Memorandum on 2015 Budget Proposals (Summary)

[Theme: *Accelerating Growth, Ensuring Fiscal Sustainability, Prospering the Rakyat]*

No.	Issues	Proposals
I	**STRATEGY 1: SPURRING INVESTMENT**	
a)	**Investment in Infrastructure** To make Malaysia more conducive for foreign investments, there is a need to improve the country's infrastructure; e.g. transportation system, connectivity between urban areas, access roads to rural areas, etc. Infrastructure projects will entail high investment on labour, machinery and equipment and technology. **(i) Tax relief for interest expense incurred during construction** Infrastructure projects are highly capital intensive and require long term financing. Based on existing tax laws, no tax relief is available for interest expense incurred during the construction phase of infrastructure projects on the premise that the company has not commenced operations. Such interest which is capitalised as part of the cost of the asset does not qualify for capital allowances as it is considered to be the cost incurred on the provision of finance and is not plant. The non-deductibility of the interest costs and the fact that capital allowances cannot be claimed increases the cost of such infrastructure projects. **(ii) Deduction for pre-commencement expenses** Expenses which are incurred prior to commencement of business are not deductible for tax purposes. In the construction of infrastructure, such pre-commencement expenditure is very sizeable including expenditure incurred on planning, conducting feasibility studies, etc.	We propose that a special deduction be given for the expenses below to reduce the cost of engaging in construction of infrastructure projects. **(i) Tax relief for interest expense incurred during construction** A special tax deduction is to be given for interest expense incurred during construction for companies undertaking infrastructure projects. **(ii) Deduction for pre-commencement expenses** A special tax deduction is to be given for pre-commencement expenditure for infrastructure projects.

Unit B-13-1, Block B, 13th Floor, Megan Avenue II, No.12, Jalan Yap Kwan Seng, 50450 Kuala Lumpur
Tel: +603-2162 8989 Fax: +603-2162 8990, 2161 3207 Email: secretariat@ctim.org.my

b)	**Export for Growth** Growing the export market will become increasingly important for the economy to move to a high-income nation. However, with increased competitiveness in the region from both a cost and skills perspective, clear fiscal policies are needed to focus on growing exports.	To grow the export market, we propose the following:
	(i) Attracting appropriate specific foreign investors – Malaysia is arguably not ready for the very large multinationals with advanced technology as we do not have the human resource skills and capabilities to support them. Nonetheless, given the importance of exports, it proposed that Malaysia target export-oriented medium-sized FDI.	**(i) Focus on specific categories of foreign Investors –** Given the fact that Malaysia does not arguably have the human skills sets to support very large multinationals with advanced technology, we should target on export-oriented medium-sized foreign direct investment.
	(ii) New impetus/focus area for mid-range/value R & D – To grow Research and Development (R&D), it is often necessary to acquire initial intellectual property and to build on this. At present, relief is only given to manufacturing companies for the costs of acquisition of proprietary rights.	**(ii)** A **tax deduction or writing down allowance for the purchase of intellectual property** which can then be built upon to grow R&D activities.
	(iii) Promote the establishment of Malaysian brands – At present a double deduction is given for the cost of advertising Malaysian brand names, but this is restricted to companies which are at least 70% Malaysian owned.	**(iii)** To encourage FDI, the **equity requirement** on the eligibility to qualify for the **double deduction for the cost of advertising Malaysian brands** should be reduced from at least 70% Malaysian owned to at least 50% Malaysian owned
	(iv) Facilitating Exploration of Export Markets by Entrepreneurs – At present, the costs incurred in exploring new business opportunities are not deductible unless these costs relate to an existing business source of the company concerned. Hence holding companies which engage in such activities on behalf of group companies will not be entitled to a deduction for such costs.	**(iv)** A deduction should be given for costs incurred in exploring new business opportunities to grow Malaysia's export markets
	(v) Reducing Costs of Export – to ease the costs of exports, incentives should be provided more widely to logistics	**(v)** The criteria for this incentive should be more flexible.

Unit B-13-1, Block B, 13th Floor, Megan Avenue II, No.12, Jalan Yap Kwan Seng, 50450 Kuala Lumpur
Tel: +603-2162 8989 Fax: +603-2162 8990, 2161 3207 Email: secretariat@ctim.org.my

	companies. At present there are incentives for cold chain facilities and for integrated logistics services which require the provision of comprehensive logistics services. **The proposed incentives referred to herein should also be considered in the context of our comments at (c) below.**	
c.	**<u>Retaining Investment</u>** **(i)** **Simplification of incentives regime –** The Malaysian tax incentive landscape is very wide and oftentimes confusing. There are too many similar incentives, for instance the incentives for International Procurement companies, Regional Distribution Centres, Operational Headquarters companies, Treasury Management Centres, etc. There are also too many agencies involves in the tax incentive framework, e.g, the Malaysian Investment Development Authority ("MIDA"), the Multimedia Development Corporation, the Biotech Corporation, etc. Investors are often confused and uncertain, and are unable to get clear responses from the relevant agencies.	**(i)** The incentive regime needs to be revamped and simplified to provide both proposed and current investors certainty.
	(ii) **Incentive Policy** At present, with a corporate tax rate of 25%, Malaysia is en par with China and Indonesia, both of which are much larger economies than ours. Thailand, Singapore, Vietnam and Cambodia all currently have lower basic corporate tax rates compared to ours. All these countries also offer incentives and in some, the costs of doing business are considerably lower than ours.	**(ii)** A simple solution would be to completely revamp the incentive regime, by reducing the corporate tax rate significantly and thereafter only providing incentives for key drivers of the economy.
	(iii) **Restructuring tax incentives to encourage re- investment –** The reinvestment allowance (RA) has been successful in retaining investment. The need to retain investments is becoming increasingly important with regional competition. Many large foreign investors have enjoyed 5 years of tax	**(iii)** The RA incentive should continue to be available (after the 15 year time frame) with more specific and restrictive conditions to retain investments.

Unit B-13-1, Block B, 13th Floor, Megan Avenue II, No.12, Jalan Yap Kwan Seng, 50450 Kuala Lumpur
Tel: +603-2162 8989 Fax: +603-2162 8990, 2161 3207 Email: secretariat@ctim.org.my

	incentives under the Promotion of Investments Act, 1986, or under the various incentive gazette orders and for those in the manufacturing sector, they have gone on to enjoy a further 15 years of RA. We now face the risk that such investors, 20 years on, may move to more competitive jurisdictions which are more tax efficient. Hence, we would recommend that incentives such as RA should continue to be available (after the 15 year time frame) with more specific and restrictive conditions to retain investments.	
II	**STRATEGY 2: EASING COSTS OF DOING BUSINESS / MAINTAINING INVESTMENT CONFIDENCE**	
a)	**<u>Restoring Taxpayer's Rights and Enhancing investors' Confidence</u>** The new subsection 99(4) of Income Tax Act 1967 (the Act), introduced by the Finance Act 2014 has restricted the taxpayer's rights to appeal against a deemed assessment except where taxpayer adopts a position in the public ruling which he does not agree with. The right of appeal is a very important pillar that provides creditability to any tax system. Restricting this right will be seen as a serious impediment by foreign investors when they consider investing in Malaysia.	We recommend that the new provision be repealed.
b)	**<u>Easing Costs of Doing Business</u>** The new subsection 39(1A) of the Act, introduced by the Finance Act 2014, stipulates that failure to furnish information on any item of deduction claimed by the taxpayer as requested by the authority under Section 81 of the Act, within the time specified, the item involved will not be allowed a tax deduction.. Section 81 and its related penalty provision under Section 120 already provides for penalties to be imposed on taxpayers for failure to furnish information to the IRB within the specified time frame. There is no	We recommend that the new provision be repealed.

Unit B-13-1, Block B, 13th Floor, Megan Avenue II, No.12, Jalan Yap Kwan Seng, 50450 Kuala Lumpur
Tel: +603-2162 8989 Fax: +603-2162 8990, 2161 3207 Email: secretariat@ctim.org.my

	necessity for a separate provision in the law to completely deny the tax deduction which effectively tantamount to barring the taxpayer from exercising his right to appeal on the matter.	
c)	**<u>Facilitating Financing of Business Operations</u>** The New Section 4B and amended S.24(5) of the Act has restricted interest income arising from business operation, e.g. overdue interest from trade debtors, etc, to be treated as business income. Hence, it cannot be set off against unutilised capital allowances & unabsorbed business loss brought forward. This treatment is not conducive to encouraging the use of funds in carrying out business activities and would likely result in increasing the cost of doing business in Malaysia.	We urge the Government to reconsider repeal the provisions to facilitate the business operations.
III	**STRATEGY 3: ENHANCING OPERATIONAL EFFICIENCY**	
a)	**<u>Enhancing The Efficiency Of Tax Compliance</u>** **(i) Simplifying prescribed forms for declaring income or gains**	**(i)** To enhance the tax compliance process for the benefit of both the taxpayers and the tax authorities, we propose that the prescribed forms (e.g. Form C, Form CKHT) for declaring income or gains be reviewed annually with the objective of making it simpler and easier to complete. This will help to reduce the preparation time for completing the prescribed forms and ensure that all the necessary information is furnished to the tax authorities.
	(ii) Consolidating the reliefs available to individuals for personal income tax purposes	**(ii)** To simplify the reliefs available to individuals for personal income tax purposes, we propose that the reliefs be consolidated into few items. This will reduce the amount of administrative work undertaken by the tax authorities and consequently reduce their operating costs and opportunity costs annually.
	(iii) Additional guidance for taxpayers to comply with the	**(iii)** To ensure that tax payers comply with the requirements for

Unit B-13-1, Block B, 13th Floor, Megan Avenue II, No.12, Jalan Yap Kwan Seng, 50450 Kuala Lumpur
Tel: +603-2162 8989 Fax: +603-2162 8990, 2161 3207 Email: secretariat@ctim.org.my

	requirements for contemporaneous transfer pricing documentation	contemporaneous transfer pricing documentation, we propose that the following be included in the transfer pricing guidelines in respect of contemporaneous transfer pricing documentation:- • Practical examples similar to those set-out in the public rulings to promote the correct understanding of the tax authorities' requirements; • Sample transfer pricing documentation which are acceptable to the tax authorities; and • Templates similar to the "Helaian Kerja" to facilitate the compilation of basic information which must be included in transfer pricing documentation. The above would be of great assistance to tax payers and tax agents to ensure that transfer pricing compliance requirements are met. This will facilitate the transfer pricing audit process undertaken by the tax authorities.
IV	**STRATEGY 4: BUILDING HUMAN CAPITAL**	
a)	**<u>Enhancing The Supply Of Skilled Labour</u>** **(i) Continued employment of retirees** **(ii) Enhanced deduction for training costs** Currently, a double deduction is available in respect of expenditure incurred by companies on the training of employees under approved training programmes conducted by training institutions.	**(i) Continued employment of retirees** To encourage retirees to rejoin the pool of productive workforce, we propose that retirees be given a 50% tax rebate on their employment income. This will also lessen the burden on healthcare and maintenance costs, etc. which will eventually be borne by the Government. **(ii) Enhanced deduction for training costs** We propose that the double deduction be extended to costs incurred in conducting in-house training courses to enhance and upgrade the skill levels of staff.

Unit B-13-1, Block B, 13th Floor, Megan Avenue II, No.12, Jalan Yap Kwan Seng, 50450 Kuala Lumpur

Tel: +603-2162 8989 Fax: +603-2162 8990, 2161 3207 Email: secretariat@ctim.org.my

b)	**<u>Building the Capacity And Quality of Human Capital</u>** **(i) Promoting the Spirit of Lifelong Learning** **(ii) Promoting the Establishment of an Education Hab**	We recommend: (i) Expansion of relief under S.46(1) to cover costs incurred in pursuing any professional/vocational/academic courses paid to any institution of learning registered in or recognized by Malaysia. (ii) Facilitating the establishment of educational institutions by • allowing deductions on donations made to private schools, provided the schools are run as not-for-profit organizations; • allowing non-operator to claim IBAs on buildings used by educational institutions, • allowing IBAs on incidental premises of an educational institution, etc.
V	**STRATEGY 5 – PROMOTING A CARING SOCIETY**	
a)	**Parent/ grandparent relief** As the average life expectancy increases, there are more individuals who are supporting their parents/ parents-in-law and grandparents/ grandparents-in-law. In some family units, parents/ parents-in-law and grandparents/ grandparents-in-law may have to be placed in nursing homes or residential care for the aged due to their physical condition to ensure that they receive the appropriate care. There have also been some unfortunate cases of abandonment of the aged. Currently, tax relief is given for medical expenses incurred for parents only up to a maximum of RM5,000.	With the escalating costs involved in caring for the aged, we propose the following: **(i) Dependent "parent/ grandparent" relief** To provide a relief of RM5,000 for each parent and grandparent of the individual taxpayer, where the parent/ grandparent resides permanently with the individual. "Parent/ grandparent" includes parent-in-law/ grandparent-in-law, natural or legally adopted. **(ii) Relief for parent/ grandparent residential care expenses** To provide a relief of RM8,000 for each parent/grandparent of the individual taxpayer who is given residential and nursing home care in private facilities for the aged which are approved by the government. "Parent/grandparent" includes parent-in-law/grandparent-in-law, natural or legally adopted.

Unit B-13-1, Block B, 13th Floor, Megan Avenue II, No.12, Jalan Yap Kwan Seng, 50450 Kuala Lumpur
Tel: +603-2162 8989 Fax: +603-2162 8990, 2161 3207 Email: secretariat@ctim.org.my