrial training schools. Most of the training institutions are run by govern-

ment agencies, though increasingly privately operated ones are supplementing the government's efforts in producing skilled workers needed by the industry.

Aside from the establishment of training institutions the Government continues to provide double deduction for expenses incurred on approved training to all small, medium and large scale companies in manufacturing and non-manufacturing industries. This is to encourage the upgrading of skills and improving productivity and quality. These rules for double deduction are made in pursuance to Section 154(1) of the Income Tax Act 1967 (as amended), which empowers the Minister of Finance to make prescribed rules.

Prior to year of assessment 1992, the double deductions for training were contained in the following Rules;

- 1) Income Tax (Deductions For The Construction Industry) Rules 1981  
The objective was to encourage the training of employees in the construction industry through allowing a double deduction in respect of the first three months' remuneration of each employee who is under a training scheme.

## Conditions

- a) the claimant must be registered to participate in a training scheme for the training of employees in the construction industry.
  - b) a certificate from the Minister of Labour and Manpower certifying (a) above must be produced.
2. Income Tax (Deductions For Approved Training) Rules 1987

This was to encourage the training of employees in the manufacturing industry by giving a double deduction in respect of the expenditure incurred by a company on training its employees under a training programme.

## Conditions

- a) The company must be engaged in manufacturing and the training programme must be for the training of its employees in the manufacturing industry;
- b) The company must produce a certificate from the Malaysian



Industrial Development Authority certifying that the training programme has been approved, and

- c) the training expenditure must be of a kind allowable under section 33 of the Income Tax Act.

### 3. Income Tax (Deductions for Approved Training for Small Scale Companies) Rules 1990

With effect from YA 1990, a double deduction is given to small scale industries on expenses incurred on training employees with the following institutions.

- MARA Institute of Technology
- Standards and Industrial Research Institute of Malaysia (SIRIM)
- National productivity Centre (NPC)

- Malaysian Agricultural and Research Development Institute (MSRDI)
- Forest Research Institute of Malaysia (FRIM)
- Centre for Instructor and Advanced Skill Training (CIAST)

#### Conditions

- a) The company's shareholders' funds on the first day of the basics period does not exceed \$500,000.
- b) A receipt of payment and a certificate from the relevant agency certifying that the employee has undertaken the training course must be produced.

However from Year of assessment 1992 the above rules were revoked through the new Income Tax (Deductions For Approved Training)

Rules 1992 (PU(A)61) which also set out fresh conditions for granting the double deduction whilst extending the incentives to non-manufacturing companies and companies carrying on hotel or tour operating businesses. These rules are summarized in the following table.

- \* Hotel Business means the carrying on of a business provides sleeping motel, chalet or hostel where such business provides sleeping accommodation and may include providing food, drinks and other services or facilities and the granting of concessions of any part of such hotel for purposes connected with and incidental to the promotion of tourism.
- \* Tour Operating Business has the meaning assigned to it under the Tourist Development Corporation (Tour Operating Business and Travel Agency Business) Regulations 1985.

Training Company	Nature of Business	Training Programme
1. Manufacturing Company	Purpose of upgrading and developing the employees' craft, supervisory and technical skills or increasing or quality of its products.	a. Approved by MIDA or b. Conducted by a training institution
2. Manufacturing Company which has not commenced business	For the acquisition of craft, supervisory or technical skills which will contribute directly to the future production of its products.	a. Approved by MIDA or b. Conducted by a training institution
3. Hotel and Tour Operating Business*	Training of employees	a. Approved by Minister of Culture Arts and Tourism or b. Conducted by a training institution
4. All Companies	Training of any non-employee handicapped person registered with the Ministry of National Unity and Social development for the purpose of enhancing his employment prospects.	a. Approved by the Minister of Finance and conducted in Malaysia or b. Conducted by training institution



The training institutions for the purposes of these rules are as follows :

- i) National Productivity Centre (NPC)
- ii) Standard and Industrial Research Institute of Malaysia (SIRIM)
- iii) Mara Institute of Technology
- iv) Malaysian Agricultural and Research Development Institute (MARDI)
- v) Forest Research Institute of Malaysia (FRIM)
- vi) Penang Skill Development Centre (PSDC)
- vii) Institute Kemahiran Mara (IKM)
- viii) The Centre for Instructor and Advanced Skill Training (CIASST) (for training programmes for a period not exceeding 6 months)

In order to qualify for the double deduction the following conditions must be fulfilled:-

- a) The company must be registered and/or incorporated in Malaysia
- b) The trainees must be Malaysian citizens and full-time employees of the company (except in the case of training for handicapped persons)

- c) Only the operational costs or expenses deductible under the provisions of the Income Tax would qualify.

The details of the allowable costs and the procedures for applying for this incentive is contained in the official guidelines issued, which together with a copy of the relevant application and claim for double deduction forms are appended in the appendices.

In addition to the above, a new Human Resources Development Act 1992 has been introduced. This Act provides for the establishment of the Human Resources Development Fund for the purpose of promoting, developing and upgrading the skills of employees through the imposition of a one percent of wages levy on employers in the manufacturing sector with fifty employees and more.

The term employee encompasses any citizen of Malaysia who is employed for wages under a contract of service with an employer but excludes any domestic servant.

Wages is defined as the basic salary and fixed allowances or other emoluments of a like nature paid in cash by or on behalf of an employer to an employee, and includes any leave pay and arrears of wages but does not include :-

- a) any contribution paid by an employer on his own account to any pension fund, provident fund, superannuation scheme, retrenchment scheme, thrift scheme or any other fund or scheme established for the benefit of welfare of the employee;
- b) any travelling allowance or the value of any travelling concession;
- c) any sum payable to the employee to defray special expenses entailed on him by nature of his employment;
- d) any gratuity payable on discharge or retirement; or
- e) any bonus or commission.

The First Schedule of the Act defines the term manufacturing to include the making, altering, blending, ornamenting, finishing or otherwise treating or adapting any article or substance with a view to its use, sale, transport delivery or disposal, including the assembly of parts and ship repairing but excludes retail or wholesale trading.

Any employer who has paid the levy and continuously for period of five months shall be eligible to receive any financial assistance or other benefit provided under the Act, for the purpose of promoting the training of his employees.

*Wishing All our  
Readers  
A Merry X'Mas  
And  
A Happy New Year*



# TAXATION ASPECTS OF COMPANY LIQUIDATION

by T. K. Beh

## INTRODUCTION

It is essential for a liquidator to be familiar with certain basic taxation aspects of company liquidation because:-

- a) certain tax consequences may arise from the actions of the liquidator;
- b) a liquidator is obliged to observe certain provisions of the various Malaysian tax legislations in discharging his duties; and
- c) certain reliefs, credits and deductions may be available to a company under liquidation.

## TAX CONSEQUENCES OF ACTIONS OF A LIQUIDATOR

### Trading during Liquidation

Transactions carried out by a liquidator in the course of winding-up a company may amount to the continuation of the company's trade.

Generally a liquidator is empowered to carry on the business of the company so far as may be necessary for the beneficial winding-up of the company.

Disposal of assets by a liquidator is more likely to be a realization of capital rather than trading especially if the assets disposed of are fixed assets rather than trading stock of the company. The mere realization of a company's assets does not constitute a continuation of the trade. On the other hand, the completion of outstanding contracts might represent a continuation of the trade.

Cases where liquidators were held to be trading:-

Armitage v Moore 4TC199

Baker Ltd v Cook 21TC337

Cases where liquidators were held not to be trading :-

IRC v Old Bushmills Distillery  
Co Ltd 12TC1148

Whether a liquidator's disposed assets amounts to trading in a question of fact. In certain situation a liquidator may be held to have concerned a new trade price distinct from a company's business prior to liquidation (*Gordon and Blair Ltd v TRC* 40TC3581. This may effect deduction claims such as capital allowance.

### Cessation of Trading

Upon cessation of trading, balancing allowances or charges are computed on the basis that the qualifying assets are disposed of.

Expenditure which would have been allowable is computing trading profits may no longer be deductible after trading has ended.

The market value of trading stocks of a xxxxx upon cessation of trading may have to be into account to the adjustment in the company.

Whether trading has ceased or not is a question of fact. The appointment of a liquidator does not, by itself, trigger cessation.

In order to avoid or delay a cessation the liquidator should continue the company's activities in a manner as close as possible to that prior to the commencement of the winding-up. Conversely retrenchment of staff and closing down of manufacturing plants may provide evidence of cessation of trade.

Post-cessation expenses will not normally be allowable if there is no income during the post-cessation period. Debts which are doubtful as at the date of cessation should be fully provided for, otherwise any bad debts irrecoverable after the date of cessation will not be allowable for tax purposes. Doubtful debts due from associated companies as at the date of cessation should not be released, or else the debts released will constitute an income of the associated companies.

## DUTIES OF LIQUIDATORS UNDER TAX LEGISLATIONS

The liquidator of a company which is being wound up is prohibited from distributing any of the assets of the



company to its share holders unless he has made provisions for the payment in full of any tax which he knows or might reasonably expect to be payable or deductible by the company.

Any liquidator who fails to comply with the aforesaid requirement is liable to pay a penalty equal to the amount of the tax to which of the failure relates.

The provisions as stated are embodied in the various tax legislations as follows:-

Tax Legislation	Relevant Provision
Income Tax Act, 1967	Section 75(2) and (3)
Real Property Gains Tax Act, 1976	Para 5(2) and (3) of Schedule 1

Prior to final liquidation of a company, the liquidator is required to file tax returns, accounts and computations of the company up to the date of dissolution, whether or not business is being operated. He is also charged with responsibility for doing all acts and things required to be done by the company under the aforesaid tax legislations.

In practise a liquidator should obtain a tax clearance from the Department of Inland Revenue before distribution of the company's assets.

## DEDUCTIONS, RELIEFS AND CREDITS

Expenses arising from the discontinuance of a trade or the liquidation of a company are generally not deductible.

Where a landed property held as fixed asset is distributed by a liquidator of a company and the liquidation was made under a scheme of reorganization, reconstruction or amalgamation, the transfer will not attract real property gains tax if:-

- a) the transferee company is resident in Malaysia and is being restructured under the scheme;
- b) The transfer is effected pursuant to a scheme undertaken in compliance with Government policy on capital participation in industry; and

- c) prior approval of the Director-General of Inland Revenue is obtained for the transfer.

Where possible, unabsorbed business losses and capital allowances should be fully utilized before ceasing the business to which such losses or allowance relate. Balancing / plantation / forest charges arising from disposal of qualifying assets upon cessation may be offset against unabsorbed capital and business losses.

## CASE LAW APPENDIX

### 1. Armitage v Moore (4TC199)

A firm carrying on business is worsted spinners, and also supplying steam-power, executed a deed of assignment for the benefit of its creditors. The business, except as regards the supply of power, thereupon ceased, but the trustee under the deed continued to supply power, and applied the profits for the benefit of the creditors of the estate.

*Held, that the profits were liable to assesment to Income Tax.*

### 2. Baker Ltd v Cook (21TC337)

By two agreements dated 9th July, 1928, the Appellant Company acquired the assets of two other companies, of which one made and distributed cinema films and the other distributed such films, and thereafter carried on business in succession to those companies. In 1931 Appellant Company went into liquidation and the liquidator sold to two newly formed companies its plant, stock, etc., but retained the benefit of contracts made or to be made for exhibiting films on hand at the date of the liquidation.

After the liquidation the liquidator produced no new films and by himself entered into no new contracts for the distribution of films, but the new companies carried out the existing contracts, paying 90 per cent, of the proceeds to the liquidator, and one of them also made new contracts to exploit certain films which remained the property of the liquidator, paying over to him

in this instance 80 per cent, of the proceeds.

On appeal against an assesment under Schedule D made upon him for the year 1932-33 the liquidator contended that no trade has been carried on by him. The Special Commissioners held that the arrangements made constituted the new companies against for the liquidator, and that in both cases the liquidator was himself trading through the new companies and was accordingly properly assessed.

*Held, that there was evidence upon which the Special Commissioners could arrive at their finding.*

### 3. IRC v Old Bushmills Distillery Co. Ltd. (12TC1148)

A company carrying on the business of whiskey-distilling went into liquidation in August 1920, and over a period extending from that date until March, 1923, the liquidator sold off the company's stock of whiskey. The liquidator ceased distilling operations in March, 1921.

The company was assessed to Corporation Profits Tax in respect of the profits arising from the sales of whiskey during accounting periods running from the 6th April, 1921, to the 24th March, 1923, but the Recorder of Belfast on appeal to him under Section 196 of the Income Tax Act, 1918, found as a fact that the said profits did not arise from the carrying on of the trade of the company, but from realisations, sales and capital transactions incidental to the winding up of the business, and he accordingly discharged the assessments.

*Held, that the question whether the liquidator was carrying on a trade or business was one of fact, and that there was evidence to justify the Recorder's finding.*

Finally, a company should not overlook the beneficial effects, in some cases, of distributing part of the funds of the company to its shareholders by way of dividends prior to liquidation so that the Section 108 credit of the company is passed on to the shareholders.



# FINANCIAL INSTRUMENTS

## UK Proposed Tax Treatment of Financial Instruments for Managing Interest Rate and Currency Risk

### SCOPE

The new rules will apply to qualifying contracts entered into or acquired by a qualifying company on or after its commencement day.

### QUALIFYING COMPANIES

All companies within the charge to corporation tax will be qualifying companies. These include bodies corporate and unincorporated associations resident in the United Kingdom as well as UK trading branches of non-resident companies.

Although authorised unit trusts are taxed as companies for certain purposes, they are to be specifically excluded from the new scheme. Special provisions needed to adapt the new rules for investment trusts, charities, insurance and mutual trading companies.

### QUALIFYING CONTRACTS

A qualifying contract will be a contract which is either an interest rate contract or option, or a currency contract or option.

#### Interest rate contracts and options

An interest rate contract must provide for a qualifying company to pay or receive at least one variable rate payment in exchange for one or more variable rate payments, fixed rate payments or fixed payments.

A variable rate payment is determined by applying a variable rate of interest to one or more amounts of notional principal for a specified period. An example of a variable rate of interest is the London Inter-Bank Offered Rate or a function of it, such as 0.8 LIBOR plus 2.5%. The definition also covers payments which depend upon an interest benchmark (such as LIBOR) exceeding a given fixed interest rate: the "strike price". In these circumstances, the variable rate of interest might be, say, LIBOR minus 8%.

A fixed rate payment is determined by applying a fixed rate of interest to one or more specified notional principal amounts for a specified period.

Payments such as the premium for an interest rate cap are within the definition of a fixed payment. It also covers lump sum payments such as a payment computed by reference to a series of fixed rate payments rolled up and suitably discounted or enhanced.

An interest rate option as an option to enter into an interest rate contract (for example a swaption).

The only other transfers of money or money's worth for which an interest rate contract or option may provide are immaterial transfers of value and the payments listed. There are:

- a payment given or received for entering into the contract (such as the premium for a swaption or a yield adjustment fee);
- a reasonable arrangement fee;
- a payment of reasonable costs;
- a variation or termination payment; and
- a default payment.

#### Currency contracts and options

The definition of a currency contract covers contracts to buy or sell currency at a specified time. The contract may also provide, as in some currency swaps, for an initial exchange or currencies or payments determined by applying an interest rate to the currencies specified in the contract.

A currency option is defined as:

- an option to enter into a currency contract; or
- an option to buy or sell currency within a specified period or at a specified time; or
- an option which automatically settles into cash if it is valuable to the holder at termination.

The only other transfers of money or money's worth for which currency contracts or options may provide are immaterial transfers of value and pay-



ments within clause 25 of the draft proposals.

### Immaterial Transfers Of Value

A contract may include a provision which is of minor economic or commercial significance viewed in the context of the contract as a whole. Clause 26 provides that a provision of this sort is to be disregarded for the purposes of determining whether a contract is a qualifying contract if the net value transferred under the provision is small when compared with the present values of all the qualifying payments that may be made under the contract. (The "present value" of a payment is the amount of the amount of the future payment discounted (a) to reflect the probability of its receipt or payment and (b) to reflect the delay in payment at appropriate market interest rates.)

### QUALIFYING PAYMENTS

Only qualifying payments will be covered by the new rules. Qualifying payments are:

- variable rate, fixed rate and fixed payments under an interest rate contract;
- interest-based payments under a currency contract;
- a cash difference paid to settle a currency contract or option in lieu of delivery of the underlying currencies;
- the forward premium or discounted arising on a currency contract if the qualifying company accounts for the currency to be acquired or disposed of at the current "spot" exchange rate rather than the forward exchange rate in the contract;
- the payments listed in clause 25 whether or not paid under the terms of the contract;
- a payment to secure the acquisition or disposal of a qualifying contract; and
- a payment made or received for entering into a reciprocal contract to close out a qualifying contract.

Any other payments under the contract will continue to be taxed under current legislation. The new rules in this year's Finance Act will apply to

exchange differences on currency acquired or disposed of under a currency contract or following the exercise of a currency option.

### Power to amend definitions

The Treasury is power to make regulations amending the definitions of qualifying contracts and qualifying payments. This will allow these definitions to be updated in the light of commercial developments.

## PROFITS AND LOSSES

### MEASURE OF PROFITS AND LOSSES

The intention behind the clauses is that the measure of taxable profits on qualifying contracts should follow the accounting measure so long as the accounting method adopted does not provide scope for manipulation of the timing of recognition of taxable profits. Views would be welcome on the extent to which the draft clauses achieve this.

Clause 30 provides that the profit or loss on a qualifying contract for an accounting period will be computed on the basis used in the qualifying company's statutory accounts for that period if the company:

- accounts for all its qualifying contracts on a mark to market basis which satisfies clauses 30(50)
- accounts for all its qualifying contracts on an accruals basis which satisfies clause 30(6); or
- is a bank or financial trader and uses an appropriate mark to market basis for dealing contracts and an appropriate accruals basis for others.

If a qualifying company accounts in some other way for its qualifying contracts then the profits or losses for tax purposes will be computed using an appropriate basis to be specified in a notice served on the company by the Inspector.

### Mark to market

A mark to market basis of accounting will be followed for tax purposes it:

- it allocates qualifying payments to the accounting periods in which

they become due and payable; and

- it includes qualifying contracts in its accounts at fair value.

A qualifying company's profit or loss on a qualifying contract for an accounting period is then determined under clause 29 by comparing:

- the aggregate of receipts falling due and payable in the period and any increase in value of the contract for the period (amount A); with
- the aggregate of payments falling due and payable in the period with any decrease in value for the period (amount B).

A change in value of a qualifying contract may reflect movements in exchange rates on the underlying currencies in a currency contract. The profits or losses on those currencies will be picked up as they accrue by the new rules for exchange gains and losses. Clause 36 prevents them being counted twice by reducing the profit or loss on a qualifying contract to the extent that it is an exchange gain or loss. Companies will not need to show this exchange gain or loss separately for tax purposes. The overall result will be that the taxable profit or loss matches the overall profit or loss shown in the accounts.

### Accruals

An accruals basis of accounting will be followed for tax purposes if it allocates all qualifying payments to the accounting periods to which they relate. The allocation must take into account the allocation of reciprocal payments which are or may be made or received under the contract. A reciprocal payment is one which is the consideration or part consideration for the qualifying payment.

That will normally involve spreading annual or semi-annual variable or fixed rate payments evenly over the period they cover. The allocation of lump sum payments such as yield adjustment fees or rolled-up payments would normally reflect their economic substance.

Either straight-line or economic apportionment will be acceptable for an upfront premium paid for exercisable of contingent rights so long as the method chosen is followed consistently for pay-





ments and receipts. If during an accounting period it becomes clear that there is no reasonable expectation of future payments or receipts (for example because of substantial adverse movements in interest rates or a substantial change in the financial position of the counter party), the balance of any outstanding premium may be recognised in full in that accounting period.

Acquisition and variation payments will need to be spread over the remaining life of the contract in accordance with the rules described above. Arrangement fees and payments to dispose of a qualifying contract may be recognised in full in the accounting period in which they fall due.

The profit or loss on a qualifying contract for an accounting period will be arrived at under clause 29 by comparing:

- the aggregate of receipts or part receipts allocated to the period (amount A); with
- the aggregate of payments or part payments allocated to the period (amount B).

#### Other rules

The new rules will not apply to qualifying payments or changes in value to the extent they relate to the immaterial transfers or money or money's worth.

The basis on which profits or losses on qualifying contracts are computed may change if the company switches to a new accounting basis. Clause 32 ensures that there is no double-counting of profits or losses following the switch. It also picks up any profits or losses that might not otherwise be taken into account.

A payment to prematurely get rid of a qualifying contract will reflect the payments yet to be paid or received. Some of those payments, however, may already have been partly taken into account for tax purposes on an accruals basis. Clause 35 provides for the adjustments needed to ensure that there is no double-counting.

Clause 37 will allow a qualifying company to provide for bad or doubtful debts. It also brings to account recover-

ies of bad debts. The release of a debt is dealt with in clause 38.

Two equal and opposite currency options can be used to produce what is in substance a contract to acquire currency. Whichever way exchange rates move the currency is delivered under one of the options. But using linked options rather than a currency forward contract will result in a deferral of profits for tax purposes if the company accounts on an accruals basis. So clause 31 provides that the profits and losses on linked currency options must be computed on a mark to market basis.

#### TREATMENT OF PROFITS AND LOSSES

Profits and losses on qualifying contracts held for the purposes of a trade will be taken into account in the computation of a qualifying company's trading profits and losses.

Non-trading profits and losses on qualifying contracts will be aggregated with non-trading exchange gains and losses for each accounting period. Any surplus of non-trading products and gains over non-trading losses will then be charged under Case VI of Schedule D (section 130 of the Finance Act 1993). Sections 131 to 133 of the Finance Act 1993 provide that any surplus of non-trade losses over non-trade profits and gains can be:

- set against other profits of the same accounting period; or
- surrendered as group relief; or
- carried back against non-trading profits on qualifying contracts and non-trading exchange gains of the three preceding years; or
- carried forward against future non-trading profits on qualifying contracts and non-trading exchange gains.

#### ANTI-AVOIDANCE AND RELATED MATTERS

##### TRANSFERS OF VALUE

Where there is a transfer of value by a qualifying company to the other party to a qualifying contract, clause 39 will apply to disallow a deduction (or im-

pute a receipt) to the transferor company of an amount equal to the value transferred.

The adjustment is to be made in the accounting period in which the qualifying contract is acquired. The clause also applies where an option is abandoned resulting in a transfer of value. In deciding whether there is a transfer of value, reasonable arrangement fees and costs are ignored.

#### LINKED TRANSACTIONS

Clause 40 deals with two transactions (one of which must be a qualifying contract) bolted together in a composite deal under which there is no overall of value between the parties to the transactions. Looked at separately, however, there is a transfer of value under the individual transactions.

For the transactions that are qualifying contracts, clause 39 will apply to deny a deduction (or impute a receipt) to the transferor of the value. Clause 40 ensures that in the circumstances to which it will apply a compensating adjustment is made on the transferee so that the transferee is not taxed on the value received.

The application of this clause is limited to transactions between two non-associated qualifying companies and in circumstances where the inspector (or on appeal the Commissioners) is satisfied that the linked transactions satisfy the conditions in subsection (1) (d).

#### ARM'S LENGTH TEST

Clause 41 deals with transactions involving a qualifying contract that are between qualifying companies not dealing at arm's length ie contracts that would not have been entered into at all by parties acting at arm's length or those that would have been entered into on different terms. All factors, excluding transfers of value which are dealt with in clauses 39 and 40, can be taken into account in deciding whether the deal is at arm's length and subsection (7) details some of the more likely factors.

Where the clause applies, the adjustments are made to the payments and receipts that actually flow between the



parties during the life of the contract. To the extent that the qualifying contract would not have been entered into between parties dealing at arm's length, a deduction for the appropriate proportion is not allowed to the payer and an equivalent amount is not taxed on the recipient. However, where, as will usually be the case, the payments by one party exceed the amounts he receives, the excess (or the appropriate proportion) is disallowed as a deduction but remains taxable on the recipient.

The clause enables these adjustments to be made on a cumulative basis over successive accounting periods so that by the last accounting period the appropriate overall adjustments have been made.

## WITHHOLDING TAX

Clause will implement the proposals in the 1991 consultative document for a withholding tax on payments out of the UK in certain limited circumstances. It does not apply to banks and financial traders who satisfy the conditions in subsections (5) and (6).

A qualifying company will have to deduct income tax on a qualifying payment to a recipient who is resident in a country with which the UK does not have a double tax agreement containing an interest article.

This follows the preferred approach of the respondents to the 1991 consultative document.

## PARTICULAR COMPANIES

### INSURANCE AND MUTUAL TRADING COMPANIES

Clause 43, schedule 1 and clause 49(1) deal with the application of the general rules to insurance companies and mutual trading companies.

Paragraph 1 of the schedule adapts the rules where the qualifying contract was held for the purposes of life assurance business and the I-E basis applies. Any profits that would be trading profits are treated as non-trading profits and similarly for losses.

Within each class of business, the profits and losses on contracts held for the purposes of that class are aggregated. Any net profit is taxed and any net loss is set against the other profits of the class. The exemptions that apply to pension business are reflected in subparagraphs (5) and (6).

Paragraph 2 of the schedule deals with contracts held for life assurance business, the profits on which are computed on a Case I basis. The paragraph disapplies the new rules so that existing legislation applies to the computation of the Case I income, including the special rules in section 83 Finance Act 1989.

Paragraph 3 of the schedule deals with mutual trading companies including mutual non-life insurance companies. The profit or loss on a contract held for non-life mutual business is treated in all circumstances as a non-trading profit or loss.

Clause 49 (1) ensures that the restriction imposed by section 434A Income and Corporation losses arising outside the life business against the policy holders' share of the relevant profits of a company carrying on a life assurance business.

## INVESTMENT TRUSTS

The general rules are applied to investment trusts. However, a modification is made to the provisions of section 842 Income and Corporation Taxes Act 1988 so that any non-trading profits of the investment trust are to be treated as income derived from shares or securities.

## CHARITABLE COMPANIES

The exemption for income that applies to charitable companies is extended to the annual non-trading profits or gains on a qualifying contract. Net losses cannot be set against income which would have been exempt had it been applied solely for charitable purposes.

## PARTNERSHIPS

Clause 46 and schedule 2 apply to partnership that include qualifying companies.

For a partnership consisting wholly of qualifying companies, the partnership is treated as though it were a qualifying company in computing the profits and losses on qualifying contracts held by it. The profits or losses are then apportioned to the individual partners according to their respective interests.

For a mixed partnership which includes non-qualifying companies or individuals, schedule 2 deals separately with trading and non-trading profits.

For contracts held by the mixed partnership for the purposes of a trade, two computations are made for the purposes of section 114 ICTA.

The first, on the basis that the partnership is a qualifying company, is used to determine the entitlement of partners who are qualifying companies. The second computation, on the basis that the partnership is not a qualifying company, determines the entitlements of partners who are not qualifying companies.

For profits and losses on contracts not held for the purposes of a trade, paragraph 2 of the schedule applies so that in computing the entitlements of the partners who are qualifying companies, the partnership is treated as though it were a qualifying company. The entitlements of those partners who are not qualifying companies are computed according to existing law.

## OFFSHORE FUNDS

Clause 49(2) ensures that these provisions do not apply to the offshore fund provisions in schedule 27 ICTA.

Views would be welcome on the special rules provided for adapting the new scheme to particular concerns.



## APPLICATION FOR SUB-DIVISION OF PAR VALUE AND MARKETABLE LOTS OF SECURITIES BY PUBLIC COMPANIES

Paragraph 19(ii) of the guidelines of the Securities Commission (SC) states that an application for sub-division of the par value of the company's securities would be considered only if the market value of the securities is unduly high that it constrains their marketability. The guideline also states that it is the SC's policy to encourage the company to reduce the size of its securities' marketable lot.

The SC has also informed that with immediate effect, any proposals for sub-division of the par value of public companies' securities will not be considered and public companies are encouraged to reduce their securities' marketable lots in order to improve their trading.

In this regard, companies intending to undertake the proposals to reduce their securities' marketable lots may contact the SC for further clarification.

# NOTICE

## ANNUAL DIALOGUE WITH INLAND REVENUE DEPARTMENT

The Institute will be making arrangements for the regular annual dialogue with the Director General of Inland Revenue discuss the 1994 programme for filing income tax return forms and any tax issues/problems arising in practice.

In this connection, you are invited to submit to the Institute any tax problems you may have encountered in your work or practice, including the application of recent amendments to the tax legislation. Your submissions should be on points of interpretation or difficulties in the application of any provisions of the Income Tax Act 1967 and other tax legislation which, if the Institute deems necessary, would be raised for clarification with the DGIR during the annual dialogue.

Your submissions is to reach the Institute by January 7, 1993.

## 1993-94 Council of the Malaysian Association of Accounting Technicians



Ab Razak Ab Lak  
President



Dato' Dr Lau Ban Tin  
Vice-President

### Council Members

Dato' Hanifah Noordin  
Ahmad Mustapha Ghazali  
ChinWah Yin  
Hoo Ka Hin @ Ho Keem Thong  
Izhar Abd Kahar  
Kasim Darus  
Koo Yew Hood  
Lee Hwa Beng  
Low Han Men  
Mok Kam Seng  
Soon Kwai Choy  
Yong Yoon Kee  
Yue Sau Him

## 1994/95 UK BUDGET SUMMARY

### CORPORATION TAX

	Year ended 31 March	
	1995	1994
Full rate	33%	33%
Small companies rate	25%	25%
charged up to	£300,000	£250,000
marginal relief up to	£1,500,000	£1,250,000
marginal rate	35%	35%
Advance corporation tax as a fraction of the divided	20/80	22.5/77.5
Tax credit to individuals	20/5	20/5
<b>Tax credit to companies for:</b>		
franking own dividend payments	20/80	22.5/77.5
other purposes	20/80	22.5/77.5

### RATES OF INCOME TAX

	1994/95			1993/94		
	Rate	Bank	Total Tax	Rate	Bank	Total Tax
		£	£		£	£
Lower rate band	20%	1-3,000	600	20/5	1-2,500	500
Basic rate band	25%	3,001-23,700	5,775	25/5	2,501-23,700	5,800
Higher rate band	40/5	23,701+		40/5	23,701+	

### PERSONAL ALLOWANCES

	1994/95	1993/94
	£	£
<b>Personal</b>		
single	3,445	3,445
married couple's	1,720	1,720
Age (see note)		
single person	65 to 74	4,200
	75 and over	4,370
married couple's	65 to 74	2,665
	75 and over	2,705
Additional allowance for one parent families	1,720	1,720
Widow's bereavement allowance	1,720	1,720
Blind person (available to each qualifying spouse)	1,200	1,080

#### Note:

Excess over personal allowance withdrawn by £1 for every £2 of income over £14,200 (1993/93 over £14,200)

### CAPITAL GAINS TAX

Rate	1994/94 Income Tax	1993/94 Income Tax
Exemption limit		
general	£5,800	£5,800
trusts	£2,900	£2,900

### INHERITANCE TAX

Band	Rate on death from 9 March 1992
0-£150,000	Nil
over £150,000	40%

Rates on chargeable lifetime transfers are 50% of those on death, subject to tapering relief.

### VEHICLES AND CAR FUEL 1994/95

Care scale charge	Under 4 years old % of list price	4 years or more % of list price
0-2,499 business miles	35%	23 1/3%
2,500 - 17,999	23 1/3%	15.55%
18,000 business miles or more	11 2/3%	7.78%

### Fuel scale charge

	Petrol	Diesel
1400cc or less	£640	£580
1401cc to 2000cc	£810	£580
More than 2000cc	£1,200	£750

Van scale charge	Under 4 years old	4 years or more
	£500	£350

### VAT

	1994/95	1993/94
Standard rate	17.5%	17.5%
VAT as a fraction of the inclusive price	7/47	7/47
Annual turnover limits		
registration (last 12 months or next 30 days)	£45,000	£37,600
deregistration	£43,000	£36,000



## TAX NASIONAL SUBSCRIPTION FORM

Post this order form to  
**MALAYSIAN INSTITUTE OF TAXATION**  
 c/o Malaysian Institute of Accountants  
 No. 2, Dewan Akauntan, Jalan Tun Sambanthan 3  
 Brickfields, 50470 Kuala Lumpur  
 Malaysia  
 Telephone : 03-2745055  
 Facsimile : 03-2741783

	RATES	
	PER ISSUE	PER ANNUM
Non MIT member	RM 20.00	RM 60.00
Student	RM 5.00	RM 20.00
Postage	RM 0.50	RM 2.00
*Overseas	US\$ 10.00	US\$ 30.00
Postage/Airmail	US\$ 1.50	US\$ 6.00

### Please Use Capital Letters

Mr/Mrs/Miss \_\_\_\_\_ Designation \_\_\_\_\_

Address \_\_\_\_\_

Postode \_\_\_\_\_

Tel No. \_\_\_\_\_ Fax No. \_\_\_\_\_

I enclose a cheque/money order/postal order/bankdraft payable to Malaysian Institute of Taxation for RM/US\$ \_\_\_\_\_ for  
 \_\_\_\_\_ copy/copies or \_\_\_\_\_ year/years' subscriptin of Tax Nasional.

**Note:** For overseas subcritpion, payment is accepted by bankdraft only.

## TAXATION OF CHARITIES

"An Introduction to the Income and Capital Taxation of Charities" by Jame C Y Loh is a recent Malaysian publication focusing on charities and trusts. The author has analysed the general principles governing English law on charities and has traced their relevance to the laws relating to charities in countries like Malaysia.

English law on charities has in fact been the source of the laws governing charities in several Commonwealth countries. In this publication, there is copious reference to the long line of English cases starting from the Pemsel case in the 1890s when Lord McNaghten enunciated four fundamental principles on what constituted a charity.

The tax treatment of charities is dealth with in detail and the principles governing the tax exemption for business income of a charity as well as the anti avoidance provisions are explaind with great clarity. This publication is a valuable addition to the growing volume of literature on taxation.

**(Published by:** The Malaysian Current Law Journal, 221, Jalan Negara 2, Taman Melawati, 53100 Selangor Darul Ehsan, Malaysia)