

FINANCE BILL (NO. 2) 2014

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A BILL

i n t i t u l e d

An Act to amend the Income Tax Act 1967, the Petroleum (Income Tax) Act 1967 and the Real Property Gains Tax Act 1976.

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ENACTED by the Parliament of Malaysia as follows:

CHAPTER I

PRELIMINARY

Short title

1. This Act may be cited as the Finance (No. 2) Act 2014.

Amendment of Acts

2. The Income Tax Act 1967 [*Act 53*], the Petroleum (Income Tax) Act 1967 [*Act 543*] and the Real Property Gains Tax Act 1976 [*Act 169*] are amended in the manner specified in Chapters II, III and IV respectively.

CHAPTER II

AMENDMENTS TO THE INCOME TAX ACT 1967

Commencement of amendments to the Income Tax Act 1967

3. (1) Sections 4, 5, 6, 7, 8, 9, 10, 12 and 16, subparagraphs 20(a)(i), (ii), (iii) and (v), subsubparagraph 20(a)(iv)(B), paragraph 20(b), section 21, paragraphs 22(b) and (c), and section 23 have effect for the year of assessment 2015 and subsequent years of assessment.

(2) Sections 11, 13 and 14, paragraph 15(a), sections 17, 18 and 19, subsubparagraph 20(a)(iv)(A), and paragraph 22(a) come into operation on the coming into operation of this Act.

(3) Paragraph 15(b) comes into operation on 1 January 2015.

Amendment of section 5

4. Section 5 of the Income Tax Act 1967, which is referred to as the “principal Act” in this Chapter, is amended—

(a) in subsection (1)—

(i) in paragraph (f), by substituting for the colon at the end of that paragraph a full stop; and

(ii) by deleting the proviso to that subsection; and

(b) by inserting after subsection (1) the following subsection:

“(1A) For the purpose of ascertaining the chargeable income of a person under subsection (1), any amount or income received by that person which is subject to deduction of tax under section 109C, 109E or 109G shall be excluded.”.

Amendment of section 29**5. Section 29 of the principal Act is amended—****(a) in subsection (3)—**

- (i) in paragraph (a), by deleting the word “or” at the end of that paragraph; and
- (ii) by inserting after paragraph (a) the following paragraph:

“(aa) between individuals who are relatives of each other; or”; and

(b) by inserting after subsection (3) the following subsections:

“(4) Subject to subsection (3) and for the purposes of this section, where a relevant person is entitled to any gross income—

(a) accruing in or derived from Malaysia to which section 25, section 27 other than subsection 27(1A), or section 28 applies;

(b) the amount of which relates to any transactions—

- (i) between persons one of whom has control over the other;
- (ii) between individuals who are relatives of each other; or
- (iii) between persons both of whom are controlled by some other persons; and

(c) the amount of which first becomes receivable to the relevant person in the relevant period,

the relevant person is deemed to be able to obtain on demand the receipt of such amount in the basis period immediately following the relevant period.

(5) In this section, “relative” and “transaction” have the meanings assigned to them under subsection 140(8).”.

Amendment of section 46

6. Subsection 46(1) of the principal Act is amended—

- (a) in paragraph (d), by substituting for the word “five” the word “six”; and
- (b) in paragraph (g), by substituting for the word “five” the word “six”.

Amendment of section 48

7. Paragraph 48(2)(b) of the principal Act is amended by substituting for the word “five” the word “six”.

Amendment of section 60

8. Section 60 of the principal Act is amended by inserting after subsection (4B) the following subsection:

“(4C) For the purposes of ascertaining the adjusted income of the life fund, shareholders’ fund or general business referred to in subsection (3), (3A), (4), (4A), (5) or (6), as the case may be, the cost of acquiring and realizing any investments or rights for the basis period for a year of assessment shall include expenses incurred in managing those investments or rights, and such expenses incurred shall be determined in accordance with the following formula:

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

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

Amendment of section 60AA**9. Section 60AA of the principal Act is amended—****(a) in paragraph (5)(b)—**

- (i) in subparagraph (iii), by inserting after the word “business” the words “carried out in accordance with the principle of *mudharabah*”; and
- (ii) in subparagraph (viii), by inserting after the words “general business” the words “carried out in accordance with the principle of *mudharabah*”;

(b) in paragraph (7)(b)—

- (i) in subparagraph (iii), by inserting after the words “Malaysian general certificate” the words “of that business carried out in accordance with the principle of *mudharabah*”; and
- (ii) in subparagraph (viii), by inserting after the words “general business” the words “carried out in accordance with the principle of *mudharabah*”;

(c) in subsection (9)—**(i) in paragraph (a)—**

- (A) in subparagraph (iii), by substituting for the words “family fund, general fund, inward re-takaful fund, offshore fund or family re-takaful fund” the words “general fund, inward re-takaful fund, offshore fund or family re-takaful fund, or any other fee receivable in respect of an investment fund from the family fund”;
- (B) in subparagraph (iv), by deleting the word “and” at the end of that subparagraph; and
- (C) by inserting after subparagraph (v) the following subparagraph:
 - “(vi) the amount of actuarial surplus from the family fund that is transferred to the shareholders’ fund; and”;

(ii) in paragraph (b)—

(A) in subparagraph (iii), by substituting for the words “family and general businesses” the words “general business carried out in accordance with the principle of *wakalah*”; and

(B) in subparagraph (iv), by inserting after the words “general business” the words “carried out in accordance with the principle of *wakalah*”; and

(d) in subsection (10)—

(i) in paragraph (a)—

(A) in subparagraph (iii), by substituting for the words “family fund, general fund, inward re-takaful fund, offshore fund or family re-takaful fund” the words “general fund, inward re-takaful fund, offshore fund or family re-takaful fund, or any other fee receivable in respect of an investment fund from the family fund”;

(B) in subparagraph (iv), by deleting the word “and” at the end of that subparagraph; and

(C) by inserting after subparagraph (v) the following subparagraph:

“(vi) the amount of actuarial surplus from the family fund that is transferred to the shareholders’ fund; and”; and

(ii) in paragraph (b)—

(A) in subparagraph (iii), by substituting for the words “family and general businesses” the words “general business carried out in accordance with the principle of *wakalah*”; and

(B) in subparagraph (iv), by inserting after the words “general business” the words “carried out in accordance with the principle of *wakalah*”; and

(e) by inserting after subsection (10) the following subsection:

“(10A) For the purposes of ascertaining the adjusted income of the family fund, general fund or shareholders’ fund referred to in subsection (3), (4), (5), (7), (9) or (10), as the case may be, the cost of acquiring and realizing any investments or rights for the basis period for a year of assessment shall include expenses incurred in managing those investments or rights, and such expenses incurred shall be determined in accordance with the following formula:

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

where A is the cost of acquiring any investments or rights which is realized in that period in respect of such fund;

B is the total cost of acquiring all investments or rights held during that period in respect of such fund; and

C is the total expenses incurred in that period for managing all investments or rights held during that period in respect of such fund.”.

Amendment of section 60i

10. Section 60i of the principal Act is amended by inserting after subsection (3) the following subsection:

“(3A) For the purposes of subsections (1) and (3), the company referred to in those sections shall include a unit trust which is approved by the Securities Commission as Real Estate Investment Trust or Property Trust Fund.”.

Amendment of section 75B

11. Section 75B of the principal Act is amended by inserting after subsection (2) the following subsections:

“(3) Where in a year of assessment, a partnership or a company has converted into a limited liability partnership in accordance with the Limited Liability Partnerships Act 2012—

(a) every partner of the partnership shall continue to be personally assessable and chargeable to tax for that year of assessment and for any previous year of assessment before the conversion in respect of his chargeable income for any such year of assessment; and

(b) the limited liability partnership shall be assessable and chargeable to tax for that year of assessment and for any previous year of assessment before the conversion in respect of the chargeable income of the company for any such year of assessment.

(4) Where the limited liability partnership is so assessable and chargeable under paragraph (3)(b), it shall be assessable and chargeable to tax in like manner and to the like amount as the company would have been assessed and charged to tax prior to the conversion.”.

Amendment of section 77c

12. Subsection 77c(1) of the principal Act is amended—

(a) in paragraph (a), by deleting the words “other than gains or profits in respect of the use or enjoyment of benefits provided by his employer under paragraph 13(1)(b) or (1)(c)”;

(b) in paragraph (c), by deleting the words “for a period of twelve months”.

Amendment of section 91

13. Section 91 of the principal Act is amended by inserting after subsection (4) the following subsection:

“(5) The Director General, where for any year of assessment it appears to him that no or no sufficient assessment has been made on a person chargeable to tax in consequence of the Director General’s determination pursuant to subsection 140A(3), may in that year or within seven years after its expiration make an assessment or additional assessment, as the case may be, in respect of that person in the amount or additional amount of chargeable income and tax or in the additional amount of tax in which, according to the best of the Director General’s judgment, the assessment with respect to that person ought to have been made for that year.”.

Amendment of section 99

14. Subsection 99(4) of the principal Act is amended by inserting after the words “section 138A” the words “or any practice of the Director General generally prevailing at the time when the assessment is made”.

Amendment of section 107c

15. Section 107c of the principal Act is amended—

- (a) in subsection (4A), by inserting after the words “where a company” the words “resident and incorporated in Malaysia”; and
- (b) in subsection (12), in the definition of “due date” by substituting for the word “tenth” the word “fifteenth”.

New section 110c

16. The principal Act is amended by inserting after section 110B the following section:

“Set-off for tax charged on actuarial surplus under takaful business

110c. (1) Notwithstanding section 110, where for a basis period for a year of assessment an amount of actuarial surplus from the family fund of an operator is transferred to the

shareholders' fund pursuant to subparagraph 60AA(9)(a)(vi) or 60AA(10)(a)(vi), any amount of tax charged on the portion of that surplus shall be set off against the tax charged on the chargeable income from the shareholders' fund of that operator in respect of the family business.

(2) Where—

- (a) tax is set off under this section against the tax charged on the chargeable income of an operator from its shareholders' fund in respect of family business for a year of assessment and the amount of the tax set-off exceeds the tax charged for that year, the excess shall be disregarded; or
- (b) there is no tax charged for that year, so much of the amount of tax that would otherwise be set off but for the absence of such tax charged shall be disregarded.

(3) For the purposes of this section, tax charged on the chargeable income of an operator from its shareholders' fund in respect of family business shall consist of an amount of tax before taking into account the tax set-off under section 110.

(4) The portion of the surplus referred to in subsection (1) shall be ascertained in accordance with the formula prescribed by the Minister.”.

Amendment of section 112

17. Subsection 112(1) of the principal Act is amended by substituting for the words “two thousand” the words “twenty thousand”.

Amendment of section 115

18. Subsection 115(1) of the principal Act is amended by substituting for the words “two thousand” the words “twenty thousand”.

Amendment of section 120

19. Subsection 120(1) of the principal Act is amended by substituting for the words "two thousand" the words "twenty thousand".

Amendment of Schedule 1

20. Schedule 1 to the principal Act is amended—

(a) in Part I—

(i) by substituting for paragraph 1 the following paragraph:

"1. Except where paragraphs 1A, 2, 2A, 2D, 3 and 4 provide otherwise, income tax shall be charged for a year of assessment upon the chargeable income of every person at the following rates:

<i>Chargeable Income</i>	<i>RM</i>	<i>Rate of Income Tax</i>
For every ringgit of the first	5,000	0 per cent
For every ringgit of the next	15,000	1 per cent
For every ringgit of the next	15,000	5 per cent
For every ringgit of the next	15,000	10 per cent
For every ringgit of the next	20,000	16 per cent
For every ringgit of the next	30,000	21 per cent
For every ringgit of the next	150,000	24 per cent
For every ringgit of the next	150,000	24.5 per cent
For every ringgit exceeding	400,000	25 per cent";

- (ii) in paragraph 1A, by substituting for the words “26 per cent” the words “25 per cent”;
- (iii) in paragraph 2—
 - (A) in subparagraph (f), by substituting for the full stop at the end of that subparagraph a comma; and
 - (B) by substituting for the words “26 per cent for the year of assessment 2008 and 25 per cent for the subsequent years of assessment” the words “25 per cent for the year of assessment 2015 and 24 per cent for the subsequent years of assessment”;
- (iv) in paragraph 2A—
 - (A) by inserting after the words “company resident” the words “and incorporated”; and
 - (B) in column “*Rate of income tax*”—
 - (AA) by substituting for the words “20 per cent” the words “20 per cent for the year of assessment 2015 and 19 per cent for the subsequent years of assessment”; and
 - (BB) by substituting for the words “26 per cent for the year of assessment 2008 and 25 per cent for the subsequent years of assessment” the words “25 per cent for the year of assessment 2015 and 24 per cent for the subsequent years of assessment”; and
- (v) in paragraph 2D, in column “*Rate of Income Tax*”—
 - (A) by substituting for the words “20 per cent” the words “20 per cent for the year of assessment 2015 and 19 per cent for the subsequent years of assessment”; and
 - (B) by substituting for the words “25 per cent” the words “25 per cent for the year of assessment 2015 and 24 per cent for the subsequent years of assessment”; and

(b) in Part IV, in column "*Rate of Income Tax*" —

- (i) by substituting for the words "20 per cent" the words "18 per cent";
- (ii) by substituting for the words "22 per cent" the words "21 per cent";
- (iii) by substituting for the words "24 per cent" the words "23 per cent"; and
- (iv) by substituting for the words "25 per cent" the words "24 per cent".

Amendment of Schedule 3

21. Schedule 3 to the principal Act is amended—

(a) in subparagraph 8(1), by substituting for the words "incurred by a person" the words "incurred only by a person who has a concession or licence to extract timber"; and

(b) in subparagraph 19A(1)—

- (i) by substituting for the words "one thousand" the words "one thousand three hundred";
- (ii) in the proviso to subparagraph 19A(1), by substituting for the words "ten thousand" the words "thirteen thousand"; and
- (iii) in the proviso to subparagraph 42(1), by substituting for the words "within three months (or within such further period as the Director General may allow) of the beginning of the year of assessment in the basis period for which that expenditure was incurred by notice in writing delivered to the Director General elect" the words "elect in a return for the basis period for a year of assessment in which the expenditure was incurred".

Amendment of Schedule 6

22. Schedule 6 to the principal Act is amended—

- (a) in paragraph 12B, by substituting for the words “this Act” the words “ascertaining the adjusted income of the person”;
- (b) in paragraph 20A, by inserting after the words “Central Bank of Malaysia” the words “and any adjusted loss from the investment in respect of the deferred annuity shall be disregarded for the purposes of the Act”; and
- (c) in paragraph 35A, by inserting after the words “Islamic Banking Act 1983” the words “, or any development financial institution regulated under the Development Financial Institutions Act 2002.”.

Amendment of Schedule 7A

23. Schedule 7A to the principal Act is amended—

(a) in paragraph 2A—

- (i) by renumbering the existing provision as subparagraph (1); and
- (ii) by inserting after subparagraph (1) as renumbered the following subparagraph:

“(2) The allowance which is deemed to have not been given under subparagraph (1) shall be part of the person’s statutory income in the basis period for the year of assessment in which such asset is disposed of.”; and

(b) by inserting after paragraph 4 the following paragraph:

“4A. Statutory income referred to in paragraphs 3 and 4 shall be construed as the amount of statutory income of a person from a source consisting of a business in respect of a qualifying project referred to in paragraph 8.”.

CHAPTER III

AMENDMENTS TO THE PETROLEUM (INCOME TAX) ACT 1967

Commencement of amendments to the Petroleum (Income Tax) Act 1967

24. (1) Section 25 comes into operation on the coming into operation of this Act.

(2) Section 26 comes into operation on 1 January 2015.

Amendment of section 39

25. The Petroleum (Income Tax) Act 1967, which is referred to as the “principal Act” in this Chapter, is amended in section 39 by inserting after subsection (4) the following subsection:

“(5) The Director General, where for any year of assessment it appears to him that no or no sufficient assessment has been made on a chargeable person chargeable to tax in consequence of the Director General’s determination pursuant to subsection 72A(3), may in that year or within seven years after its expiration make an assessment or additional assessment, as the case may be, in respect of that chargeable person in the amount or additional amount of chargeable income and tax or in the additional amount of tax in which, according to the best of the Director General’s judgment, the assessment with respect to that chargeable person ought to have been made for that year.”.

Amendment of section 49A

26. Subsection 49A(16) of the principal Act is amended in the definition of “due date” by substituting for the word “tenth” the word “fifteenth”.

CHAPTER IV

AMENDMENTS TO THE REAL PROPERTY GAINS TAX ACT 1976

Commencement of amendments to the Real Property Gains Tax Act 1976

27. Sections 28 and 29 come into operation on 1 January 2015.

Amendment of section 21B

28. The Real Property Gains Tax Act 1976, which is referred to as the "principal Act" in this Chapter, is amended in subsection 21B(1) by substituting for the word "two" the word "three".

Amendment of Schedule 2

29. Schedule 2 to the principal Act is amended—

(a) in subparagraph 4(3), by substituting for subparagraph (d) the following subparagraph:

"(d) the market value of the asset as at the date of the death of the deceased person referred to in subparagraph 19(3)"; and

(b) by substituting for paragraph 12 the following paragraph:

"12. (1) Subject to subparagraph (2), where a donor disposes an asset by way of a gift to a recipient, the disposal shall be deemed to be a disposal at the market value of the asset.

(2) Where the donor and recipient referred to in subparagraph (1) are husband and wife, parent and child, or grandparent and grandchild—

(a) the donor shall be deemed to have received no gain and suffered no loss on the disposal;

(b) in the case of a donor who is not a citizen or permanent resident, the recipient shall be deemed to acquire the asset at an acquisition price equal to the acquisition price paid by the donor plus the permitted expenses incurred by the donor; and

(c) in the case of a donor who is a citizen or permanent resident and the gift is made within five years after the date of acquisition by the donor, the recipient shall be deemed to acquire the asset at an acquisition price equal to the acquisition price paid by the donor plus the permitted expenses incurred by the donor."

EXPLANATORY STATEMENT

This Bill seeks to amend the Income Tax Act 1967 ("Act 53"), the Petroleum (Income Tax) Act 1967 ("Act 543") and the Real Property Gains Tax Act 1976 ("Act 169").

AMENDMENTS TO THE INCOME TAX ACT 1967

Chapter II of this Bill seeks to amend the Income Tax Act 1967.

1. *Clause 4* seeks to redraft the proviso to subsection 5(1) of Act 53 as new subsection 5(1A). The new subsection 5(1A) also provides that any amount received by a person which is subject to tax under section 109G of Act 53 shall be excluded for the purpose of ascertaining his chargeable income. Currently, only the income which is subject to tax under section 109C or 109E of Act 53 is excluded.

This amendment has effect for the year of assessment 2015 and for subsequent years of assessment.

2. *Clause 5* seeks to amend section 29 of Act 53.

Paragraph 5(a)(ii) seeks to introduce a new paragraph 29(3)(aa) into Act 53 to provide that where gross income from a source in Malaysia of the relevant person consists of interest that relates to a loan between individuals who are relatives of each other, the relevant person is deemed to be able to obtain on demand the receipt of such interest when such interest is due to be paid to the relevant person in the relevant period.

Subclause 5(b) seeks to introduce new subsections 29(4) and (5) into Act 53. The proposed subsection 29(4) seeks to provide that where a relevant person is entitled to any gross income accruing in or derived from Malaysia to which section 25, section 27 other than subsection 27(1A), or section 28 of Act 53 applies (such as gross income from employment, interest, discount, rent, royalty or any pension, annuity or other periodical payment), the person is deemed to be able to obtain on demand the receipt of such amount in the basis period immediately following the relevant period if such amount first becomes receivable to the relevant person in the relevant period. The gross income in the proposed subsection 29(4) relates to transactions involving persons one of whom has control over the other, between individuals who are relatives of each other or between persons both of whom are controlled by some other person. The proposed subsection 29(5) seeks to introduce the definitions of "relative" and "transaction".

These amendments have effect for the year of assessment 2015 and for subsequent years of assessment.

3. *Clause 6* seeks to amend subsection 46(1) of Act 53.

Subclause 6(a) seeks to amend paragraph 46(1)(d) of Act 53 to increase the personal deduction for an individual from a maximum of five thousand ringgit to six thousand ringgit in respect of a purchase of any necessary basic supporting equipment for the individual's own use, if he is a disabled person, or the individual's spouse, child or parent who is a disabled person.

Subclause 6(b) seeks to amend paragraph 46(1)(g) of Act 53 to increase the personal deduction for an individual from a maximum of five thousand ringgit to six thousand ringgit in respect of medical expenses expended or deemed expended under subsection 46(3) of Act 53 by the individual on himself, if he is suffering from a serious disease, or on his spouse or child who is suffering from a serious disease.

These amendments have effect for the year of assessment 2015 and for subsequent years of assessment.

4. *Clause 7* seeks to amend paragraph 48(2)(b) of Act 53. The proposed amendment provides for an increase in deduction from five thousand ringgit to six thousand ringgit to an individual for the maintenance of each of his unmarried child who is proven to be physically or mentally disabled.

This amendment has effect for the year of assessment 2015 and for subsequent years of assessment.

5. *Clause 8* seeks to introduce a new subsection 60(4c) into Act 53 to provide that for the purposes of ascertaining the adjusted income of the life fund, shareholders' fund or general business referred to in subsection 60(3), (3A), (4), (4A), (5) or (6) of Act 53, as the case may be, the cost of acquiring and realizing any investments or rights for the basis period for a year of assessment shall include the expenses incurred in managing those investments or rights. The proposed subsection 60(4c) further provides for the formula to determine such expenses.

This amendment has effect for the year of assessment 2015 and for subsequent years of assessment.

6. *Clause 9* seeks to amend section 60AA of Act 53.

Subclause 9(a) seeks to amend subparagraphs 60AA(5)(b)(iii) and (viii) of Act 53. The proposed amendments seek to provide that in ascertaining the adjusted income of a general fund in respect of a general business of a takaful operator resident in Malaysia, the commission payable and discount allowed, and the management expenses incurred, by a takaful operator in connection with its general business which is carried out in accordance with the principle of *mudharabah* are allowed as deductions.

Paragraph 9(b)(i) seeks to amend subparagraph 60AA(7)(b)(iii) of Act 53. The proposed amendment seeks to provide that in ascertaining the adjusted income of a general fund in respect of a general business of a takaful operator who is not a resident in Malaysia, any commissions payable or discounts allowed by that takaful operator in connection with the Malaysian general certificate issued by that takaful operator in respect of that general business which is carried out in accordance with the principle of *mudharabah* is allowed as a deduction.

Paragraph 9(b)(ii) seeks to amend subparagraph 60AA(7)(b)(viii) of Act 53. The proposed amendment seeks to provide that in ascertaining the adjusted income of a general fund in respect of a general business of a takaful operator who is not resident in Malaysia, any management expenses incurred by that takaful operator in connection with the general business which is carried out in accordance with the principle of *mudharabah* is allowed as a deduction.

Subparagraphs 9(c)(i)(A) and (C) seek to amend subparagraph 60AA(9)(a)(iii) of Act 53 and to introduce a new subparagraph 60AA(9)(a)(vi) into Act 53, respectively. The proposed amendments seek to provide that in ascertaining the adjusted income of a shareholders' fund of a takaful operator resident in Malaysia, an amount of gross income in respect of *wakalah* fee or any other fee receivable in connection with the general fund, inward re-takaful fund, offshore fund or family re-takaful fund and any other fee in respect of an investment fund from the family fund, as well as the amount of actuarial surplus from the family fund transferred to the shareholders' fund shall be included.

Paragraph 9(c)(ii) seeks to amend subparagraphs 60AA(9)(b)(iii) and (iv) of Act 53. The proposed amendments seek to provide that in ascertaining the adjusted income of a shareholders' fund of a takaful operator resident in Malaysia, any management expenses incurred, and any commissions payable or discounts allowed, by the takaful operator in connection with its general business which is carried out in accordance with the principle of *wakalah* are allowed as deductions.

Subparagraphs 9(d)(i)(A) and (C) seek to amend subparagraph 60AA(10)(a)(iii) of Act 53 and to introduce a new subparagraph 60AA(10)(a)(vi) into Act 53, respectively. The proposed amendments seek to provide that in ascertaining the adjusted income of a shareholders' fund of a takaful operator who is not resident in Malaysia, an amount of gross income in respect of *wakalah* fee or any other fee receivable in connection with the general fund, inward re-takaful fund, offshore fund or family re-takaful fund and any other fee in respect of an investment fund from the family fund, as well as the amount of actuarial surplus from the family fund transferred to the shareholders' fund shall be included.

Paragraph 9(d)(ii) seeks to amend subparagraphs 60AA(10)(b)(iii) and (iv) of Act 53. The proposed amendments seek to provide that in ascertaining the adjusted income of a shareholders' fund of a takaful operator who is not resident in Malaysia, any management expenses incurred, and any commissions payable or discounts allowed, by the takaful operator in connection with its general business which is carried out in accordance with the principle of *wakalah* are allowed as deductions.

Subclause 9(e) seeks to introduce a new subsection 60AA(10A) into Act 53 to provide that for the purposes of ascertaining the adjusted income of the family fund, general fund or shareholders' fund referred to in subsection 60AA(3), (4), (5), (7), (9) or (10) of Act 53, as the case may be, the cost of acquiring and realizing any investments or rights for the basis period for a year of assessment shall include the expenses incurred in managing those investments or rights. The proposed subsection 60AA(10A) further provides for the formula to determine such expenses.

These amendments have effect for the year of assessment 2015 and for subsequent years of assessment.

7. *Clause 10* seeks to introduce a new subsection 60I(3A) into Act 53. The proposed amendment is to clarify that a company which establishes a special purpose vehicle solely for the purpose of issuance of Islamic securities also includes a unit trust which is approved by the Securities Commission as Real Estate Investment Trust or Property Trust Fund.

This amendment has effect for the year of assessment 2015 and for subsequent years of assessment.

8. *Clause 11* seeks to insert new subsections 75B(3) and (4) into Act 53.

The proposed subsection 75B(3) seeks to clarify that every partner of a partnership shall continue to be personally assessable and chargeable to tax for a year of assessment in which the partnership has converted into a limited liability partnership and for any previous year of assessment before the conversion in respect of his chargeable income for any such year of assessment and that a limited liability partnership shall be assessable and chargeable to tax for the year of assessment in which the company has converted into a limited liability partnership and for any previous year of assessment before the conversion in respect of the chargeable income of the company for any such year of assessment.

The proposed subsection 75B(4) seeks to provide that where a limited liability partnership is assessable and chargeable in respect of the chargeable income of a company that has converted into that limited liability partnership under the proposed paragraph 75B(3)(b), the limited liability partnership shall be assessable and chargeable to tax in like manner and to the like amount as the company would have been assessed and charged to tax prior to the conversion.

These amendments come into operation on the coming into operation of this Act.

9. *Clause 12* seeks to amend paragraphs 77C(1)(a) and (c) of Act 53. With the proposed amendments, an individual may elect not to furnish a return for a year of assessment if the individual has income only in respect of gains or profits from an employment and the individual is employed by the same employer in that year of assessment irrespective of the period of employment.

This amendment has effect for the year of assessment 2015 and for subsequent years of assessment.

10. *Clause 13* seeks to introduce a new subsection 91(5) into Act 53. With the proposed amendment, the Director General may make an assessment or additional assessment for a year of assessment in that year of assessment or within seven years after the end of that year of assessment if it appears to him that no or no sufficient assessment has been made on a person chargeable to tax in consequence of the Director General's determination pursuant to subsection 140A(3) of Act 53 in relation to a transaction entered into between associated person not at arm's length.

This amendment comes into operation on the coming into operation of this Act.

11. *Clause 14* seeks to amend subsection 99(4) of Act 53 by allowing an appeal to be made by a person who is aggrieved by an assessment made in respect of him under subsection 90(1) or section 91A of Act 53 as a result of complying with any practice of the Director General generally prevailing at the time when the assessment is made.

This amendment comes into operation on the coming into operation of this Act.

12. *Subclause 15(a)* seeks to amend subsection 107c(4A) of Act 53. The proposed amendment seeks to clarify that the obligation to furnish an estimate of tax payable according to subsections 107c(1), (2) and (3) of Act 53 does not apply to a company resident and incorporated in Malaysia which first commences its operation in a year of assessment for a period as specified in paragraphs 107c(4A)(a), (b) or (c) if certain requirements are met.

This amendment comes into operation on the coming into operation of this Act.

Subclause 15(b) seeks to amend the definition of "due date" in subsection 107c(12) of Act 53. With the proposed amendment, the due date for paying instalments under section 107c is extended from the tenth day of a calendar month to the fifteenth day of a calendar month.

This amendment comes into operation on 1 January 2015.

13. *Clause 16* seeks to introduce a new section 110c into Act 53. Currently, the chargeable income of a family fund of a takaful operator is taxed at the rate of eight per cent. To avoid double taxation, the proposed amendment provides that where actuarial surplus from the family fund of a takaful operator is transferred to the shareholders' fund, the portion of the surplus which has been subjected to tax in the family fund shall be allowed as a set-off against the tax charged on the chargeable income of the takaful operator in respect of its shareholders' fund from family business.

This amendment has effect for the year of assessment 2015 and for subsequent years of assessment.

14. *Clause 17* seeks to amend subsection 112(1) of Act 53 to increase the maximum fine from two thousand ringgit to twenty thousand ringgit for the offence of failing to furnish a return in accordance with subsection 77(1) or 77A(1) of Act 53, or failing to give notice in accordance with subsection 77(3) of Act 53.

This amendment comes into operation on the coming into operation of this Act.

15. *Clause 18* seeks to amend subsection 115(1) of Act 53 to increase the maximum fine from two thousand ringgit to twenty thousand ringgit for the offence of voluntarily leaving or attempting to leave Malaysia without paying

the tax, sums and debts specified in a certificate issued to a person under section 104, and for the offence of voluntarily leaving or attempting to leave Malaysia without furnishing security to the satisfaction of the Director General for the payment of such tax, sums and debts.

This amendment comes into operation on the coming into operation of this Act.

16. *Clause 19* seeks to amend subsection 120(1) of Act 53 to increase the maximum fine from two thousand ringgit to twenty thousand ringgit for the offence as specified in paragraph 120(1)(a), (b), (c), (d), (e) or (f) of Act 53.

This amendment comes into operation on the coming into operation of this Act.

17. *Clause 20* seeks to amend Schedule 1 to Act 53.

Paragraph 20(a)(i) seeks to amend paragraph 1 of Part I of Schedule 1 to provide a new rate of tax which shall be charged for a year of assessment upon the chargeable income of a person other than the person mentioned under paragraphs 1A, 2, 2A, 2D, 3 and 4 of Part I of Schedule 1 to Act 53.

Paragraph 20(a)(ii) seeks to amend paragraph 1A of Part I of Schedule 1 to reduce the rate of tax which is imposed on the chargeable income of a person (other than a company) not resident from 26 per cent to 25 per cent.

These amendments have effect for the year of assessment 2015 and for subsequent years of assessment.

Paragraph 20(a)(iii) seeks to amend paragraph 2 of Part I of Schedule 1 to impose tax on the chargeable income of a company, a trust body, an executor, a receiver and a limited liability partnership as specified in subparagraphs 2(a) to (f) of Part I of Schedule 1 at the rate of 25 per cent for the year of assessment 2015 and 24 per cent for the subsequent years of assessment.

This amendment has effect for the year of assessment 2015 and for subsequent years of assessment.

Subparagraph 20(a)(iv)(A) seeks to amend paragraph 2A of Part I of Schedule 1 to impose the rates of tax as specified in paragraph 2A of Part I on the chargeable income of a company resident and incorporated in Malaysia only which has a paid-up capital in respect of ordinary shares of two million five hundred thousand ringgit and less.

This amendment comes into operation on the coming into operation of this Act.

Subparagraph 20(a)(iv)(B) seeks to amend paragraph 2A of Part I of Schedule 1 to impose tax on the chargeable income of a company resident and incorporated in Malaysia which has a paid-up capital in respect of ordinary shares of two million five hundred thousand ringgit and less at the beginning of the basis period for a year of assessment at the rate of 20 per cent for the year of assessment 2015 and 19 per cent for the subsequent years of assessment for every ringgit of the first five hundred thousand ringgit, and at the rate of 25 per cent for the year of assessment 2015 and 24 per cent for the subsequent years of assessment for every ringgit exceeding five hundred thousand ringgit.

Subparagraph 20(a)(v) seeks to amend paragraph 2D of Part I of Schedule 1 to impose tax on a limited liability partnership resident in Malaysia which has a total contribution of capital (whether in cash or in kind) of two million five hundred thousand ringgit and less at the beginning of the basis period for a year of assessment at the rate of 20 per cent for the year of assessment 2015 and 19 per cent for the subsequent years of assessment for every ringgit of the first five hundred thousand ringgit, and at the rate of 25 per cent for the year of assessment 2015 and 24 per cent for the subsequent years of assessment for every ringgit exceeding five hundred thousand ringgit.

These amendments have effect for the year of assessment 2015 and for subsequent years of assessment.

Paragraph 20(b) seeks to amend Part IV of Schedule 1 to reduce the rates of tax imposed on the chargeable income of a co-operative society.

This amendment has effect for the year of assessment 2015 and for subsequent years of assessment.

18. *Clause 21* seeks to amend Schedule 3 to Act 53.

Subclause 21(a) seeks to amend subparagraph 8(1) of Schedule 3 to clarify that qualifying forest expenditure for the purpose of Schedule 3 is the capital expenditure on the construction of a road and building in a forest incurred only by a person who has a concession or license to extract timber.

Paragraph 21(b)(i) seeks to amend subparagraph 19A(1) of Schedule 3 to increase the value of the small value asset which qualifies for an allowance under paragraph 19A from one thousand ringgit to one thousand three hundred ringgit.

Paragraph 21(b)(ii) seeks to amend the proviso to subparagraph 19A(1) of Schedule 3 to provide that if the total qualifying plant expenditure in respect of small value assets exceeds the amount of thirteen thousand ringgit, the total allowance that shall be made in respect of that expenditure shall be equal to such amount which is thirteen thousand ringgit.

Paragraph 21(b)(iii) seeks to amend the proviso to subparagraph 42(1) of Schedule 3 to provide that if the expenditure incurred by a person on a construction of a building used as living accommodation which is treated as an industrial building is also a qualifying agriculture expenditure and qualifying forest expenditure, the person is allowed to elect for an industrial building allowance, agriculture allowance or forest allowance, in a return for the basis period for a year of assessment in which the expenditure was incurred.

These amendments have effect for the year of assessment 2015 and for subsequent years of assessment.

19. *Clause 22* seeks to amend Schedule 6 to Act 53.

Subclause 22(a) seeks to amend paragraph 12B to clarify that any expenses incurred in relation to any dividend exempted under that paragraph shall be disregarded for the purpose of ascertaining the adjusted income of the person.

This amendment comes into operation on the coming into operation of this Act.

Subclause 22(b) seeks to amend paragraph 20A of Schedule 6 to clarify that any adjusted loss from the investment in respect of a deferred annuity referred to in paragraph 20A shall be disregarded for the purpose of Act 53.

Subclause 22(c) seeks to amend paragraph 35A of Schedule 6 to provide that an income from a unit trust in respect of interest derived from Malaysia and paid or credited by any development financial institution under the Development Financial Institution Act 2002 is exempted from tax.

These amendments have effect for the year of assessment 2015 and for subsequent years of assessment.

20. *Clause 23* seeks to amend Schedule 7A to Act 53.

Paragraph 23(a)(ii) seeks to introduce a new subparagraph 2A(2) into Schedule 7A by providing that the allowance which is deemed to have not been given under subparagraph (1) as renumbered shall be part of the person's statutory income in the basis period for the year of assessment in which the asset is disposed of.

Subclause 23(b) seeks to introduce a new paragraph 4A into Schedule 7A to clarify that the reinvestment allowance under paragraphs 3 and 4 of Schedule 7A is only applicable to the statutory income from a business in respect of a qualifying project referred to in paragraph 8 of Schedule 7A.

These amendments have effect for the year of assessment 2015 and for subsequent years of assessment.

AMENDMENTS TO THE PETROLEUM (INCOME TAX) ACT 1967

Chapter III of this Bill seeks to amend the Petroleum (Income Tax) Act 1967.

21. *Clause 25* seeks to introduce a new subsection 39(5) into Act 543. With the proposed amendment, the Director General may make an assessment or additional assessment for a year of assessment in that year of assessment or within seven years after the end of that year of assessment if it appears to him that no or no sufficient assessment has been made on a person chargeable to tax in consequence of the Director General's determination pursuant to subsection 72A(3) of Act 543 in relation to a transaction entered into between a chargeable person and another person not at arm's length.

This amendment comes into operation on the coming into operation of this Act.

22. *Clause 26* seeks to amend the definition of "due date" in subsection 49A(16) of Act 543. With the proposed amendment, the due date for paying instalments under section 49A is extended from the tenth day of a calendar month to the fifteenth day of a calendar month.

This amendment comes into operation on 1 January 2015.

AMENDMENTS TO THE REAL PROPERTY GAINS TAX ACT 1976

Chapter IV of this Bill seeks to amend the Real Property Gains Tax Act 1976.

23. *Clause 28* seeks to amend subsection 21B(1) of Act 169. With the proposed amendment, the retention sum in relation to the disposal of a chargeable asset under section 21B of Act 169 is increased from two per cent to three per cent.

This amendment comes into operation on 1 January 2015.

24. *Clause 29* seeks to amend Schedule 2 to Act 169.

Subclause 29(a) seeks to amend subparagraph 4(3)(d) of Schedule 2 to clarify that in the case of an asset of a deceased person acquired prior to 1 January 1970 is disposed of, the market value of the asset as at 1 January 1970 shall be substituted for the market value of the asset as at the date of the death of that deceased person.

Subclause 29(b) seeks to redraft paragraph 12 of Schedule 2 to Act 169. The new subparagraph 12(2)(b) provides that in the case of a donor who is not a citizen or permanent resident, the recipient shall be deemed to acquire the asset at an acquisition price equal to the acquisition price paid by the donor plus the permitted expenses incurred by the donor.

The new subsubparagraph 12(2)(c) provides that in the case of a donor who is a citizen or permanent resident and the gift is made within five years after the date of acquisition by the donor, the recipient shall be deemed to acquire the asset at an acquisition price equal to the acquisition price paid by the donor plus the permitted expenses incurred by the donor.

These amendments come into operation on 1 January 2015.

GENERAL

25. Other amendments not specifically dealt with in this Statement are amendments which are minor or consequential in nature.

FINANCIAL IMPLICATIONS

This Bill will not involve the Government in any extra financial expenditure.

[PN(U2)2945]