

# 2014

## BUDGET COMMENTARY & TAX INFORMATION



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**To our valued clients/associates**

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**With compliments from**

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*Cover design*

This year's design of fluctuating but upward bound trend lines and a calculator reflect the expectation of the Rakyat for the government to deliver on its promises to elevate the country to a higher level and for the acceleration of the government's transformation programmes via measurable KPIs in line with this year's Budget theme of "Strengthening Economic Resilience, Accelerating Transformation and Fulfilling Promises".

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# 2014

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### *Foreword*

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2013 has been quite a momentous year with the 2013 General Elections held on 5 May 2013. The event culminated in a victory for the Barisan Nasional who is now empowered to lead the country for another five years. A challenging coming 5 years it will be as Malaysia gears itself up to rise up the GDP stakes and positions itself as a developed country by the year 2020. The goal is a bit distant for the time being, but nevertheless one that needs preparation given that it is only seven years away.

In this regard, the government has started the engine of development and with the recent impetus provided by the Economic Transformation Programme, the government is determined to raise the Malaysian economy to a new level in the coming years. The government is also cognizant of the economic challenges ahead given the bearish economic sentiment in overseas countries.

It is also faced with a budget deficit which will be addressed in the coming days probably with more prudent spending and the introduction of the Goods and Services Tax.

In all of this, the accountancy profession will continue to work with the government to realize the aspirations of the government and the Rakyat. In particular, the 3 Institutes (CTIM, MIA and MICPA) will continue to champion professionalism in the conduct of tax professionals and work closely with the various government ministries for the betterment of the country.

*Written by: Poon Yew Hoe  
25 October 2013*

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# A1 EXECUTIVE SUMMARY

## Introduction

The Prime Minister and Minister of Finance, YAB Dato' Seri Mohd. Najib Tun Razak delivered his fifth Budget on 25 October 2013. With a 4.2% growth in the Malaysian economy in the first half of 2013 amidst modest global economic growth, the Government is optimistic about a stronger domestic economic growth in 2014 at the pace of 5% to 5.5% using the measures proposed in the 2014 Budget. The per capita income is expected to increase to RM34,126 in 2014 from RM32,144 in 2013, and expected to reach RM46,500 or USD15,000 in 2020.

Apart from having the objective to ensure stronger economic growth in 2014, the Budget is also designed with the objectives of reducing fiscal deficit, prospering the nation and promoting the well-being of the rakyat. With the theme "Strengthening Economic Resilience, Accelerating Transformation and Fulfilling Promises", the Budget charts the following five thrusts:

1. Invigorating economic activity;
2. Strengthening fiscal management;
3. Inculcating excellence in human capital;
4. Intensifying urban and rural development; and
5. Ensuring well-being of the rakyat.

## Invigorating economic activity

The share of private investment to GDP has grown from 12.4% in 2010 to 16.7% at present. In 2014, this is expected to increase further to 17.9% of GDP particularly in oil and gas, textile industry, transport equipment and real estate development. Notwithstanding these heartening statistics, the Government will continue its efforts in providing a conducive environment to attract more domestic and foreign investments.

The tax initiatives aimed at invigorating economic activity are as follows:

- Tax deduction for companies that invest to acquire technology platform in bio-based industry.
- Import duty exemption on R&D equipment for companies that invest in pilot plants for the purpose of pre-commercialisation in Malaysia.
- Extension of the stamp duty exemption for loan agreements under the soft loan incentive scheme and tax deduction on expenses incurred for obtaining 1-InnoCERT certification until 31 December 2017.
- Extension of pioneer status and investment tax allowance incentives for new 4 & 5 star hotels.
- Further deduction on the difference between the original salary and the minimum wages paid by SMEs, co-operatives, associations and organisations for a period of one year from 1 January 2014 to 31 December 2014.
- Double deduction on operating expenses incurred by anchor companies in implementing vendor development programmes.

## Strengthening fiscal management

To achieve this objective, the Budget has introduced several measures which look at the transformation of the civil service, improvement of budget management and subsidy rationalisation. A welcomed move by the Government is the proposal for audits to be conducted during the implementation of projects which are valued at more than RM100 million instead of at the end of the projects as currently practised.

The tax initiatives aimed at strengthening fiscal management are as follows:

- Implementation of goods and services tax (GST) at the rate of 6% effective from 1 April 2015. With the implementation of GST, sales tax and service tax will be abolished.
- Further tax deduction on expenses incurred in Y/A 2014 and Y/A 2015 for training in accounting and ICT relating to implementation of GST.
- In line with GST implementation, the income tax rates for resident individuals will be reduced by 1 percentage point to 3 percentage points and as for non-resident individuals, the income tax rate will be reduced by 1 percentage point from 26% to 25%. This is effective from Y/A 2015.
- Corporate income tax rate will be reduced by 1 percentage point effective from Y/A 2016.
- Co-operative income tax rate will be reduced by 1 to 2 percentage points effective from Y/A 2015.
- Deduction will be given on secretarial and tax filing fees up to a certain limit.
- Accelerated capital allowance will continue to be given on ICT equipment and software until Y/A 2016.
- Tax filing requirement be waived for employees whose total tax liability is equivalent to the total amount of monthly tax deducted from salary under the monthly tax deduction scheme.

#### **Inculcating excellence in human capital**

Among the initiatives proposed by the Government to encourage holistic human capital development are the allocation of funds for school buildings, skills training to produce highly skilled workforce, enhancement of the teaching profession and expansion of internet access in schools.

To ease the burden of schooling expenses, the Government will continue with the schooling assistance of RM100 for all primary and secondary school students and the 1Malaysia book voucher valued at RM250 for each student. As for the workforce, the Government seeks to encourage a balance between career and family commitments. It is proposed that further deduction be given on expenses relating to training and consultancy fees incurred by employers in implementing flexible work arrangements in the work place.

#### **Intensifying urban and rural development**

The Government continues with its commitment to improve public transport by constructing the Ipoh-Padang Besar double tracking project, providing the 'park and ride' facilities at LRT, KTM and ERL stations, introducing the Centralised Taxi Service System as well as upgrading bus stops and refurbishing trains.

For rural development, a sum of RM4.1 billion has been allocated for programmes such as refurbishment and upgrading of rural road networks nationwide, provision of potable water and electricity supply in rural areas, building of houses, etc.

#### **Ensuring well-being of the Rakyat**

The Government recognises the importance of ensuring the well-being of the rakyat, which encompasses combatting crime, averting foreign threats, protecting our territorial waters and borders, providing a clean and healthy environment, providing quality healthcare and medical services, sports development, social and economic development of women and children, etc. Other than the allocation of funds, the following measures have been proposed:

- Investment tax allowance for the purchase of green technology equipment and income tax exemption on the use of green technology services and system.
- Private Affordable Ownership Housing Scheme (MyHome) to encourage the private sector to build more low cost and medium cost houses.
- Special relief of RM2,000 in order to alleviate the increasing cost of living for resident individual taxpayers earning up to RM8,000 a month.

Concerned with the difficulties faced by the rakyat to purchase houses due to the sharp increase in the price of houses and excessive speculative activities in the property market, the Government has proposed to increase the real property gains tax (RPGT) rates to 30% for disposals of properties within the holding period of up to 3 years, and 20% and 15% for disposals of properties within the holding periods of up to 4 and 5 years respectively. As for disposals made in the sixth and subsequent years, there will be no RPGT for citizens whereas companies are taxed at 5%. Individuals who are non-citizens will be subject to a rate of 30% for disposals within 5 years and at 5% for disposals in the 6th and subsequent years. In addition, the minimum price of property that can be purchased by foreigners is increased from RM500,000 to RM1,000,000.

#### **Conclusion**

Overall, the 2014 Budget has delivered the measures which are highly anticipated by many such as the GST and the increase in RPGT rates. GST is greeted with mixed feelings when one is to expect the inevitable inflation that comes along with it amidst the hope of reducing the nation's fiscal deficit. For some, GST is long overdue. With the introduction of various measures in the Budget, the Government hopes to further reduce the fiscal deficit from 4% of GDP in 2013 to 3.5% in 2014. Perhaps, the impact of the GST would be softened by the reduction in the income tax rates for corporates, individuals and co-operatives and that lends to a balanced budget.

# A2 INCOME TAX – CHANGES AFFECTING INDIVIDUALS

## A2.1

### REDUCTION IN INCOME TAX RATES AND CHANGE IN INCOME TAX STRUCTURE

#### Existing Legislation

Presently, the income tax for resident individuals is calculated based on scale rates ranging from 0% to 26% with the maximum rate of 26% being applicable to the chargeable income band of RM100,000 and above.

#### Proposed Legislation

It is proposed that the tax rates be reduced as follows:

Chargeable income (RM)	Existing rates (%)	Proposed rates (%)	Reduction (%)
1 – 5,000	0	0	-
5,001 – 20,000	2	1	1
20,001 – 35,000	6	5	1
35,001 – 50,000	11	10	1
50,001 – 70,000	19	16	3
70,001 – 100,000	24	21	3
100,001 – 250,000	26	24	2
250,001 – 400,000	26	24.5	1.5
Above 400,000	26	25	1

It is proposed that non-resident individuals' income tax rate be reduced by 1% from 26% to 25%.

#### Reference

Schedule 1 Part I Paragraphs 1 and 1A of the Income Tax Act 1967.

#### Effective Date

Year of assessment 2015 onwards.

## Likely Tax Effects and Implications

1. The Monthly Tax Deduction (MTD) table applicable to tax deductions in 2015 will have to be revised by the tax authorities to take into account the reduction and change of structure in income tax rates.
2. The proposed tax rates and the corresponding tax savings are tabulated below:

Chargeable income brackets		Present tax rate	Proposed tax rate	Present tax payable	Proposed tax payable	Tax savings	
(RM)		(%)	(%)	(RM)	(RM)	(RM)	(%)
On the first	5,000	0	0	0	0	0	0
On the next	<u>5,000</u>	2	1	<u>100</u>	<u>50</u>	50	50.0
On the first	10,000			100	50	50	50.0
On the next	<u>10,000</u>	2	1	<u>200</u>	<u>100</u>	100	50.0
On the first	20,000			300	150	150	50.0
On the next	<u>15,000</u>	6	5	<u>900</u>	<u>750</u>	150	16.7
On the first	35,000			1,200	900	300	25.0
On the next	<u>15,000</u>	11	10	<u>1,650</u>	<u>1,500</u>	150	9.1
On the first	50,000			2,850	2,400	450	15.8
On the next	<u>20,000</u>	19	16	<u>3,800</u>	<u>3,200</u>	600	15.8
On the first	70,000			6,650	5,600	1,050	15.8
On the next	<u>30,000</u>	24	21	<u>7,200</u>	<u>6,300</u>	900	12.5
On the first	100,000			13,850	11,900	1,950	14.1
On the next	<u>150,000</u>	26	24	<u>39,000</u>	<u>36,000</u>	3,000	7.7
On the first	250,000			52,850	47,900	4,950	9.4
On the next	<u>150,000</u>	26	24.5	<u>39,000</u>	<u>36,750</u>	2,250	5.8
On the first	400,000			91,850	84,650	7,200	7.8
Exceeding	<u>400,000</u>	26	25				

### A2.2

## MONTHLY TAX DEDUCTION AS FINAL TAX

### Existing Legislation

Monthly Tax Deduction (MTD) is a mechanism to deduct monthly tax payments on employment income received by employees in the current year. Employers are responsible to remit MTD to the Inland Revenue Board (IRB) every month as provided under the Income Tax (Deduction from Remuneration) Rules 1994.

Employers are required to make MTD payment after claiming deductions such as personal relief, relief for spouse with no income and child relief and after deducting compulsory deductions such as contributions to the Employees Provident Fund (EPF) or other approved schemes and rebates such as zakat, through employee salary deductions. In addition, the employees may make an irrevocable election to request their employers to deduct other optional deductions allowable under the Income Tax Act 1967 (ITA), in ensuring that the MTD payments are equal to the total final tax payable.

Employees for whom income tax has been deducted through the MTD are required to submit tax returns to the IRB on or before 30 April in the following year. The submission of tax returns burdens the employees with the need to re-compute income tax which may be equivalent to the MTD made by the employer.

### **Proposed Legislation**

To facilitate employees whose total income tax is equivalent to the amount of MTD deducted throughout the year, it is proposed that such taxpayers will no longer be required to submit the annual income tax returns. This will render the amount of MTD as the final tax paid.

The proposal is only applicable to:

- (i) employees who receive employment income prescribed under Sections 13(1)(a), (d) and (e) of the ITA;
- (ii) employees whose MTD are made under Section 107(2) of the ITA and the Income Tax (Deduction from Remuneration) Rules 1994;
- (iii) employees serving under the same employer for a period of 12 months in that year of assessment;
- (iv) employees whose MTD are not borne by the employer for that year of assessment; and
- (v) employees who have not elected for joint assessment under Section 45 of the ITA.

Where an employee meets the above conditions and no return for that year of assessment has been furnished by that employee, it is proposed that:

- (i) the employee is deemed to have made an election not to file a return;
- (ii) the total amount of MTD deducted shall be deemed to be the tax payable of the employee for that year of assessment; and
- (iii) Director General shall not make an assessment in respect of the employee for that year of assessment.

However, the Director General retains the power to raise a deemed assessment or an additional assessment. Where an assessment is raised by the Director General, the deeming of the total amount of MTD deducted as tax payable for that year of assessment shall be disregarded.

### **Reference**

New Section 77C of the Income Tax Act 1967.

### **Effective Date**

Year of assessment 2014 onwards.



## **Likely Tax Effects and Implications**

This proposal aims to improve the efficiency of tax administration and to lessen the burden of taxpayers in completing and filing their income tax returns.

This initiative is in line with the introduction of the Schedular Tax Deduction Calculator in 2009 which enables the employers to make exact deductions for the MTD. The proposed Final Tax System does not change the current requirements to deduct MTD, filing of the Return of Remuneration by an Employer (Form E) and the issuance of the statement of income (Form CP8A/CP8C).

### **A2.3**

## **SPECIAL TAX RELIEF FOR MIDDLE INCOME TAXPAYERS**

### **Existing Legislation**

Resident taxpayers are subject to tax at progressive tax rates from 0% to 26% on their chargeable income after deducting allowable expenses from their aggregate income. The aggregate income comprises of income from employment, business and other sources. Allowable expenses deducted from the aggregate income are:

- (a) Contributions to approved institutions; and
- (b) Tax reliefs.

The amount of tax charged on the chargeable income can be further reduced by deducting 2 types of rebates, namely:

- (a) RM400 for taxpayers with chargeable income up to RM35,000 and RM400 for the spouse; and
- (b) The amount equivalent to zakat contributions by Muslim taxpayers.

The purpose of the tax rebate is to alleviate the financial burden of low and lower middle income taxpayers. However, there are presently no specific relief or tax rebates for middle income taxpayers earning monthly income between RM4,000 to RM8,000.

### **Proposed Legislation**

In order to alleviate the financial burden of the middle income taxpayers, it is proposed that a special tax relief of RM2,000 be given to resident middle income taxpayers earning up to RM8,000 a month (aggregate income of up to RM96,000 per annum).

### **Reference**

Likely to be gazetted by way of a statutory order.

### **Effective Date**

Year of assessment 2013 only.

### **Likely Tax Effects and Implications**

With the above proposal, resident middle income taxpayers earning up to RM96,000 per annum will enjoy tax savings of up to RM480 after deduction of this special relief from their aggregate income.

**Existing Incentive**

In 2010, the Government established the 1Malaysia Pension Scheme (SP1M) for the self-employed without fixed income to contribute voluntarily to the Employees Provident Fund (EPF). Presently, the individuals' contribution amounts for SP1M is based on affordability and can be as little as RM50 with the Government making a contribution of 5% from the contributed amount subject to a maximum of RM60 per year.

To date, about 66,000 contributors have participated in the scheme with total savings exceeding RM240 million.

**Proposed Incentive**

To encourage more people to participate in the scheme, it is proposed that the Government increases its contribution from 5% to 10% (i.e. from a maximum of RM60 to RM120 per year).

This is expected to attract approximately 30,000 new contributors.

**Reference**

Employees Provident Fund (EPF).

**Effective Date**

1 January 2014 to 31 December 2017.

**Likely Implications**

This proposal is to ensure that the SP1M scheme continues to provide an incentive for self-employed individuals or those without fixed income to save for their retirement.

**Existing Incentive**

Presently, a maximum relief of RM3,000 is given for contributions made to a Private Retirement Scheme (PRS) or deferred annuity scheme. The PRS is to be approved by the Securities Commission.

However, there is no other incentive available for contributions made to PRS.

**Proposed Incentive**

It is proposed that individuals be given a one-off incentive of RM500 if the individual participating in the PRS meets the following criteria:

- (a) has a minimum cumulative investment of RM1,000 within a year; and
- (b) is 20 to 30 years old.

**Reference**

No proposed legislation yet.

**Effective Date**

1 January 2014 to 31 December 2018.

**Likely Implications**

This proposal aims to encourage youths who are currently 20 to 30 years old to save for their retirement.

A2.6

**TAXABILITY OF WITHDRAWAL FROM A DEFERRED ANNUITY SCHEME****Existing Legislation**

Presently, there is no legislation to tax an individual on any withdrawal from a deferred annuity scheme.

**Proposed Legislation**

It is proposed that where withdrawal from a deferred annuity scheme by an individual is made before the age of 55 (other than reasons of permanent total disablement, serious disease, mental disability, death or permanent departure from Malaysia), the withdrawal will be taxed at a rate of 8%.

For the purposes of the proposed legislation, deferred annuity refers to schemes contracted on or after 1 January 2014. Such schemes must be issued by:

- (i) insurers licensed under the Financial Services Act 2013; or
- (ii) takaful operators registered under the Islamic Financial Services Act 2013

and contain the Retirement Saving Standards approved by Bank Negara Malaysia.

The same tax treatment will apply for withdrawals made from Private Retirement Schemes.

**Reference**

Section 2(1) of the Income Tax Act 1967.

Section 6(1)(l) of the Income Tax Act 1967.

Section 109G of the Income Tax Act 1967.

Schedule 1 Part XVI of the Income Tax Act 1967.

**Effective Date**

1 January 2014 onwards.

**Likely Tax Effects and Implications**

As deferred annuity scheme are long term investment vehicles, the proposal is aimed to encourage contributors to retain their savings for retirement.

# A3 INCOME TAX – CHANGES AFFECTING COMPANIES AND UNINCORPORATED BUSINESSES

## A3.1

### GAINS OR PROFITS FROM A BUSINESS ARISING FROM STOCK IN TRADE PARTED WITH BY ANY ELEMENT OF COMPULSION

#### Existing Legislation

Presently, gains or profits arising from the disposal of stock in trade in the ordinary course of business are subject to income tax. Under Section 24(1)(a), business income includes stock parted with by compulsory acquisition or in a similar manner, which means that gains arising from the disposal of stock in trade such as development land under a compulsory acquisition are subject to income tax. The Court of Appeal decided in the case of *Penang Realty Sdn Bhd v KPHDN (2006) MSTC 4206* that the compulsory acquisition of a taxpayer's land by the Government could not constitute a sale and the compensation received was not subject to income tax as the element of compulsion essentially vitiated the intention to trade as established in the Supreme Court decision of *Lower Perak Cooperative Housing Society Bhd v KPHDN (1994) 2 MSTC 3,406*. The High Court in a judicial review application in *Metacorp Development Sdn Bhd v KPHDN (2011) MSTC 30-024* on a similar point ruled that the failure of the DGIR to follow the decision of the superior courts rendered its decision defective as the two cases were binding on the DGIR.

#### Proposed Legislation

It is proposed that a new Section 4C be introduced to clarify that any amounts that are receivable by a person from the disposal of its stock in trade including such amounts arising from any element of compulsion such as a compulsory acquisition or forced sale are to be treated as gains or profits from a business.

In conjunction with the introduction of the new Section 4C, the amended Section 24(1)(a) and new Section 24(1)(aa) provide that any debt owing to a person arising in respect of stock in trade parted with by any element of compulsion including on requisition or compulsory acquisition or in a similar manner shall be treated as gross business income for the relevant period.

#### Reference

New Section 4C, Section 24(1)(a) and new Section 24(1)(aa).

#### Effective Date

Year of assessment 2014.

#### Likely Tax Effects and Implications

The proposal aims to make it as clear as possible that gains arising from the disposal of stock in trade by compulsory acquisition are subject to income tax.

## DEEMED INTEREST INCOME FROM LOAN OR ADVANCES TO DIRECTOR

### Existing Legislation

Presently, a company (other than an exempt private company) is prohibited to make a loan to a director of the company or of a related company under Section 133 of the Companies Act 1965, unless the said loan is made:

- (a) to provide such a director with funds to meet expenditure incurred or to be incurred by him/her for the purposes of the company or for the purpose of enabling him/her properly to perform his/her duties as an officer of the company; or
- (b) to provide such a director who is engaged in the full-time employment of the company or its holding company with funds to meet expenditure incurred or to be incurred by him/her in purchasing or otherwise acquiring a home; or
- (c) to such a director who is engaged in the full-time employment of the company or its holding company, where the company has at a general meeting approved of a scheme for the making of loans to employees of the company, and the loan is in accordance with that scheme.

Loan or advances may be made by a company to its directors from its internal funds or from external borrowings. In the instance where the loan or advances are made from the company's internal funds, it would generally be interest-free as there is no additional financing cost incurred by the company. There is currently no specific provision in the Income Tax Act 1967 to impute a deemed interest income on the company in respect of the loans or advances given by the company.

### Proposed Legislation

It is proposed that where a company provides any loans or advances from its internal funds to its directors, the company shall be deemed to derive interest income from such loans or advances. The interest income for the basis period for a year of assessment shall be the aggregate sum of monthly interest in the basis period. The sum of the monthly interest is determined in accordance with the following formula:

$$\frac{1}{12} \times A \times B$$

Where A is the total amount of loan or advances outstanding at the end of the calendar month; and

B is the average lending rate of commercial banks published by the Central Bank at the end of the calendar month, or, where there is no such average lending rate, such other reference lending rate as may be prescribed by the Director General.

Where interest is charged by the company and the total interest charged and payable by the director is more than the aggregate sum of interest as determined based on the above formula, this provision of deemed interest income shall not apply.

Where the interest charged by the company is less than the aggregate sum of interest as determined based on the above formula, the actual interest charged shall be disregarded. The company shall be deemed to derive interest income based on the above formula.

### Reference

New Section 140B of the Income Tax Act 1967.

## **Effective Date**

Year of assessment 2014.

## **Likely Tax Effects and Implications**

This proposal aims to expand the scope of corporate taxation by deeming interest income on loans or advances to directors as taxable income of the lending company.

### **A3.3**

## **INTERPRETATION OF DIRECTOR**

### **Existing Legislation**

Presently, for the purpose of making a director liable for the payment of tax due and payable by the company in its capacity as a corporate taxpayer or as an employer, a person is regarded as a director if:

- (i) he/she occupies the position of director by whatever name called, or is concerned in the management of the company's business; and
- (ii) he/she is, either on his/her own or with one or more associates, the owner of, or able to directly or through the medium of other companies by any other indirect means to control, more than 50% of the ordinary share capital of the company.

### **Proposed Legislation**

It is proposed that the percentage of the ordinary share capital that is to be owned or controlled by a person who is regarded as a director be reduced from more than 50% to not less than 20%.

### **Reference**

Section 75A(2)(b) of the Income Tax Act 1967.

## **Effective Date**

Upon coming into operation of the Finance (No. 2) Act 2013.

## **Likely Tax Effects and Implications**

This proposal appears to be more stringent as it burdens principal officers (who own between 20 to 50% of ordinary share capital) who will be jointly and severally liable for the company's tax liabilities.

### **A3.4**

## **APPEAL TO THE SPECIAL COMMISSIONERS OF INCOME TAX**

### **Existing Legislation**

Presently, the Director General shall forward an appeal against an assessment to the Special Commissioners of Income Tax within 12 months from the date of receipt of a notice of appeal or within the extended period granted by the Minister of Finance if the Director General is of the opinion that there is no reasonable prospect of coming into an agreement with the appellant.

## Proposed Legislation

It is proposed that under the new Section 102(1A), in the case where the person has applied to invoke a mutual agreement procedure as provided for under a double taxation arrangement based on the same or similar grounds as per the appeal made under Section 99, the appeal filed by a person will not be forwarded to the Special Commissioners of Income Tax until finalisation of the mutual agreement procedure. The person may within 30 days from the determination of the mutual agreement procedure, submit a written request to the Director General to forward the appeal to the Special Commissioners of Income Tax. The appeal must be forwarded to the Special Commissioners of Income Tax within 3 months from the receipt of such request.

## Reference

Section 102(1) and new Section 102(1A) of the Income Tax Act 1967.

## Effective Date

Upon coming into operation of the Finance (No. 2) Act 2013.

## Likely Tax Effects and Implications

Generally, the Director General shall forward the appeal against an assessment to the Special Commissioners of Income Tax if there is no prospect of coming into an agreement with the appellant.

With this proposal, the mutual agreement procedure determined under Section 132 of the Income Tax Act 1967 may be considered by the Director General in the appeal made by the appellant before submission of the appeal to the Special Commissioners of Income Tax as requested by the appellant within the stipulated period.

### A3.5

## REVIEW OF CORPORATE INCOME TAX RATES

## Existing Legislation

Presently, income tax is imposed at a fixed rate of 25% on a company and the following entities:

1. A trust body;
2. An executor of an estate of an individual who was domiciled outside Malaysia at the time of his/her death;
3. A receiver appointed by the court; and
4. A limited liability partnership.

A company with a paid-up capital of up to RM2.5 million and a limited liability partnership with total contribution of capital of up to RM2.5 million are subject to the following tax rates:

- (i) 20% on chargeable income up to RM500,000; and
- (ii) 25% on the remaining chargeable income.

## Proposed Legislation

It is proposed that the corporate income tax rate for a company, a trust body, an executor (of an estate of a deceased individual who was domiciled outside Malaysia at the time of his/her death), a receiver appointed by the court and a limited liability partnership be reduced to 24%.

For a resident company with a paid-up capital of up to RM2.5 million, the rates will be reduced by 1% to the following rates:

- (i) 19% on chargeable income up to RM500,000; and
- (ii) 24% on the remaining chargeable income.

### Reference

Appendix 11 of the 2014 Budget Speech. Schedule 1 Part I of the Income Tax Act 1967 is to be amended in future.

### Effective Date

Year of assessment 2016.

### Likely Tax Effects and Implications

This proposal aims to support the smooth implementation of the Goods and Services Tax and to reduce the tax burden of the companies and other taxpayers. Reduction in tax rates for a limited liability partnership with total contribution of capital of up to RM2.5 million has not been indicated in the Appendix.

## A3.6

## REVIEW OF INCOME TAX RATES FOR CO-OPERATIVE SOCIETIES

### Existing Legislation

Presently, the progressive income tax rates for co-operative societies range from 0% to 25% on their chargeable income. The maximum rate of 25% is applicable to chargeable income exceeding RM750,000.

### Proposed Legislation

It is proposed that the progressive income tax rates for co-operative societies be reduced as follows:

Chargeable income (RM)	Current		Proposed		Tax savings	
	Tax Rate (%)	Tax Payable (RM)	Tax Rate (%)	Tax Payable (RM)	RM	%
First 30,000	5	0	5	0		
Next 30,000		1,500		1,500		
On 60,000	10	1,500	10	1,500		
Next 40,000		4,000		4,000		
On 100,000	15	5,500	15	5,500		
Next 50,000		7,500		7,500		



Chargeable income (RM)	Current		Proposed		Tax savings	
	Tax Rate (%)	Tax Payable (RM)	Tax Rate (%)	Tax Payable (RM)	RM	%
On 150,000 Next 100,000	20	13,000	18	13,000	2,000	6.1
On 250,000 Next 250,000		20,000		18,000		
On 250,000 Next 250,000	22	33,000	21	31,000		
On 500,000 Next 250,000		55,000		52,500		
On 500,000 Next 250,000	24	88,000	23	83,500	4,500	5.1
On 750,000 750,000 and above		60,000		57,500		
On 750,000 750,000 and above	25	148,000	24	141,000	7,000	4.7
					**	
** Tax savings for chargeable income exceeding RM750,000 = RM7,000 + [1% × (chargeable income – RM750,000)]						

### Reference

Appendix 12 of the 2014 Budget Speech. Schedule 1 Part IV of the Income Tax Act 1967 is to be amended in future.

### Effective Date

Year of assessment 2015.

### Likely Tax Effects and Implications

This proposal aims to reduce the tax burden of all co-operative societies upon the implementation of GST on 1 April 2015.

## A3.7

### TRAINING EXPENSES IN LINE WITH GST IMPLEMENTATION

#### Existing Legislation

Presently, expenses related to training of employees in accounting and information and communications technology (ICT) are deductible for the purpose of computing the income tax liability of a taxpayer.

#### Proposed Legislation

It is proposed that expenses incurred for GST related training in accounting and ICT be given double tax deduction.

## Reference

To be gazetted by way of statutory order.

## Effective Date

Years of assessment 2014 to 2015.

## Likely Tax Effects and Implications

This proposal is to support the smooth implementation of GST, to ensure that tax compliance is enhanced and to reduce the cost of GST implementation for taxpayers.

It was proposed in the budget speech that a training grant of RM100 million will also be provided to businesses to send their employees for GST training in Years of Assessment 2013 and 2014. It is uncertain how such grants will affect this proposal. In the case where the training expenses are reimbursed by the training grant, the portion of the expenditure reimbursed shall be disregarded for tax deduction and double tax deduction (Income Tax (Exemption) (No. 22) Order 2006).

### A3.8

## TAX INCENTIVE FOR FLEXIBLE WORK ARRANGEMENTS

### Existing Legislation

Presently, there are no tax incentives available to encourage employers to implement flexible work arrangements (FWA) for employees.

### Proposed Legislation

It is proposed that expenses incurred by an employer in training of employees, supervisors and managers as well as consultancy fees incurred to design an appropriate FWA be given a further tax deduction, i.e. a double deduction is effectively given.

FWA can be implemented by employers in various ways such as allowing employees to have flexible working hours, telecommuting, shortening the number of working days in a week etc.

The eligible expenses include costs for training in:

- (a) optimising a work-life balance;
- (b) technology orientation;
- (c) managing a flexible workforce; and
- (d) helping managers embrace flexible work alternatives.

The incentive is only given to companies that have obtained FWA status from Talent Corporation Malaysia Berhad.

## Reference

To be gazetted by way of statutory order.

**Effective Date**

Effective for applications for FWA status received by Talent Corporation Malaysia Berhad between 1 January 2014 to 31 December 2016.

**Likely Tax Effects and Implications**

The proposal encourages employers to adopt FWA for their employees to help boost motivation and increase the productivity of employees.

However, it appears that employers in the form of sole-proprietorships, partnerships, societies, co-operatives and associations will not be able to enjoy this incentive. It is unclear whether non-resident companies will also be excluded.

**A3.9****TAX INCENTIVE FOR IMPLEMENTATION OF MINIMUM WAGES****Existing Legislation**

Presently, under the Minimum Wage Policy, all enterprises including professional firms are required to pay a minimum wage of RM900 per month in Peninsular Malaysia, and RM800 per month in Sabah, Sarawak and Labuan to their local and foreign employees, except employees classified as domestic workers. The wages paid by the employer are eligible for deduction for the purpose of income tax computation.

**Proposed Legislation**

It is proposed that the difference between the original salary and the minimum wages paid by employers which are small and medium enterprises (companies which have a paid-up capital in respect of ordinary shares of not more than RM2.5 million), co-operatives, associations and organisations (trust bodies and societies) are eligible for a further tax deduction.

**Reference**

To be gazetted by way of statutory order.

**Effective Date**

1 January 2014 to 31 December 2014.

**Likely Tax Effects and Implications**

The proposal will reduce the cost of complying with the provisions in the Minimum Wages Order 2012 for employers which are small and medium enterprises, co-operatives, societies, associations and organisations.

## DOUBLE DEDUCTION FOR ANCHOR COMPANIES UNDER VENDOR DEVELOPMENT PROGRAMME

### Existing Legislation

The Vendor Development Programme (VDP) has been introduced with the objective of creating vendors that are competitive and of world standard. Under the VDP, government-linked companies and multinational companies are regarded as anchors whereas local companies and small and medium enterprises (SMEs) are vendors.

Presently, operating and development expenses incurred by anchor companies in implementing VDP are not eligible for tax deduction according to the Government.

### Proposed Legislation

It is proposed that double deduction be given on qualifying expenses incurred by anchor companies to encourage more participation to develop local vendors. The qualifying operating expenses include:

- (a) Cost of product development, research and development, innovation and quality improvement;
- (b) Cost of obtaining ISO / Kaizen / 5S certifications, evaluation programmes and business process reengineering exercises for the purpose of increasing vendor capabilities; and
- (c) Cost of vendor skills training, capacity building, lean management systems and financial management systems.

The qualifying criteria for the double deduction are as follows:

- (a) Anchor companies are required to sign a Memorandum of Understanding (MOU) with the Ministry of International Trade and Industry (MITI) under VDP;
- (b) Qualifying operating expenses must be certified by MITI before the anchor companies can claim the deduction;
- (c) Qualifying operating expenses are capped at RM300,000 per year; and
- (d) Double deduction is given for 3 years of assessment.

### Reference

To be gazetted by way of statutory order.

### Effective Date

For MOUs signed by both anchor companies and MITI from 1 January 2014 to 31 December 2016.

### Likely Tax Effects and Implications

The proposal is to encourage more anchor companies to participate in the VDP with the aim to strengthen existing vendors and encourage creation of new vendors among SMEs.

**Existing Legislation**

Presently, secretarial and tax filing fees incurred by taxpayers are not allowed as deductible expenses for the purpose of computing the taxpayers' income tax liability. The Inland Revenue Board is of the view that these expenses are not incurred directly in the production of business income.

**Proposed Legislation**

It is proposed that the following deductions be given per year in computing the income tax liability of the taxpayers:

- (i) secretarial fee — up to RM5,000
- (ii) tax filing fee — up to RM10,000.

**Reference**

To be gazetted by way of statutory order.

**Effective Date**

Year of assessment 2015.

**Likely Tax Effects and Implications**

This proposal is meant to support the smooth implementation of GST, enhance tax compliance and to reduce the cost of doing business, although it is unfortunate that a limit is imposed on the sums allowed for deduction.

It is not clear at this stage as to the type of secretarial and tax filing fees that are eligible for deduction, e.g. secretarial retainer fees, other related secretarial services, annual tax filing fee, GST filing fee etc.

The Public Ruling 6/2006 has to be amended to take into account the proposed amendments.

**Existing Legislation**

Presently, the Income Tax (Accelerated Capital Allowance) (Information and Communication Technology Equipment) Rules 2008 provide for accelerated capital allowance with an initial allowance of 20% and an annual allowance of 80% on capital expenditure incurred in relation to the purchase of the following information and communication technology equipment:

- (a) Access control system;
- (b) Banking systems;
- (c) Barcode equipment;

- (d) Bursters / decollators;
- (e) Cables and connectors;
- (f) Computer assisted design (CAD);
- (g) Computer assisted manufacturing (CAM);
- (h) Computer assisted engineering (CAE);
- (i) Card readers;
- (j) Computers and components;
- (k) Central processing unit;
- (l) Storage;
- (m) Screen;
- (n) Printers;
- (o) Scanner / reader;
- (p) Accessories;
- (q) Communications and network; and
- (r) Software system or software package.

The above incentive is effective for the years of assessment from 2009 to 2013.

#### **Proposed Legislation**

It is proposed that the accelerated capital allowance be extended for 3 years.

#### **Reference**

To be gazetted by way of statutory order.

#### **Effective Date**

Year of assessment 2014 to year of assessment 2016.

#### **Likely Tax Effects and Implications**

The proposal is to ensure the smooth implementation of Goods and Services Tax by businesses by encouraging them to invest in the latest information and communication technology equipment.

**A3.13**

### **EXTENSION OF INCENTIVES UNDER THE GREEN LANE POLICY PROGRAMME**

#### **Existing Legislation**

Presently, small and medium companies are eligible for the following incentives under the Green Lane Policy programme:

1. Financial assistance:  
Interest subsidy of 2% per year subject to a maximum of RM200,000 per year or accumulated amount of RM1,000,000 for a period of 5 years.

2. Fiscal incentives:
  - (a) Stamp duty exemption on loan agreement;
  - (b) Deduction for expenses incurred in obtaining the first 1-InnoCERT certification.
3. Government procurement incentives:
  - (a) Registration of approved-manufacturer status company without site visit;
  - (b) Additional 5 bonus marks will be given in technical evaluation for the purpose of evaluating technical tender / price quotation;
  - (c) Due consideration will be given for appointment as receiver of the Transfer of Technology (TOT) Programme in the related industry;
  - (d) Priority in participating in procurement exercise by Ministry of Finance (Incorporation) Companies.

The above incentives are given for applications submitted to the Ministry of Finance on or before 31 December 2014.

### **Proposed Legislation**

It is proposed that the incentives be extended to applications received on or before 31 December 2017.

### **Reference**

To be gazetted by way of statutory order.

### **Effective Date**

Applications received by the Ministry of Finance on or before 31 December 2017.

### **Likely Tax Effects and Implications**

1. This proposal is in line with the Government's objective to increase productivity of small and medium enterprises as well as to encourage entrepreneurs to venture into high technology and innovation-driven industries.
2. The existing guideline issued by the Ministry of Finance dated 6 June 2011 and the Income Tax (Deduction for Expenditure to Obtain The 1-InnoCERT Certification) Rules 2012 may shed some light on the qualifying criteria for the proposed incentive.

## **A3.14**

### **APPEAL ON DEEMED ASSESSMENT**

#### **Existing Legislation**

Presently, a taxpayer aggrieved by an assessment is given the right to file an appeal to the Special Commissioners via submission of Form Q to the Director General as provided for under Section 99(1) of the Act. The appeal can be made against the following assessments:

- (a) Deemed assessment under Section 90(1) of the Act upon filing of a return by a taxpayer in accordance with Section 77 or 77A of the Act;
- (b) Assessment issued under Section 90(3) of the Act according to the best judgment of the Director General in determining the amount of the chargeable income of that taxpayer;

- (c) Assessment or additional assessment under Section 91(1) of the Act where it appears to the Director General that no or no sufficient assessment has been made on a person chargeable to tax;
- (d) Assessment under Section 91(2) of the Act where tax has been repaid to a person by mistake;
- (e) Assessment under Section 91(3) of the Act for the purpose of making good the loss of tax attributable to the fraud, wilful default or negligence;
- (f) Assessment under Section 91(4) of the Act for the purpose of giving effect to the revocation, withdrawal or cancellation of any exemption, relief, remission or allowance granted to a person;
- (g) Deemed assessment or additional assessment under Section 91(A) of the Act where a taxpayer has furnished an amended return in accordance with Section 77B of the Act;
- (h) Advance assessment under Section 92 of the Act; and
- (i) Notice of non-chargeability deemed a notice of assessment under Section 97A of the Act.

### **Proposed Legislation**

It is proposed that the right of a taxpayer to appeal to the Special Commissioners is not applicable to the deemed assessment under items (a) and (g) above, except where the taxpayer is aggrieved by such deemed assessments as a result of complying with the public ruling issued by the Director General.

### **Reference**

New Section 99(4) of the Income Tax Act 1967.

### **Effective Date**

Upon coming into operation of the Finance (No. 2) Act 2013.

### **Likely Tax Effects and Implications**

With the above proposal, a taxpayer will no longer have the right to file an appeal against the deemed assessment made upon his/her filing of a return under Section 77 or 77A of the Act, or an amended return under Section 77B of the Act. For instance, an assessment is deemed issued to a company which filed its tax return for year of assessment 2014 within 7 months from the close of the accounting period under Section 77A of the Act, and under such scenario, the taxpayer will no longer have the right to appeal against the deemed assessment based on the tax return filed by the taxpayer.

Nevertheless, if a taxpayer is aggrieved by the deemed assessment as a result of complying with the public ruling issued by the Director General in its filing of the return, the taxpayer's right to appeal against the deemed assessment under Section 99(1) of the Act is still applicable.

For example, ABC Sdn Bhd in filing its tax return for year of assessment 2014 has adopted the tax treatment to disallow the entertainment expenses incurred for its potential customers for the purpose of complying with Public Ruling 3/2008 – Entertainment Expense issued by the Director General. However, ABC Sdn Bhd is aggrieved by the deemed assessment based on the tax return filed on the premise that the entertainment expenses should qualify for a tax deduction under Section 33(1) of the Act, and not prohibited under Section 39 of the Act. Under such scenario, ABC Sdn Bhd can still appeal against the deemed assessment as provided for under Section 99(1) of the Act.



## AMENDMENT OF DEFINITION OF ENTERTAINMENT UNDER SECTION 18 OF THE INCOME TAX ACT 1967

### Existing Legislation

Presently, “entertainment” as defined under Section 18 of the Income Tax Act 1967 includes:

- (a) the provision of food, drink, recreation or hospitality of any kind; or
- (b) the provision of accommodation or travel in connection with or for the purpose of facilitating entertainment of the kind mentioned in paragraph (a),

by a person or an employee of his in connection with a trade or business carried on by that person.

### Proposed Legislation

It is proposed that the definition of “entertainment” under Section 18 of the Income Tax Act 1967 be amended such that expenses incurred by a person or employee of his with or without consideration paid whether in cash or in kind, in promoting the business carried on by that person, shall fall within the definition of “entertainment”.

### Reference

Section 18 of the Income Tax Act 1967.

### Effective Date

Year of assessment 2014.

### Likely Tax Effects and Implications

The proposal provides clarity that expenses as listed in (a) and (b) above incurred by a person or employee of his for the purpose of promoting his business with or without consideration would also fall within the definition of “entertainment”.

## TAX DEDUCTION FOR TAKAFUL BUSINESSES

### Existing Legislation

Presently, Section 60AA of the Act does not provide any tax deduction for management expenses incurred by General *Takaful* business and commission expenses incurred in respect of the Shareholders’ Fund.

### Proposed Legislation

It is proposed that:

- (a) a deduction be given on management expenses incurred by General *Takaful* business; and
- (b) a deduction be given on commission expenses incurred in respect of the Shareholders’ Fund in connection with the general business.

## Reference

Section 60AA(5)(b)(viii) and (7)(b)(viii).

Section 60AA(9)(b)(iv) and (10)(b)(iv).

## Effective Date

Year of assessment 2014 onwards.

## Likely Tax Effects and Implications

Given that the proposed amendment is only effective from YA 2014 and not retrospective, the above issues remain unresolved for prior years as Section 60 was introduced with effect from YA 2008.

In addition, the proposed amendment does not address the commission expenses incurred in respect of the Shareholders' Fund in connection with family business. This will result in *Takaful* Operators not being on par with conventional insurers.

A3.17

## SECTION 109E WITHHOLDING TAX ON PROFIT DISTRIBUTED OR CREDITED TO PARTICIPANTS FOR TAKAFUL FUNDS

### Existing Legislation

Presently, under Section 109E of the Act, any profits distributed or credited out of a family fund, family re-*takaful* fund or general fund under Section 60AA would be subject to withholding tax. Income tax deduction is claimed on the profits distributed from the family fund, family re-*takaful* fund or general fund to participants.

### Proposed Legislation

It is proposed that withholding tax will apply only where tax deduction has been claimed on the profits distributed or credited to the participants out of the operator's family fund, family re-*takaful* fund or general fund.

## Reference

Amendment to Section 109E(1) of the Income Tax Act.

## Effective Date

Year of assessment 2014.

## Likely Tax Effects and Implications

This proposed amendment will give flexibility to the *Takaful* Operators and reduce the administrative issues in respect of complying with withholding tax requirements.

## EXTENDING THE DEDUCTIBILITY OF CONTRIBUTIONS TO CHARITABLE ORGANISATIONS

### Existing Legislation

Presently, a person who makes contributions to an approved institution or organisation under Section 44(6) of the Income Tax Act 1967 is given a tax deduction from the aggregate income in the relevant year for any gift of money, and the amount shall not exceed:

- (a) 7% of the aggregate income in the case of a person other than a company; or
- (b) 10% of the aggregate income in the case of a company.

A charitable organisation is defined as an organisation that is established and maintained to administer a public fund which is meant to be held solely for the purpose of religious worship or the advancement of religion. The fund is to be used for the construction, improvement or maintenance of a building or buildings in Malaysia.

### Proposed Legislation

It is proposed that the abovementioned fund shall also be used to purchase buildings that are to be used as places of worship.

### Reference

Section 44(7)(c)(i) of the Income Tax Act 1967.

### Effective Date

Year of assessment 2014 onwards.

### Likely Tax Effects and Implications

This proposal provides charitable organisations the option to use the funds to purchase buildings instead of being restricted to using the funds merely for the construction or improvement of buildings.

## TAX TREATMENT OF LIMITED LIABILITY PARTNERSHIPS

### Existing Legislation

Presently, provisions in the Income Tax Act 1967 specifically governing a limited liability partnership (LLP) are as follows:

1. A LLP is excluded from the definition of "partnership" under Section 2 of the Income Tax Act 1967. Instead, it is a taxable person for the purpose of the Income Tax Act 1967.
2. The tax residence of a LLP in Malaysia is determined based on the management and control of its business or affairs exercised by its partners.
3. In arriving at the adjusted income of a LLP, no deduction is allowed in respect of any remuneration or any similar payment paid to the partners of the LLP where such remuneration or

payment is not specified or provided in the agreement made in accordance with Section 9 of the Limited Liability Partnerships Act 2012.

4. A partnership or company which converts into a LLP is allowed to carry forward its unabsorbed business losses and unabsorbed capital allowances to be utilised against the future income of the LLP.
5. A compliance officer who is appointed by the partners of the LLP under the Limited Liability Partnerships Act 2012 shall be responsible for doing all acts and things required under the Income Tax Act 1967 on behalf of the LLP. Where no compliance officer is appointed, the partners of the LLP are jointly and severally liable.
6. The following tax treatments for a LLP are similar to that of a company, trust body or co-operative society:
  - (a) Determination of basis period;
  - (b) Due date for filing of tax return and payment of balance of tax payable;
  - (c) Furnishing of estimate of tax payable and payment of tax instalments;
  - (d) Tax rate including preferential tax rate on the first RM500,000 of the chargeable income;
  - (e) Profits paid, credited or distributed by a LLP to its partners are exempted from tax; and
  - (f) Controlled transfer provisions would apply.

### **Proposed Legislation**

It is proposed that:

1. Controlled transfer provisions shall apply in respect of the assets transferred by the converting partnership or company to the newly formed LLP.
2. A LLP is not entitled to make a claim for capital allowances in respect of the assets transferred for the year of assessment in which the conversion occurred unless a claim has not been made by the converting company or partners of the converting partnership in that year of assessment.

### **Reference**

New Paragraph 38B, Paragraph 40 and new Paragraph 76A of Schedule 3 of the Income Tax Act 1967.

### **Effective Date**

Upon the coming into operation of the Finance (No. 2) Act 2013.

### **Likely Tax Effects and Implications**

In view that LLP is a relatively new concept in Malaysia's business organisation structure, it is crucial for the Inland Revenue Board to provide greater clarity on the taxation of LLPs. With added clarity, it is possible that more LLPs may be established in the future.

The above proposals clarify the tax treatment in relation to the assets transferred to the newly formed LLP by the converting company or partnership. These proposals along with other tax provisions seek to streamline the tax treatment of LLPs to be in line with that of companies.

## TAXATION OF WITHDRAWALS OF CONTRIBUTIONS MADE TO A DEFERRED ANNUITY OR A PRIVATE RETIREMENT SCHEME

### Existing Legislation

Presently, where a person (the payer) makes a payment to an individual in relation to a withdrawal of contribution before reaching the age of 55 (other than by reason of death or permanently leaving Malaysia) from a fund administered by that payer under a private retirement scheme, the payer is required to deduct tax at the rate of 8%. The tax withheld has to be paid to the Director General within one month after making the payment to the individual.

In the event that the payer fails to pay any amount of the tax, the amount the payer fails to pay shall be increased by a sum equal to 10% and the increased sum shall be a debt due to the Government.

### Proposed Legislation

It is proposed that the taxability of the withdrawals of contributions by an individual be extended to a deferred annuity. Deferred annuity means a deferred annuity contracted on or after 1 January 2014 issued by insurers licensed under the Financial Services Act 2013 or takaful operators registered under the Islamic Financial Services Act 2013, and contains the Retirement Saving Standards approved by the Central Bank.

In addition to the above, the withdrawals of contributions made to a deferred annuity or a private retirement scheme by an individual before reaching the age of 55 which is subject to the withholding tax of 8% should exclude the withdrawal due to the reason of permanent total disablement, serious disease, mental disability, death or permanently leaving Malaysia.

### Reference

Section 109G and Schedule 1 Part XVI of the Income Tax Act 1967.

### Effective Date

Upon coming into operation of the Finance (No. 2) Act 2013.

### Likely Tax Effects and Implications

This proposal is aimed to align the tax treatments on deferred annuity with private retirement schemes and to extend the exception rules by including the reason for withdrawal due to the individual's permanent total disablement, serious disease and mental disability.

However, with the new definition of "deferred annuity" under Section 2 of the Income Tax Act 1967, it has created an uncertainty as to whether an individual can continue to claim the relief of up to RM3,000 which is given for contributions made for any deferred annuity and contributions to private retirement schemes under Section 49(1D) of the Income Tax Act 1967 with effect from 1 January 2014.

## MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS

### Existing Legislation

Presently, under Section 132A of the Income Tax Act 1967, the government is empowered to enter into tax information exchange arrangements with a foreign government with a view to exchange information that is seen to be relevant in order to administer, assess, collect or to enforce the taxes under this Act or other taxes under any written law.

### **Proposed Legislation**

It is proposed that the Government of Malaysia and a foreign government may enter into a mutual administrative assistance arrangement on tax matters that includes simultaneous tax examination, automatic exchange of information or tax administrations abroad.

### **Reference**

New Section 132B of the Income Tax Act 1967.

### **Effective Date**

Upon coming into operation of the Finance (No. 2) Act 2013.

### **Likely Tax Effects and Implications**

This proposal will allow the Government of Malaysia to work more closely with a foreign government on tax matters to exchange information and administer taxes to enhance greater transparency on a cross border basis.



## **BASIS PERIOD OF A COMPANY, LIMITED LIABILITY PARTNERSHIP, TRUST BODY OR CO-OPERATIVE SOCIETY FOLLOWING CHANGE OF FINANCIAL YEAR END**

### **Existing Legislation**

Presently, it is provided in Section 21A(3) of the Income Tax Act 1967 that, where a company, limited liability partnership, trust body or co-operative society has made up the accounts of its operations for a period of 12 months ending on a day other than 31 December and there is a failure to make up the accounts ending on the corresponding day in the following basis year, the Director General may direct that the basis period for the year of assessment in which the failure occurs, or the basis periods for that year and the following year of assessment, shall consist of a period or periods (which may be of any length) as specified in the direction.

However, no legislation exists (apart from the public rulings issued by the Inland Revenue Board) to govern the basis periods for the relevant years of assessment for the same failure which applies to a company, limited liability partnership, trust body or co-operative society that normally makes up the accounts for a period of 12 months ending on 31 December.

### **Proposed Legislation**

It is proposed that the words "other than 31 December" in Section 21A(3) of the Income Tax Act 1967 be replaced by the words "in a basis year".

### **Reference**

Section 21A(3) of the Income Tax Act 1967.

### **Effective Date**

Year of assessment 2014.

### **Likely Tax Effects and Implications**

The above proposal enables the Director General to direct the basis periods of all companies, limited liability partnerships, trust bodies or co-operative societies that change their accounting year end.

## **BASIS PERIOD OF A COMPANY, LIMITED LIABILITY PARTNERSHIP, TRUST BODY OR CO-OPERATIVE SOCIETY FOR FIRST YEAR OF ASSESSMENT**

### **Existing Legislation**

Presently, it is provided under Section 21A(4) of the Income Tax Act 1967 that, where a company, limited liability partnership, trust body or co-operative society commences operations on a day in a basis year and makes up its accounts for a period of 12 months ending on a day other than 31 December, there shall be no basis period in relation to any of its sources of income for the first year. However, the provision is silent on the determination of the basis periods for those cases where the accounts are made up for a period of less than or more than 12 months. As a result, references are sought to the relevant public rulings issued by the Inland Revenue Board.

### **Proposed Legislation**

With the intention of providing more clarification to the existing legislation, it is proposed that, where a company, limited liability partnership, trust body or co-operative society commences operations on a day in a basis year for a year of assessment (hereinafter referred to as “first year of assessment”) and makes up its account:

- (a) for a period of less than 12 months ending on a day in that basis year, that period shall constitute the basis period for the first year of assessment;
- (b) for any period of months ending on a day in the immediately following basis year, that period (hereinafter referred to as “second year of assessment”) shall constitute the basis period for the year of assessment immediately following the first year of assessment. There shall be no basis period in relation to any of its sources of income for the first year of assessment; or
- (c) for a period of more than 12 months ending on a day in the basis year immediately following the second basis year, that period shall constitute the basis period for the year of assessment immediately following the second year of assessment. There shall be no basis period in relation to any of its sources of income for the first year of assessment and the second year of assessment.

The following examples illustrate the determination of basis period following the above proposed amendments:

Example 1 [illustrating scenario (a)]:

A company commences operations on 1 March 2013 and accounts are made up to 30 September 2013 (less than 12 months) and thereafter to 30 September of each year.

The basis period for the year of assessment 2013 is 1 March 2013 to 30 September 2013.

Example 2 [illustrating scenario (b)]:

A company commences operations on 1 March 2013 and accounts are made up to 30 June 2014 and thereafter to 30 June of each year.

The basis period for the year of assessment 2014 is 1 March 2013 to 30 June 2014.

Example 3 [illustrating scenario (c)]:

A company commences operations on 1 December 2013 and accounts are made up to 31 March 2015 (more than 12 months) and thereafter to 31 March of each year.

The basis period for the year of assessment 2015 is 1 December 2013 to 31 March 2015.

#### **Reference**

Section 21A(4) of the Income Tax Act 1967.

#### **Effective Date**

Year of assessment 2014.

#### **Likely Tax Effects and Implications**

The above proposal is intended to simplify the determination of the first basis period of a company, limited liability partnership, trust body or co-operative upon its commencement of business operations. With the above proposal, the issues of overlapping basis periods, apportionment of adjusted business income or loss, and submission deadlines of tax returns and estimates of tax payable can be mitigated.

A3.24

### **DEDUCTION NOT ALLOWED FOR FAILURE TO FURNISH INFORMATION REQUESTED UNDER SECTION 81 OF THE INCOME TAX ACT 1967**

#### **Existing Legislation**

Presently, there is no provision under the Income Tax Act 1967 to disallow the claim for deduction in arriving at a person's adjusted income if that person fails to furnish any information as requested by the Director General under Section 81 of the Income Tax Act 1967.

#### **Proposed Legislation**

Based on the proposed new Section 39(1A) of the Income Tax Act 1967, where a person fails to furnish any information as requested by the Director General in accordance with Section 81 of the Income Tax Act 1967 to justify the person's claim for deduction in arriving at his/her adjusted income within the time specified in the notice or such other period as may be allowed by the Director General, such claim for deduction made by that person shall not be allowed.

#### **Reference**

New Section 39(1A) of the Income Tax Act 1967.

#### **Effective Date**

Year of assessment 2014 onwards.

#### **Likely Tax Effects and Implications**

With the introduction of the new Section 39(1A) of the Income Tax Act 1967, taxpayers will need to ensure that the relevant information called for by the Director General be furnished within the stipulated period to avoid disallowance of the deduction claimed by the taxpayers.

The Director General should give adequate and reasonable notice for the taxpayer to furnish the required information otherwise the taxpayer should request for an extension of time to furnish the information.



**Existing Legislation**

Presently, there is no legislation to empower the Director General to direct a person to remit withholding tax which should be deducted within a specific timeframe.

**Proposed Legislation**

It is proposed that the Director General be empowered to issue a notice to require a person to remit withholding tax that should be deducted and payable to the Inland Revenue Board within a specific timeframe.

**Reference**

New subsection 140(2A) of the Income Tax Act 1967.

**Effective Date**

Upon coming into operation of the Finance (No. 2) Act 2013.

**Likely Tax Effects and Implications**

The proposal will expedite the collection of outstanding withholding tax.

**Existing Legislation**

Presently, interest income that is accruing in or derived from Malaysia shall, when it has been received, be treated as gross income in the basis period when it was first receivable. Interest is deemed received when it is obtainable on demand.

**Proposed Legislation**

It is proposed that interest on loan transactions between related parties is deemed obtainable on demand when the interest is due to be paid.

**Reference**

New Section 29(3) of the Income Tax Act 1967.

**Effective Date**

Year of assessment 2014.

**Likely Tax Effects and Implications**

The insertion of this new Section 29(3) aims to further clarify on when interest income on loan transactions between related parties is to be recognised.

**Existing Legislation**

Presently, a company can submit its tax return either by way of manual filing or electronic filing to the Director General. Furthermore, there is no specific provision that states that the return furnished by a company has to be based on accounts audited by a professional accountant.

**Proposed Legislation**

It is proposed that:

- (i) A company shall file its tax return to the Director General in the prescribed form on an electronic medium or by way of electronic transmission in accordance with Section 152A of the Income Tax Act 1967.
- (ii) A company's return furnished to the Director General under Section 77A has to be based on accounts audited by a professional accountant, together with a report made by the said professional accountant in accordance with subsections 174(1) and 174(2) of the Companies Act 1965.

**Reference**

- (i) New subsection 77A(1A) of the Income Tax Act 1967.
- (ii) New subsection 77A(4) of the Income Tax Act 1967.

**Effective Date**

Year of assessment 2014 and subsequent years of assessment.

**Likely Tax Effects and Implications**

- (i) The proposal removes the manual filing option and makes it mandatory for a company to file its tax return electronically to the Director General. This will make the tax filing system more efficient.
- (ii) The proposal will ensure higher credibility and accuracy of the returns furnished by the company.

**Existing Legislation**

Presently, a small and medium enterprise (SME) which has commenced operations in a year of assessment is not required to furnish an estimate of tax payable or make instalment payments for a period of two years beginning from the year of assessment in which the SME commences operations.

A SME is defined as a company with a paid-up capital in respect of ordinary shares of RM2.5 million and below at the beginning of the basis period for the relevant year of assessment, and not more than:

- (a) 50% of the paid-up capital in respect of ordinary shares of the company is directly or indirectly owned by a related company;

- (b) 50% of the paid-up capital in respect of ordinary shares of the related company is directly or indirectly owned by the first mentioned company; or
- (c) 50% of the paid-up capital in respect of ordinary shares of the first mentioned company and the related company is directly or indirectly owned by another company.

“Related company” is defined as a company which has a paid-up capital in respect of the ordinary shares of more than RM2.5 million at the beginning of the basis period for a year of assessment.

### Proposed Legislation

It is proposed that where a SME first commences operations in a year of assessment and the SME has no basis period for that year of assessment and for the immediate following year of assessment, the SME is not required to furnish an estimate of tax payable in a prescribed form for that year of assessment and for the immediate two following years of assessment.

Example:

A SME commences operations on 1 November 2014 and closes its first set of accounts on 31 January 2016 (15 months accounts).

Year of assessment	2014	2015	2016	2017	Legislation
Basis period	No	No	Yes	Yes	Section 21A(4)(c)
Estimate of tax payable	Not required	Not required	Not required	Required	Section 107C(4A)(c)

The above will apply provided that at the commencement of operations of the SME and at the beginning of the immediate two following years of assessment, the paid-up capital in respect of the ordinary shares of the SME is not more than RM2.5 million.

### Reference

Section 107C(4A)(c) of the Income Tax Act 1967.

### Effective Date

Year of assessment 2014.

### Likely Tax Effects and Implications

The above amendment is a consequence of the proposed amendment made to Section 21A(4) of the Income Tax Act 1967.

**A3.29**

## AMENDMENT TO SECTIONS 60F, 60H AND 63B

### Existing Legislation

Presently, a deduction of permitted expenses can be made in arriving at the total income for investment holding companies, closed-end fund companies and unit trusts. The deduction of permitted expenses is determined in accordance with the formula below:

$$A \times \frac{B}{4C}$$

- (i) where, for investment holding companies:
- A is the total of the permitted expenses incurred for that basis period reduced by any receipt of a similar kind;
- B is the gross income consisting of dividend, interest and rent chargeable to tax for that basis period; and
- C is the aggregate of the gross income consisting of *dividend (whether exempt or not), interest and rent*, and gains made from the realisation of investments for that basis period.
- (ii) where, for closed-end fund companies:
- A is the total of the permitted expenses incurred for that basis period;
- B is the gross income consisting of dividend and interest chargeable to tax for that basis period; and
- C is the aggregate of the gross income consisting of *dividend and interest (whether exempt or not)*, and gains made from the realisation of investments (whether chargeable to tax or not) for that basis period.
- (iii) where, for unit trusts:
- A is the total of the permitted expenses incurred for that basis period;
- B is the gross income consisting of dividend, interest and rent chargeable to tax for that basis period; and
- C is the aggregate of the gross income consisting of *dividend (whether exempt or not), interest and rent*, and gains made from the realisation of investments (whether chargeable to tax or not) for that basis period.

### **Proposed Legislation**

To standardise the words used for C in the formula for calculating permitted expenses for investment holding companies, closed-end fund companies and unit trusts, it is proposed that the words in the existing legislation be substituted with “dividend and interest (whether such dividend or interest is exempt or not)”.

### **Reference**

- (i) Section 60F(1) of the Income Tax Act 1967.
- (ii) Section 60H(4) of the Income Tax Act 1967.
- (iii) Section 63B(1) of the Income Tax Act 1967.

### **Effective Date**

Year of assessment 2014 and subsequent years of assessment.

### **Likely Tax Effects and Implications**

The proposal will reduce the deduction of permitted expenses that can be made in arriving at the total income and this will result in a higher chargeable income for the investment holding companies, closed-end fund companies and unit trusts.

### Existing Legislation

Presently, subject to interest restriction provision, any sum of interest payable in the basis period for a year of assessment on money borrowed and employed in the production of gross business income or being laid out on assets used or held for the production of gross business income is allowed a deduction in arriving at the adjusted business income for that basis period even if the interest is not paid or due to be paid in that basis period.

### Proposed Legislation

Based on the proposed new Section 33(4), a taxpayer is only eligible to claim a deduction in respect of interest from money borrowed against its business income when such interest is due to be paid. However, the deduction would be given in the year the interest is payable.

Example:

ABC Sdn Bhd borrowed RM1 million from XYZ Sdn Bhd in the year of assessment 2014. Based on the loan agreement, interest accrues yearly from year of assessment 2014 but the loan principal together with the accrued interest will only be due to be paid in the year of assessment 2018.

Tax Treatment	
Existing Legislation	Proposed Legislation
Interest payable is allowed a deduction in the year it is accrued and payable for each year of assessment starting from years of assessment 2014 until 2018.	ABC Sdn Bhd is only eligible to claim a deduction of the accrued interest in the year of assessment 2018 when the interest is due to be paid. The deduction is to be given in the respective years of assessment when the interest is accrued and payable. This would require a revised tax return submission for the earlier years of assessment.

### Reference

New Section 33(4) of the Income Tax Act 1967.

### Effective Date

Year of assessment 2014.

### Likely Tax Effects and Implications

This proposal together with the new Section 29(3) of the Income Tax Act 1967 aim to align the timing of taxing of interest income on the lender and deduction of interest expense by the borrower.

# A4 INVESTMENT INCENTIVES

## A4.1

### EXTENSION OF TAX INCENTIVES FOR NEW FOUR AND FIVE-STAR HOTELS

#### Existing Legislation

Presently, hotel operators undertaking new investments in four and five-star hotels are given the following tax incentives:

1. Peninsular Malaysia

- (a) Pioneer status with tax exemption of 70% of statutory income for a period of five years; or
- (b) Investment tax allowance of 60% on qualifying capital expenditure incurred within a period of five years, which can be set-off against 70% of statutory income for each year of assessment.

The above incentives are for applications received by the Malaysian Investment Development Authority (MIDA) from 8 October 2011 to 31 December 2013.

2. Sabah and Sarawak

- (a) Pioneer status with income tax exemption of 100% of statutory income for a period of five years; or
- (b) Investment tax allowance of 100% on qualifying capital expenditure incurred within a period of five years, which can be set-off against 100% of statutory income for each year of assessment.

The above incentives are for applications received by MIDA from 30 August 2008 to 31 December 2013.

#### Proposed Legislation

It is proposed that the pioneer status or investment tax allowance for hotel operators undertaking new investments in four and five-star hotels in Peninsular Malaysia, Sabah and Sarawak be extended for another 3 years.

#### Reference

To be gazetted by way of statutory order.

#### Effective Date

Applications received by the MIDA from 1 January 2014 until 31 December 2016.

#### Likely Tax Effects and Implications

This measure is proposed in conjunction with the Visit Malaysia Year 2014 and is aimed at promoting an adequate supply of international standard accommodation especially to cater for luxury and high spending tourists, as well as to increase the facilities for meeting, incentive, convention and exhibition (MICE) activities.

**Existing Legislation**

Presently, the following tax incentives are available for companies carrying out activities relating to environmental management:

1. Pioneer status or investment tax allowance to companies generating energy from renewable sources, expenditure on energy conservation and recycling of agricultural waste into value added products;
2. Import duty and sales tax exemption for equipment used for the generation of energy from renewable resources and energy conservation;
3. Tax exemption equivalent to 100% of the additional capital expenditure incurred to obtain the Green Building Index (GBI) certificate given to the owners of buildings;
4. Stamp duty exemption on instruments of transfer of ownership for buyers of buildings and residential properties awarded with the GBI certificate; and
5. Accelerated capital allowance for environmental protection equipment.

**Proposed Legislation**

It is proposed that the following incentives be given:

1. Investment tax allowance for purchase of green technology equipment; and
2. Tax exemption on the use of green technology services and systems.

**Reference**

To be gazetted by way of statutory order.

**Effective Date**

To be determined.

**Likely Tax Effects and Implications**

The proposal aims to promote the development and usage of green technology equipment, services and systems. Companies are encouraged to search for equipment which contents and methods of production have the smallest possible impact on the environment. Similarly, the use of green technology systems such as rain water harvesting and infrared heating systems would help to conserve resources and minimise the degradation of the environment. To add to that, incentives shall be given for companies which acquire services relating to green technology such as consultation services on green technology financing, green procurement, energy audit and product certification.

However, it is unclear as to the mechanism and conditions of the above tax incentives as well as the effective date due to lack of clarifications in the Budget Speech.

**Existing Legislation**

Currently, the following tax incentives are given for companies undertaking biotechnology activities that had been granted with the bionexus status from the Malaysian Biotechnology Corporation Sdn Bhd (BiotechCorp):

1. Pioneer status with tax exemption of 100% of statutory income for a period of ten years, or Investment tax allowance of 100% on qualifying capital expenditure incurred within a period of five years.
2. Upon the expiry of the tax exemption period, a bionexus company is given a concessionary tax rate of 20% on income from qualifying activities for 10 years.
3. Industrial building allowance of 10% over a period of 10 years on building used solely for the purpose of biotechnology research activities.
4. Exemption of import duty and sales tax on importation of raw materials / components and machinery and equipment.
5. Tax deduction equivalent to the total investment made in seed capital and early stage financing for a company or an individual investing in a bionexus company.

BiotechCorp is a government agency under the purview of the Ministry of Science, Technology and Innovation (MOSTI). It is established in 2005 when the National Biotechnology Policy (NBP) was created and is tasked to provide strategic direction and operational assistance for businesses, to nurture and accelerate growth of Malaysian biotechnology companies and to develop specialised infrastructure for the biotechnology industry in Malaysia.

**Proposed Legislation**

It is proposed that the following incentives be given for projects which are viewed as viable by BiotechCorp:

1. Tax deduction for companies that invest to acquire technology platform in bio-based industry;
2. Exemption on import duty on R&D equipment for companies that invest in pilot plants for the purpose of pre-commercialisation in Malaysia; and
3. Special incentive to companies to partially cover the operational cost of human capital development in respect of their Centre of Excellence for R&D.

**Reference**

To be gazetted by way of statutory order.

**Effective Date**

Applications received by BiotechCorp from 1 January 2014 to 31 December 2018.



## **Likely Tax Effects and Implications**

The continued commercial application of biotechnology worldwide over the past 20 years has led to the development of a bioeconomy. The Organisation for Economic Cooperation and Development (OECD) estimates that bioeconomy will contribute an average of 2.7% to global GDP by 2030. Bioeconomy refers to all economic activities that are derived from the continued commercial application of biotechnology, whereby economic outputs could be derived from the development and use of biological materials. Bioeconomy encompasses all industries and economic sectors (e.g. agriculture, forestry, fisheries, food production, healthcare, chemicals, renewable energy, etc.) and the values implicit in biological materials can be translated into new sources of income, environmental sustainability and social well-being.

The proposals aim to encourage more companies to invest in R&D activities in the field of biotechnology which is in line with the Government's recognition of the importance of R&D for the development of bioeconomy. Nevertheless, the proposals lack the details with regards to the mechanism and conditions. Therefore, further clarification needs to be issued on these ambiguous matters.

# A5 STAMP DUTY

A5.1

## EXEMPTION FOR LOAN AGREEMENTS UNDER THE SOFT LOAN INCENTIVE SCHEME FOR SMALL AND MEDIUM ENTERPRISES

Refer to A3.13

A5.2

## AMENDMENT TO SECTION 9 OF STAMP ACT 1949

### Existing Legislation

At present, for the purpose of subsection 9(6) of the Stamp Act 1949, the person mentioned in subsection 9(1) of the Stamp Act 1949 shall keep and retain the books, records and documents in connection with the issue of such Articles of Association and Memorandum of Association for a period of seven years from the year in which such Articles of Association and Memorandum of Association are issued.

### Proposed Legislation

It is proposed that for the purpose of subsection 9(6) of the Stamp Act 1949, the person mentioned in subsection 9(1) of the Stamp Act 1949 shall keep and retain the books, records and documents in connection with the issue of such instruments referred to in paragraph 1(a), (b) or (c) under Section 9 of the Stamp Act 1949 for a period of seven years from the year in which such instruments are issued.

### Reference

Subsection 9(7) of the Stamp Act 1949.

### Effective Date

Upon coming into operation of the Finance (No. 2) Act 2013.

### Likely Tax Effects and Implications

With the proposed amendment, the books, records and documents in connection with instruments referred to in paragraph 1(a), (b) or (c) under Section 9 of the Stamp Act 1949 shall be kept and retained for a period of seven years from the year in which such instruments are issued. The instruments include unstamped cheques, contract notes or policies of insurance drawn or drawn up and issued on forms to be supplied or adopted by the banker, dealer or insurer; unstamped Articles of Association and Memorandum of Association lodged with the Registrar of Companies; and unstamped TNB Electricity Supply Form issued and supplied by Tenaga Nasional Berhad.

**Existing Legislation**

At present, an instrument which is not stamped within the period specified in or under Section 40 or 47 of the Stamp Act 1949 may be stamped on payment of the unpaid duty and a penalty as prescribed under subsection 47A(1) of the Stamp Act 1949. Pursuant to subsection 47A(2) of the Stamp Act 1949, the Collector may, if he thinks fit, reduce or remit such penalty or the further amount payable for the payment of duty on unstamped TNB Electricity Supply Form issued and supplied by Tenaga Nasional Berhad under paragraph 9(1)(c) of the Stamp Act 1949.

**Proposed Legislation**

It is proposed that subsection 47A(2) of the Stamp Act 1949 be amended to provide that the Collector may, if he thinks fit, reduce or remit such penalty or the further amount payable where there is a failure by the authorised person to remit the duties collected under subsection 9(1) of the Stamp Act 1949 on unstamped cheques, contract notes or policies of insurance drawn or drawn up and issued on forms to be supplied or adopted by the banker, dealer or insurer; unstamped Articles of Association and Memorandum of Association lodged with the Registrar of Companies; and unstamped TNB Electricity Supply Form issued and supplied by Tenaga Nasional Berhad in accordance with subsection 9(3) of the Stamp Act 1949.

**Reference**

Subsection 47A(2) of the Stamp Act 1949

**Effective Date**

Upon coming into operation of the Finance (No. 2) Act 2013

**Likely Tax Effects and Implications**

With the proposed amendment, the Collector may reduce or remit the penalty for late stamping of instruments or any further amount payable on unstamped instruments referred to above.

## A6 INDIRECT TAX

A6.1

**IMPORT DUTY EXEMPTION ON RESEARCH AND DEVELOPMENT  
EQUIPMENT FOR COMPANIES THAT INVEST IN PILOT PLANTS FOR  
THE PURPOSE OF PRE-COMMERCIALISATION**

Refer to A4.3

# A7 LABUAN

## A7.1

### NEW SECTION 21A FOR PRESCRIBED FORM

#### Existing Legislation

Presently, under Section 21, the Minister may make regulations generally for the purpose of carrying out, or giving effect to, the provisions of this Act and in particular, but without prejudice to the foregoing, for prescribing such forms as are required by this Act to be prescribed or as he may deem necessary.

#### Proposed Legislation

It is proposed that this section be substituted with the provision that the Minister may make regulations generally for the purpose of carrying out, or giving effect to, the provisions of this Act.

The principal Act is also amended by inserting a new Section 21A where the Director General may prescribe such forms as are required by this Act and such other forms as he considers that are ought to be prescribed in connection with the operation of this Act.

#### Reference

Section 21 and Section 21A of the Labuan Business Activity Tax Act 1990.

#### Effective Date

Upon coming into operation of this Act.

#### Likely Tax Effects and Implications

The proposed amendment effectively segregates the roles of the Minister of Finance and the Director General of Inland Revenue. The Minister's role is confined to making regulations and the Director General is now empowered to prescribe forms as required by Labuan Business Activity Tax Act.

This initiative should achieve greater efficiency in respect of issuance of prescribed forms.

# A8 PETROLEUM INCOME TAX

A8.1

## AMENDMENT TO SECTION 2 OF THE PETROLEUM (INCOME TAX) ACT 1967

### Existing Legislation

Presently, the definition of “entertainment” in Section 2 of the Petroleum (Income Tax) Act 1967 is as follows:

“includes –

- (a) the provision of food, drink, recreation or hospitality of any kind; or
- (b) the provision of accommodation or travel in connection with or for the purpose of facilitating entertainment of the kind mentioned in paragraph (a),

by a chargeable person or an employee of his in connection with petroleum operations carried on by that chargeable person”

### Proposed Legislation

It is proposed that the definition of “entertainment” be amended, by inserting after the words “employee of his” the words “with or without any consideration paid whether in cash or in kind, in promoting or”. With these additional words, the definition of entertainment will now read as follows:

“includes –

- (a) the provision of food, drink, recreation or hospitality of any kind; or
- (b) the provision of accommodation or travel in connection with or for the purpose of facilitating entertainment of the kind mentioned in paragraph (a),

by a chargeable person or an employee of his with or without any consideration paid whether in cash or in kind, in promoting or in connection with petroleum operations carried on by that chargeable person”

### Reference

Section 2 of the Petroleum (Income Tax) Act 1967.

### Effective Date

Year of assessment 2014.

### Likely Tax Effects and Implications

This proposal is made in order to provide a consistent definition of “entertainment” in the Petroleum (Income Tax) Act 1967 and the Income Tax Act 1967. Clause 7 of the Finance Bill (No. 2) 2013 proposes a similar change to the definition of “entertainment” in Section 18 of the Income Tax Act 1967.

**Existing Legislation**

Presently, Section 34A(3) of the Petroleum (Income Tax) Act 1967 requires every chargeable person to make up accounts of his/her expenditure or profits or losses arising from his/her petroleum operations. Those accounts shall be audited by a professional accountant and, together with a report made by the accountant, shall contain, in so far as they are relevant, the matters set out in subsections 174(1) and (2) of the Companies Act 1965. However, there is no explicit requirement for the chargeable person to furnish his/her return based on the accounts which have been audited by a professional accountant.

**Proposed Legislation**

It is proposed that the return furnished by the chargeable person shall be based on accounts audited by a professional accountant, together with a report made by that accountant which shall contain, in so far as they are relevant, the matters set out in subsections 174(1) and (2) of the Companies Act 1965.

**Reference**

New Section 30(3) of the Petroleum (Income Tax) Act 1967.

**Effective Date**

Year of assessment 2014.

**Likely Tax Effects and Implications**

This proposal is made in order to be aligned with an identical proposal in respect of the Income Tax Act 1967. Clause 21 of the Finance Bill (No. 2) 2013 proposes the insertion of a similar requirement in the Income Tax Act 1967.

**Existing Legislation**

Presently, if the Director General is of the opinion that there is no reasonable prospect of coming to an agreement with a taxpayer in relation to the taxpayer's appeal against an assessment, the Director General may forward the appeal to the Special Commissioners of Income Tax at any time within the twelve-month period (or such extended period granted by the Minister) from the date of receipt of the notice of appeal.

**Proposed Legislation**

It is proposed that where a person has made an application to invoke a mutual agreement procedure ("MAP") under Section 65A of the Petroleum (Income Tax) Act 1967 and the grounds of such application are similar to an appeal filed under the Petroleum (Income Tax) Act 1967, then the appeal shall not be forwarded to the Special Commissioners until the MAP has been determined. The person may within 30 days from the date of the determination of the MAP request the Director General to forward such appeal to the Special Commissioners and the Director General shall forward the appeal to the Special Commissioners within three months of receiving such a request.

## Reference

New Section 46(1A) of the Petroleum (Income Tax) Act 1967.

## Effective Date

Upon coming into operation of the Finance (No. 2) Act 2013.

## Likely Tax Effects and Implications

This proposal is made in order to be aligned with an identical proposal in respect of the Income Tax Act 1967. Clause 24 (b) of the Finance Bill (No. 2) 2013 proposes the insertion of a similar subsection in Section 102 of the Income Tax Act 1967.

### A8.4

## IMPLEMENTATION OF ADVANCE PRICING ARRANGEMENT (APA)

### Existing Legislation

An APA is a mechanism to obtain up-front agreement from the tax authorities on the prices of goods and services to be transacted in a specified future period between a taxpayer and its related persons. Presently, there is no specific legislation governing APAs for upstream petroleum operations in Malaysia. However, an APA Section, Section 138C, was inserted in the Income Tax Act 1967 with effect from 1 January 2009.

### Proposed Legislation

To enable chargeable persons engaged in upstream petroleum operations to pro-actively manage transfer pricing risk, it is proposed that chargeable persons be allowed to apply to the Director General of the Inland Revenue Board (IRB) for APAs.

The parties to an APA will be:

1. The IRB and a chargeable person (Unilateral APA);
2. Where relevant tax treaties are in place under Section 65A of the Petroleum (Income Tax) Act 1967, an APA can be between the IRB, the chargeable person and the tax authority of the relevant foreign jurisdiction (Bilateral APA) or the IRB, the chargeable person and the tax authorities of more than one foreign jurisdiction (Multilateral APA).

APAs can only be entered into in respect of cross-border transactions.

The meaning of “transactions” in this context is construed as a transaction between:

- (a) companies one of which has control over the other; or
- (b) companies both of which are controlled by some other person.

The “chargeable person” in the proposed new APA Section, Section 71A, refers to the person in a petroleum agreement that enters into a controlled transaction with another company. The application for an APA shall be made in the prescribed form and shall contain particulars as may be required by the Director General.

## Reference

New Section 71A of the Petroleum (Income Tax) Act 1967.



## **Effective Date**

Year of assessment 2014.

## **Likely Tax Effects and Implications**

This proposal aims to allow a chargeable person that carries out cross border controlled transactions with related companies to plan its pricing policies and proactively manage transfer pricing exposures. Further, this proposal is made in order to be aligned with Section 138C of the Income Tax Act 1967, which was introduced effective from 1 January 2009.

**A8.5**

## **CLARIFICATION ON MEANING OF “CHARGEABLE PERSON” IN SECTION 72A**

### **Existing Legislation**

Further to the introduction of a transfer pricing and thin capitalisation Section, Section 72A, into the Petroleum (Income Tax) Act 1967, each chargeable person is required to determine and apply an arm's length price with respect to any controlled transaction with another person for the acquisition or supply of property or services.

### **Proposed Legislation**

It is proposed that in the case of a petroleum agreement, the “chargeable person” referred to in subsections 71A(2), (3) and (4) shall refer to the person in that petroleum agreement who enters into a controlled transaction.

### **Reference**

New Section 72A(7) of the Petroleum (Income Tax) Act 1967.

## **Effective Date**

Upon coming into operation of the Finance (No. 2) Act 2013.

## **Likely Tax Effects and Implications**

The proposed amendment provides clarity on the meaning of the term “chargeable person” in Section 72A of the Petroleum (Income Tax) Act 1967. Section 72A was included in the Petroleum (Income Tax) Act 1967 pursuant to the Finance Act 2013.

**A8.6**

## **POWER TO MAKE RULES PERTAINING TO APAs**

### **Existing Legislation**

As the inclusion of an APA Section in the Petroleum (Income Tax) Act 1967 has only been proposed in the Finance Bill (No. 2) 2013 (see A7.4 above), there is currently no provision in the Petroleum (Income Tax) Act 1967 for the Minister to make rules pertaining to APAs.

## Proposed Legislation

It is proposed that a specific provision be introduced in the Petroleum (Income Tax) Act 1967 to empower the Minister to make rules pertaining to the scope and procedure applied in relation to APAs.

## Reference

New Section 83(1)(bb) of the Petroleum (Income Tax) Act 1967.

## Effective Date

Year of assessment 2014.

## Likely Tax Effects and Implications

This new provision is in line with the proposed introduction of Section 71A of the Petroleum (Income Tax) Act 1967. Section 71A is discussed in A8.4 above.

A8.7

## AMENDMENT TO FIRST SCHEDULE OF THE PETROLEUM (INCOME TAX) ACT 1967

### Existing Legislation

Presently, qualifying exploration expenditure (QEE) incurred by a chargeable person (first-mentioned chargeable person) under a petroleum agreement, prior to the basis period for the first year of assessment that the chargeable person is chargeable to tax, can be deducted against the gross income of another chargeable person (second-mentioned chargeable person) in another petroleum agreement, provided that the original parties to both petroleum agreements are the same. The deduction is determined by a prescribed formula.

Where the QEE exceeds the gross income from petroleum operations of the second-mentioned chargeable person, the excess of the QEE:

- (a) shall be allowed to be deducted from the gross income of that petroleum operation for the subsequent years of assessment of the second mentioned chargeable person; or
- (b) may be deducted from the gross income of another chargeable person in another petroleum agreement if the original parties to the petroleum agreements are the same.

This “transfer of QEE” between more than one petroleum agreement is not applicable to petroleum operations in the Joint Development Area or in an area under any agreement or arrangement made by the Malaysian Government with the government of any territory outside Malaysia for the joint exploration and exploitation of petroleum in overlapping areas.

### Proposed Legislation

The proposed amendment clarifies that in order for the QEE to be deducted against the gross income of the second-mentioned chargeable person, the QEE incurred by the first-mentioned chargeable person must be in relation to an agreement area where chargeable petroleum is not being produced.

In addition, the proposed legislation provides that the excess of QEE over gross income can no longer be used by another chargeable person (other than second-mentioned chargeable person) in another petroleum agreement, even though the original parties to the petroleum agreements are the same.

**Reference**

Subparagraphs 3A(1) and (2) of the First Schedule of the Petroleum (Income Tax) Act 1967.

**Effective Date**

Year of assessment 2014.

**Likely Tax Effects and Implications**

This amendment provides clarity on the QEE that can be used against another petroleum agreement (i.e. QEE incurred by the first-mentioned chargeable person in relation to an agreement area where chargeable petroleum is not being produced). Further, the amendment will limit the “transfer” of QEE by the first-mentioned chargeable person to only one other chargeable person.

# A9 REAL PROPERTY GAINS TAX

## A9.1

### CHANGES IN REAL PROPERTY GAINS TAX RATES

#### Existing Legislation

Presently, gains from the disposal of real properties, which include, among others, residential homes, commercial buildings and land as well as gains from the disposal of shares in real property companies are taxed under the Real Property Gains Tax Act 1976. Real Property Gains Tax is imposed on the net gains from the disposal of the property after deducting the acquisition price and other expenses incurred until the property is disposed. Other expenses include stamp duty, legal fee, cost of renovation, commission for sales and administrative payment.

The current effective Real Property Gains Tax rates are between 0% to 15% depending on the holding period of real properties and shares in real property companies and they are as follows:

Date of Disposal	Real Property Gains Tax Rates		
	Companies	Individual (Citizen & Permanent Resident)	Individual (Non-Citizen)
Within 2 years from date of acquisition	15%	15%	15%
Between 2-5 years from date of acquisition	10%	10%	10%
Disposal after 5 years from date of acquisition	0%	0%	0%

Except where provided otherwise in Schedule 2 of the Real Property Gains Tax Act 1976, generally, the date of acquisition of a chargeable asset by the acquirer shall be deemed to coincide with the date of disposal of that asset by the disposer.

Pursuant to paragraph 15 of Schedule 2 of the Real Property Gains Tax Act 1976, where there is a written agreement for disposal of a chargeable asset, the disposal shall be deemed to take place on the date of such agreement. Where there is no written agreement, the disposal shall be deemed to take place on the date of completion of the disposal of the asset. The date of completion of a disposal means the earlier of the date on which the ownership of the asset disposed of is transferred by the disposer or the date on which the whole of the amount or value of the consideration (in money or money's worth) for the transfer has been received by the disposer. A transfer of ownership of an asset is deemed to take place on the date when the last of all such things shall have been done under any written law as are necessary for the transfer of ownership of the asset.

Where a contract for the disposal of an asset is conditional and the condition is satisfied (by the exercise of a right under an option or otherwise), the acquisition and disposal of the asset shall be regarded as taking place at the time the contract was made, unless:

- (a) the acquisition or disposal requires the approval by the Government or a State Government or an authority or committee appointed by the Government or a State Government, the date of disposal shall be the date of such approval; or
- (b) the approval referred to in subparagraph (a) is conditional, the date of disposal shall be the date when the last of all such conditions is satisfied.

## Proposed Legislation

It is proposed that Real Property Gains Tax rates on the gains from disposal of real properties and shares in real property companies be reviewed as follows:

Date of Disposal	Real Property Gains Tax Rates		
	Companies	Individual (Citizen & Permanent Resident)	Individual (Non-Citizen)
Within 3 years from date of acquisition	30%	30%	30%
In the 4th year	20%	20%	30%
In the 5th year	15%	15%	30%
In the 6th year and subsequent years	5%	0%	5%

## Reference

Part I and Part II of Schedule 5 of the Real Property Gains Tax Act 1976.

## Effective Date

For disposal of real properties and shares in real property companies from 1 January 2014.

## Likely Tax Effects and Implications

This measure is introduced to further curb real estate speculation activities which exert pressure on property prices.

### A9.2

## INTERPRETATION OF DIRECTOR

## Existing Legislation

Presently, any director and other person who is concerned in the management of a company's business and, either on his own or with one or more associates within the meaning of subparagraph 5(5) of Schedule 1 of the Real Property Gains Tax Act 1976, is the owner or able directly through the medium of other companies or by any other indirect means to control more than 50% of the ordinary share capital of the company shall be jointly and severally liable for the payment of tax during the period in which the tax is liable to be paid by the company.

## Proposed Legislation

It is proposed that any director and other person who is concerned in the management of a company's business and, either on his own or with one or more associates within the meaning of subparagraph 5(5) of Schedule 1 of the Real Property Gains Tax Act 1976, is the owner or able directly through the medium of other companies or by any other indirect means to control not less than 20% of the ordinary share capital of the company shall be jointly and severally liable for the payment of tax during the period in which the tax is liable to be paid by the company.

## Reference

Subparagraph 5(4)(b) of Schedule 1 of the Real Property Gains Tax Act 1976.

**Effective Date**

Upon coming into operation of the Finance (No. 2) Act 2013.

**Likely Tax Effects and Implications**

Any director and other person who is concerned in the management of a company who has at least 20% control over a company shall be jointly and severally liable for the payment of tax due by that company.

A9.3

**DEFINITION OF TAX PAYABLE FOR PENALTIES IMPOSED UNDER SUBSECTIONS 14(5) AND 15(4) OF REAL PROPERTY GAINS TAX ACT 1976****Existing Legislation**

Presently, a penalty of 10% of the tax payable can be imposed pursuant to subsections 14(5) and 15(4) of the Real Property Gains Tax Act 1976 on the disposer of a chargeable asset in the assessment and additional assessment raised respectively, as the case may be, where the acquirer fails to retain and remit tax as required under Section 21B of the Real Property Gains Tax Act 1976 by reason of an incorrect or wrong notification furnished by the disposer to the acquirer on the chargeability of the asset disposed.

**Proposed Legislation**

It is proposed that for purposes of the penalty imposed pursuant to subsections 14(5) and 15(4) of the Real Property Gains Tax Act 1976, "tax payable" shall mean the amount of tax charged on the chargeable gain excluding any allowable loss referred to under subsection 7(4) of the Real Property Gains Tax Act 1976.

**Reference**

New subsections 14(6) and 15(5) of the Real Property Gains Tax Act 1976.

**Effective Date**

Upon coming into operation of the Finance (No. 2) Act 2013.

**Likely Tax Effects and Implications**

With the proposed amendments, heavier penalties are expected to be imposed on the disposer where there is an incorrect or wrong notification furnished by the disposer to the acquirer on the chargeability of the asset disposed.

## **DEFINITION OF TAX WHICH IS PAYABLE FOR PENALTY IMPOSED UNDER SUBSECTION 29(3) OF REAL PROPERTY GAINS TAX ACT 1976**

### **Existing Legislation**

Presently, a penalty equal to treble the amount of the tax which is payable can be imposed pursuant to subsection 29(3) of the Real Property Gains Tax Act 1976 on a disposer of a chargeable asset who fails to make a return pursuant to subsection 13(1) of the Real Property Gains Tax Act 1976 or fails to make a declaration of such disposal in his income tax return pursuant to subsection 13(5) of the Real Property Gains Tax Act 1976 and where no prosecution under subsection 29(1) has been instituted in relation to that failure.

### **Proposed Legislation**

It is proposed that for purposes of the penalty imposed pursuant to subsection 29(3) of the Real Property Gains Tax Act 1976, “tax which is payable” shall mean the amount of tax charged on the chargeable gain excluding any allowable loss referred to under subsection 7(4) the Real Property Gains Tax Act 1976.

### **Reference**

New subsection 29(4) of the Real Property Gains Tax Act 1976.

### **Effective Date**

Upon coming into operation of the Finance (No. 2) Act 2013.

### **Likely Tax Effects and Implications**

With the proposed amendment, heavier penalties are expected to be imposed on the disposer for the offences mentioned above.

# A10 GOODS AND SERVICES TAX

## Existing Legislation

The current indirect tax regime includes sales tax and service tax.

Sales tax is governed by the Sales Tax Act 1972. It is a single-tier tax imposed on taxable goods manufactured in Malaysia for domestic consumption and taxable goods imported into Malaysia. The sales tax rates are either at a specific rate of 5% or 10%.

Service tax is governed by the Service Tax Act 1975 and is a single-tier tax applicable on “taxable services” prescribed under the Service Tax Regulations 1975. The service tax rate is 6% while specific rates are charged on credit cards.

## Proposed Legislation

The current sales tax and service tax will be abolished and be replaced by a consumption tax based on the value-added concept known as Goods and Services Tax (GST).

The proposed GST model to be implemented in Malaysia is detailed below:

### 1. Scope of Tax

- (i) GST is to be charged on goods and services at all levels starting from production, manufacture, wholesale and retail;
- (ii) GST is to be charged on goods and services supplied within the country or imported into the country;
- (iii) Supplies made by the Federal and State Government departments are not within the scope of GST except for some services prescribed by the Minister of Finance;
- (iv) Supplies made by the local authorities and statutory bodies in relation to regulatory and enforcement functions are not within the scope of GST; and
- (v) GST charged on all business inputs such as capital assets and raw materials is known as input tax whilst GST charged on all supplies made (sales) is known as output tax. For eligible businesses, the input tax incurred is fully recoverable from the Government through the input tax credit mechanism.

### 2. Zero-Rated Supply

Zero-rated supply means goods and services sold by businesses that are charged GST at a zero rate. For such businesses, GST paid on their inputs can be claimed as credits. Examples of goods and services subject to GST at zero rate are:

- (i) Agriculture products (paddy and vegetables);
- (ii) Foodstuff (rice, table salt, sugar, plain flour, milk and cooking flour);
- (iii) Livestock supplies (live animals and unprocessed meat of cattle, buffaloes, goats, sheep and swine);
- (iv) Poultry (live and unprocessed meat of chickens and ducks);



- (v) Eggs (fresh and salted);
- (vi) Fish, prawns, cuttlefish, crabs, oysters, cockles and lobsters;
- (vii) Supply of treated water (excluding distilled water, de-ionised water, oxygenised water and mineral water) to domestic consumers;
- (viii) Supply of the first 200 units of electricity to a domestic household for a minimum period of twenty eight days;
- (ix) Goods supplied to designated areas (Labuan, Langkawi and Tioman) from Malaysia; and
- (x) International services.

Note: The above list is not exhaustive.

### **3. Exempt Supply**

Exempt supply means goods and services sold by businesses that are exempt from GST. For such businesses, GST paid on their inputs cannot be claimed as credits. Examples of goods and services exempted from GST are as follows:

- (i) Land used for residential or agricultural purposes or general use;
- (ii) Buildings used for residential purposes;
- (iii) Financial services;
- (iv) Private education services;
- (v) Childcare services;
- (vi) Private healthcare services;
- (vii) Transport services;
- (viii) Tolloed highways or bridges;
- (ix) Funeral, burial and cremation services; and
- (x) Supplies made by societies and similar organisations.

Note: The above list is not exhaustive.

### **4. Standard Rate**

The standard GST rate is 6%.

### **5. Threshold**

The threshold for purposes of registration under GST is the annual sales value of RM500,000. Businesses below the threshold are not required to register but may register on a voluntary basis.

### **Effective Date**

It is proposed that GST would be implemented from 1 April 2015.

# A11 GAZETTING OF 2003 TO 2013 BUDGET PROPOSALS

As of 2014 Budget Commentary date, most of the 2003 to 2013 Budget proposals announced by the Honourable Finance Minister in previous Budget Speeches have been gazetted either by way of changes to the existing legislation or by issue of statutory orders. The proposals that have not been gazetted are summarised below:

## **2003 Economic Stimulus Package**

1. Hypermarkets and direct selling companies that export locally produced goods will be given income tax exemption on statutory income equivalent to 20% of their increased export value.

## **2008 Budget**

1. Recipients of the Export Excellence Award (Services) and Brand Excellence Award be given a 100% tax exemption on the value of increased exports.

## **2009 Budget**

1. Pioneer status or investment tax allowance (ITA) incentives be extended to hotel operators undertaking new investments in "4" and "5"-star hotels in Sabah and Sarawak.

## **2010 Budget**

1. Exemption on profits from non-Ringgit *sukuk* approved by the Securities Commission and issued in Malaysia are to be extended to cover profits from non-Ringgit *sukuk* approved by the Labuan Financial Services Authority.
2. A wholly owned subsidiary company undertaking the consolidation of management of smallholdings or idle land to be exempted from service tax.

## **2011 Budget**

1. Extension of application period for tax incentives for the generation of energy from renewable resources until 31 December 2015.
2. Extension of application period for tax incentives for energy conservation until 31 December 2015.
3. Extension of application period for tax incentive for last mile network facilities for broadband until 31 December 2012.

## **2012 Budget**

1. Pioneer status (with income tax exemption of 70% of statutory income for 5 years) or ITA incentive (ITA of 60% on the qualifying capital expenditure incurred within 5 years and to be set-off against 70% of the statutory income for each year of assessment) be extended to investors undertaking new investments in "4" and "5"-star hotels in Peninsular Malaysia.
2. Import duty and sales tax exemption on importation of educational equipment by profit oriented private schools and international schools.

3. Providers of industrial design services to be given pioneer status with income tax exemption of 70% of statutory income for 5 years.
4. Income tax exemption of 100% of statutory income for 10 years for Tun Razak Exchange Marquee Status Companies.

**2013 Budget**

1. The total investment made by an angel investor in a venture company be allowed as a deduction against all business or non-business income.

# A12 BUDGET ALLOCATIONS

In summary, a total of RM264.2 billion has been set aside for the 2014 Budget, of which RM217.7 billion will be allocated for Operating Expenditure and RM46.5 billion for Development Expenditure.

From the total Operating Expenditure, RM63.6 billion is allocated for Emoluments, RM36.6 billion for Supplies and Services, RM114.5 billion for Fixed Charges and Grants, RM1.4 billion for the Purchase of Assets and RM1.6 billion for other expenditure.

For Development Expenditure, RM29 billion is allocated to the economic sector to support the needs of infrastructure, industrial, agricultural and rural development, RM10.5 billion is allocated to the social sector including education, training, health, welfare, housing and community development, RM3.9 billion is allocated for development of the security sector, RM1.1 billion for general administration and the balance of RM2 billion for contingencies.

## **Specific allocations proposed in the Budget are as follows:**

1. A sum of RM1.6 billion will be allocated for development in the five regional corridors. Among the main projects to be implemented include the agropolitan project and oil palm-based industries in the Sabah Development Corridor, as well as Samalaju Industrial Park and a halal hub in the Sarawak Corridor of Renewable Energy.
2. The Government will allocate RM3 billion in soft loans under the Maritime Development Fund through Bank Pembangunan Malaysia.
3. A sum of RM700 million is allocated for the new air traffic management centre in KLIA to facilitate an increase in air traffic.
4. To increase passenger comfort, the Government will allocate RM312 million for upgrading of several airports such as Kota Kinabalu and Sandakan in Sabah as well as Miri, Sibul and Mukah in Sarawak.
5. An allocation of RM1.2 billion for implementation of the Visit Malaysia Year programmes which will include promotion and advertisement.
6. To further promote the tourism industry, the Government has allocated a sum of RM2 billion to the Special Tourism Infrastructure Fund under Bank Pembangunan Malaysia to be used to finance the cost of building infrastructure such as hotels, resorts and theme parks.
7. Valuecap will allocate RM1 billion to invest in companies that score high on the Environmental, Social and Governance Index.
8. A sum of RM210 million is allocated for the one-off incentive of RM500 to contributors who participate in the Private Retirement Scheme with a minimum cumulative investment of RM1,000 within a year.
9. An allocation of RM6 billion will be provided for the implementation of high value-added and commercially viable agriculture programmes.
10. The Government will allocate RM2.4 billion for subsidies on fertilisers, seeds, price of paddy and rice as well as incentives for higher production of paddy and fish landing. A sum of RM243 million is allocated for the replanting programme of rubber, palm oil and cocoa as well as forest plantation programme.
11. In order to increase productivity and to promote agriculture produce with high demand, the Government will allocate a sum of RM634 million under the National Key Economic Area.
12. The Government will provide a sum of RM50 million for the establishment of the Malaysian Global Innovation and Creativity Centre (MaGIC), a one-stop centre to empower entrepreneurs.

13. To reduce graduate unemployment, a total of RM50 million will be allocated under the Graduate Entrepreneurship Fund which will be managed by SME Bank.
14. A sum of RM120 million will be allocated for an integrated package to increase innovation and productivity of Small and Medium Enterprises (SMEs).
15. The Government will allocate RM100 million under Bank Simpanan Nasional for a Night Market Traders Entrepreneur Scheme.
16. The Government will allocate a training grant of RM100 million to businesses that send their employees for Goods and Services Tax training in 2013 and 2014. In addition, a financial assistance of RM150 million will be provided to SMEs to purchase accounting software in 2014 and 2015.
17. In enhancing educational excellence, the Government has allocated a sum of RM54.6 billion to accelerate academic achievement, competencies and skills.
18. The Government will allocate a sum of RM1,738 million for provision of education beginning from preschool to the secondary level which includes:
  - (i) RM530 million for preschool programmes as well as set up 93 preschools in national-type primary schools;
  - (ii) RM209 million for implementing programmes to enhance the teaching profession with emphasis on teaching, improving teaching methods and proficiency in Bahasa Malaysia and English;
  - (iii) RM168 million in expanding internet access in schools especially in rural areas; and
  - (iv) RM831 million to build 33 new schools and upgrade existing ones.
19. The Government has further allocated RM450 million to the special fund for building, upgrading and maintenance of schools.
20. A sum of RM710 million is allocated to strengthen public and private higher learning institutions in order to produce quality graduates to meet the demands in the job market as follows:
  - (i) RM600 million of research grants for public institutions of higher learning to improve the status of research universities by increasing research and the number of articles for publications in the international journals; and
  - (ii) RM110 million to continue the MyBrain15 programme to finance the tuition fees at post-graduate level especially for executives in the private sector.
21. A sum of RM508 million is allocated to improve the quality of training in order to produce a highly skilled workforce as follows:
  - (i) RM178 million to upgrade and replace equipment at Manpower Department (JTM) training institutes with the latest technology; and
  - (ii) RM330 million to Skills Development Fund under the Ministry of Human Resource to provide loans for SPM leavers to enroll in skills training courses.
22. A sum of RM200 million is allocated to upgrade and implement a two-shift approach for automotive, marine maintenance, welding and electrical wiring at the National Youth Skills (IKBN).
23. To continue the Government's assistance in providing schooling assistance to all primary and secondary students, an allocation of RM540 million has been made.
24. The Government has allocated an amount of RM325 million for the 1Malaysia Book Voucher Programme which will benefit about 1.3 million students.
25. The Government will allocate RM278 million to implement the following programmes under the National Blue Ocean Strategy (NBOS), an integrated approach by the Government in formulating policies and initiatives through smart partnerships between the ministries and agencies:

- (i) Launching of the Urban Transformation Centre in Sabah, followed by Sarawak, Johor, Terengganu and Perlis;
  - (ii) Launching an additional three Rural Transformation Centres with one each in Sabah, Sarawak and Negeri Sembilan; and
  - (iii) Implementing Mobile Community Transformation Centre (Mobile CTC) by increasing the number of modified buses and vans. The main services to be provided include MyKad registration, driving licence renewal, health screening and business advisory services.
26. The following initiatives will be taken to strengthen the public transport network:
- (i) Construction of the Ipoh–Padang Besar double tracking project which will later be extended to Johor Bahru and upgrading of rail tracks nationwide with an allocation of RM2.9 billion;
  - (ii) Provision of “park and ride” facilities at LRT stations, KTM commuter stations and ERL stations with an allocation of RM62 million;
  - (iii) Introduction of a Centralised Taxi Service System with an allocation of RM15.3 million to ensure efficient mobilisation of taxi services;
  - (iv) A sum of RM28 million is allocated for the building of “last city terminals” and upgrading of bus stops as well as providing “drop-and-ride” facilities; and
  - (v) Refurbishment of Electric Multiple Units (EMUs) trains at a cost of RM28 million to ensure frequency and efficiency of services.
27. To ensure a seamless network between urban and rural areas, a sum of RM130 million is allocated to subsidise rural air transport, especially for rural population in Sabah and Sarawak. In line with the Government’s principle of People First, a sum of RM52.9 million has been allocated to subsidise uneconomical train routes in East Coast, namely Pahang and Kelantan.
28. The Government will establish 24 Jawatankuasa Perwakilan Penduduk (JPP) zones in local authorities with an allocation of RM63 million to enhance coordination and community well-being particularly in urban areas.
29. An allocation of RM1.2 billion has been made to build and upgrade dams and water treatment plants to increase coverage of water supply especially in urban areas.
30. A sum of RM4.1 billion is allocated for rural development programmes for basic infrastructure projects which include:
- (i) RM980 million for refurbishment and upgrading of 437 kilometers of rural road networks nationwide and a total of RM500 million is provided for the Pan-Borneo Highway project;
  - (ii) RM457 million for the provision of potable water to 8,000 houses in rural areas. In addition, RM75 million is allocated for the supply of water tanks in Sarawak;
  - (iii) RM865 million for the provision of uninterrupted 24-hour electricity supply to more than 16,000 homes nationwide. To address the frequent electricity supply disruption in Sabah, the Government has also allocated a sum of RM265 million to strengthen the generation and transmission of the electricity system;
  - (iv) RM179 million to build and refurbish 20,000 houses for the poor people in rural areas;
  - (v) RM20 million for Rural Business Challenge programme which includes food production, fish farming, auto repair and agro-tourism to encourage entrepreneurship among the rural populace; and
  - (vi) RM109 million for the economic development and upgrading of infrastructure, facilities and living standard of the Orang Asli community.
31. The Government will continue with the flood mitigation programme (RTB) particularly in Sungai Muda in Kedah, RTB Lembangan Sungai Muar in Johor, RTB Sungai Bunus in Kuala Lumpur and RTB

Pekan in Pahang with an allocation of RM659 million. In addition, RM79 million is allocated for dredging and deepening river estuaries.

32. To overcome the challenges faced by the minority particularly in Sabah and Sarawak in owning customary land, a sum of RM50 million is allocated for land surveying and customary land ownership verification.
33. In order to combat and reduce crime, a sum of RM8.8 billion is allocated to the Royal Malaysia Police (PDRM) while RM13.2 billion is allocated to the Malaysian Armed Forces (ATM) to enhance military preparedness.
34. To further strengthen the police force, the Government has allocated a sum of RM128 million for the building and upgrading of Police Headquarters, District Police Headquarters (IPD) and staff quarters which includes the construction of a new IPD in Pasir Mas, Kota Setar, Johor Bahru Selatan, Sipitang and Nusajaya as well as building a new Police Station in Pengerang, Tongod and Country Homes Rawang.
35. To fight against serious crime, a sum of RM200 million is allocated to equip PDRM with the latest tools and equipment such as firearms, ammunition, bulletproof vests, narcotic detectors, biometric systems and forensic vehicles. In addition, an allocation of RM20 million has been made to provide 496 closed-circuit cameras (CCTV) in 25 local authorities.
36. The Government will allocate RM75 million to strengthen the East Coast Special Security Area (ESSCOM) operations, which was established early this year to safeguard the territorial waters from foreign threats.
37. An allocation of RM2.4 billion is provided to purchase six offshore patrol vessels, four cargo aircrafts and support equipment as well as armoured vehicles for the purpose of enhancing the national security of the territorial waters and borders.
38. The Government will allocate RM48 million to cater for the welfare including health payments, ex-gratia and education of 20,000 ATM veterans.
39. A total of RM202 million will be allocated to build and refurbish ATM quarters and provide school bus services for the children of military personnel.
40. A launching grant of RM15 million will be provided to establish the Malaysian Green Foundation with the purpose of promoting and enhancing the use of green technology by the corporate sector and the general public.
41. An allocation of RM40 million is approved to widen and deepen Sungai Bertam to prevent the recurrence of the recent tragedy in Cameron Highlands.
42. A sum of RM22.1 billion will be allocated to the health sector and channelled to programmes including the construction of Hospital Tanjung Karang and additional blocks for Hospital Jeli as well as to upgrade Hospital Kuala Lipis and 30 rural clinics.
43. The Government will allocate RM66 million for the purchase of equipment and the construction of additional blocks in Hospital Queen Elizabeth in Kota Kinabalu.
44. To improve the quality of nursing care and ensure patients receive appropriate medical treatment, the Government will allocate RM150 million to appoint 6,800 more nurses and RM3.3 billion to purchase medicine and medical equipment including expanding the cardiothoracic services in Hospital Ipoh, Kuala Terengganu, Kuantan and Kuching.
45. A sum of RM239 million is allocated to upgrade sports complexes and courts, establish the Pilot Talent Identification Programme in primary schools and implement the Future Professional Coach Programme to hone the skills of potential coaches for selected sports.
46. The Government will allocate RM150 million to the Sports Trust Fund for the development of elite sports, medical treatment and research.

47. An allocation of RM2.2 billion will be provided to the Ministry of Women, Family and Community Development for the development programmes of women and family institution.
48. The Government is proposing a monthly assistance of RM250 in nursery fees to parents with a monthly income of not more than RM900 and who enroll their children in private nurseries registered under the Department of Social Welfare (JKM). This involves an allocation of RM15 million.
49. The Government is proposing a free breast prostheses and special bras for breast cancer patients and the allocation set aside for this is RM9 million.
50. The SME Bank will establish Bumiputera Equity Fund (EquiBumi) with an allocation of RM300 million to provide loans to credible Bumiputera companies to take over listed companies or companies with potential to be listed on Bursa Malaysia.
51. An allocation of RM200 million is provided by the SME Bank for loan facility for the development programmes for Malay Reserve Lands in strategic areas to improve the standard of living of the Malay community.
52. In order to increase Bumiputera participation in business and entrepreneurship, an initial fund of RM30 million under the Bumiputera Entrepreneurs Start-Up Scheme (SUPERB) will be allocated.
53. A total of RM441 million will be allocated for the development and welfare of Orang Kurang Upaya (OKU).
54. To appreciate the contribution of the artistes, the Government has allocated a sum of RM6 million for administration and operations of registered associations.
55. In order to continue focus on the development of Malaysian Indians to be part of mainstream development, the Government will allocate RM100 million for enhancing education performance and skills training, which includes RM28 million for early education programmes. In addition, an allocation of RM50 million will be provided through the Skim Pembiayaan Muda India (SPUMI) under TEKUN.
56. To further increase access to home ownership at affordable prices, the Government has allocated the following:
  - (i) RM578 million to the National Housing Department (JPN) for the implementation of Program Perumahan Rakyat;
  - (ii) RM146 million to JPN for Program Perumahan Rakyat Disewa and Perumahan Rakyat Bersepadu;
  - (iii) RM1 billion for PR1MA housing project;
  - (iv) RM300 million to developers as approved scheme under the supervision of Ministry of Urban Well-being, Housing and Local Government;
  - (v) RM4 billion to the Facilitation Fund as an initiative to promote private, high strategic impact projects; and
  - (vi) RM1 billion to the Housing Facilitation Fund under Public Private Partnership Unit (UKAS).
57. RM100 million will be allocated to 1Malaysia Maintenance Fund under the Ministry of Urban Well-being, Housing and Local Government. In addition, a sum of RM82 million is provided to rehabilitate 20 abandoned housing projects.
58. To help reduce prices of goods and costs, a sum of RM331 million is allocated to continue the price uniformity programme and subsidies including transport cost. Additionally, an allocation of RM30 million is allocated to set up 60 Kedai Rakyat 1Malaysia (KR1M) to help reduce the prices of daily necessities.
59. The Government will allocate RM4.6 billion to implement all the 2014 BR1M packages which is expected to benefit 7.9 million recipients.



# B1 SELF ASSESSMENT FOR COMPANIES

## BACKGROUND

Following the announcement of the 1999 Budget and the subsequent release of the Income Tax (Amendment) Act 2002, the official assessment system was changed to the self assessment system in the following stages:

<i>Type of taxpayers</i>	<i>Effective year</i>
Companies	2001
Businesses, partnerships and co-operatives	2004
Salaried individuals	2004

Under the self assessment system, the burden of computing the taxpayer's liability is shifted from the Inland Revenue Board (IRB) to the taxpayer and, accordingly, taxpayers are expected to compute their tax liability based on the tax laws, guidelines and rulings issued by the IRB. The tax returns submitted will no longer be subject to a detailed review by the IRB.

The main objective of the self assessment system is to inculcate a practice of voluntary compliance by the taxpayers and at the same time reduce the workload of the IRB to enable them to concentrate on areas which have a high tax risk and a potentially significant loss in revenue.

The implementation of the self assessment system has also resulted in changes to the tax compliance cycle and the penalty provisions. These changes are explained in greater detail below.

Upon coming into operation of the Capital Markets and Services (Amendment) Act 2012 on 28 Dec 2012, the definition of "company" under the Income Tax Act 1967 (ITA 1967) includes a business trust. Hence, the compliance with submission of estimate of tax payable and payment of instalments, filing of tax returns etc, applicable to a company shall also apply to a business trust.

## ESTIMATE OF TAX PAYABLE AND PAYMENT OF INSTALMENTS – COMPANIES

### 2.1 Estimate of tax

Under the self assessment system, every company is required to determine and submit in a prescribed form (Form CP204) an estimate of its tax payable for a year of assessment, 30 days before the beginning of the basis period. However, when a company first commences operations (i.e. during the first basis period), the estimate of tax payable must be submitted to the IRB within 3 months from the date of commencement of its business and thereafter no later than 30 days before the beginning of the basis period.

The estimate of tax payable submitted for a particular year cannot be less than the revised estimate or the estimate of tax payable (if no revised estimate was submitted) for the immediate preceding year of assessment.

With effect from Y/A 2006 and subsequent years, the estimate of tax payable for that year cannot be less than 85% of the revised estimate of tax payable for the immediate preceding year of assessment or if no revised estimate is furnished, cannot be less than 85% of the estimate of tax payable for the immediate preceding year of assessment.

A company is still required to submit the prescribed Form CP204 within the stipulated deadline even if it expects its estimate of tax payable to be nil.

With effect from Y/A 2008, where a SME first commences operations in a year of assessment, the SME is not required to furnish an estimate of tax payable or make instalment payments for a period of 2 years beginning from the year of assessment in which the SME commences operations. For the purpose of tax administration, the IRB has confirmed that SMEs are still required to submit the prescribed Form CP204 within the stipulated deadline but without any estimate of tax payable.

With effect from Y/A 2014, where the SME which commences operations has no basis period for that year of assessment and for the immediate following year of assessment, the SME is not required to furnish an estimate of tax payable for that year and for the immediate 2 following years of assessment (2014 Budget).

With effect from Y/A 2011, where a company first commences operations in a year of assessment and the basis period for that year of assessment is less than 6 months, that company is not required to furnish an estimate of tax payable or make instalment payments for that year of assessment.

A SME which is exempted from furnishing an estimate of tax payable mentioned above is advised to submit the prescribed Form CP204 notifying the IRB of its SME status without having to state the amount of estimate of tax payable for that particular year of assessment to avoid any penalty for under-estimation of tax or penalty for non-submission being wrongly imposed by the IRB.

## **2.2 Instalment payment scheme (S. 107C of the ITA 1967)**

When the estimate of tax payable has been submitted to the IRB, the company is required to remit this amount to the IRB in equal monthly instalments according to the number of months in its basis period. For example, if a company has a 12-month basis period, the estimate of tax payable must be paid over a 12-month instalment scheme.

Each monthly instalment is due and payable to the IRB by the 10th day of the following month. For example, the January instalment will be due for payment by the 10th of February and so forth.

However, where a company first commences operations (i.e. during the first basis period), its first instalment will commence from the 6th month of the basis period.

## **2.3 Revision of estimate of tax payable**

Under S. 107C(7) of the ITA 1967, every company is allowed to revise its estimate of tax payable by submitting a Form CP204A in the 6th month of its basis period. Effective Y/A 2003, companies are also allowed to revise their estimate of tax payable in the 9th month. Where the revised estimate exceeds the amount of instalments paid to date, the difference shall be payable in the remaining months of the instalment scheme. Conversely, when instalments paid to date exceed the revised estimate, the company may discontinue its original instalment scheme.

For Y/A 2001 only, the IRB granted an administrative concession to companies allowing them to revise their estimate of tax payable up to 3 times (including the 6th month revision). The additional 2 revisions may be made in either the 3rd, 9th or 12th month of the basis period.

For Y/A 2002, the IRB as a concession, allows companies to further revise their estimate of tax payable in the 9th month.

## **2.4 Penalty provisions**

### **(a) Failure to furnish estimate of tax payable**

Under S. 120(1)(f) of the ITA 1967, any company which, without reasonable excuse fails to submit the estimate of tax payable for a year of assessment shall be guilty of an offence and upon conviction, be liable to a fine ranging from RM200 to RM2,000 or face imprisonment for a term not exceeding 6 months or both.

With effect from Y/A 2011, where no prosecution is instituted by the Director General and no direction is issued by the Director General under S. 107C(8) of the ITA 1967 but there is a tax payable by that company for that year of assessment, such amount of tax payable will be subject to a penalty of 10%.

*(b) Late payment penalty*

As explained earlier, monthly payments should be remitted to the IRB by the due dates, i.e. by the “10th” day of the following month. Failure to remit the instalments on a timely basis will result in an automatic penalty of 10% being imposed on the unpaid amount.

*(c) Difference between the estimate submitted and final tax payable*

When the tax payable for a particular year of assessment exceeds the original or the revised estimate (if a revision is submitted) by an amount exceeding 30% of the tax payable, the difference will be subject to a penalty of 10%.

## **RETURN BY EMPLOYER**

### **3.1 Filing of Return by Employer**

Under S. 83(1) and 83(1A) of the ITA 1967, every employer must furnish the return (Form E) of its employees' employment income no later than 31 March for each year. In addition, the employer must also prepare and deliver to his/her employee the statement of remuneration (Form EA) on or before the last day of February for each year.

### **3.2 Penalty provisions**

Under S. 120(1)(b) of the ITA 1967, any person who, without reasonable excuse fails to submit the return by employer as well as prepare and deliver the statement of remuneration shall be guilty of an offence and upon conviction, be liable to a fine ranging from RM200 to RM2,000 or to imprisonment for a term not exceeding 6 months or both.

## **DUTY TO FURNISH PARTICULARS OF PAYMENT MADE TO AN AGENT, DEALER OR DISTRIBUTOR**

### **4.1 Furnishing of Statement of Incentive Payment by Companies**

Under S. 83A of the ITA 1967 (effective 1 Jan 2012), every company must prepare and furnish the statement of monetary and non-monetary incentive payment (Form CP58) to an agent, dealer or distributor no later than 31 March each year. However, the IRB granted an extension of time until 31 May 2012 for companies to complete the Form CP58 for payments made during the calendar year 2011.

As a concession, a company is not required to furnish the Form CP58 if an annual statement for incentive payment has been issued to the respective agents, dealers or distributors for the calendar years 2011 and 2012.

In addition, from calendar year 2012 onwards, the Form CP58 shall only need to be prepared and furnished to an agent, dealer or distributor if the payment for monetary and non-monetary incentives exceeds RM5,000.

### **4.2 Penalty provisions**

Under S. 120(1)(b) of the ITA 1967, any person who, without reasonable excuse fails to furnish the statement of incentive payment to an agent, dealer or distributor shall be guilty of an offence and upon conviction, be liable to a fine ranging from RM200 to RM2,000 or to imprisonment for a term not exceeding 6 months or both.

## TAX RETURNS

### 5.1 Filing of tax returns

A fundamental difference between the previous official system and the self assessment system is the discontinuance of a detailed review of returns submitted and the subsequent issuance of notices of assessment by the IRB. This is due to the fact that the burden of computing the tax liability is passed on to the taxpayer. Accordingly, all tax returns submitted by the taxpayer would be deemed as notices of assessment being served on the taxpayer.

Under the self assessment system, all companies must file the tax returns within 7 months from the end of the accounting period (S. 77(1A), ITA 1967) from Y/A 2004 onwards. For example, a company with an accounting period ending on 31 January must file its tax return to the IRB by 31 August.

For Y/A 2001 to Y/A 2003, companies must file the tax returns within 6 months from the end of the accounting period. However, as an administrative concession, the IRB has allowed the Y/A 2001 tax returns to be filed within 8 months from the end of the accounting period. With regard to Y/A 2002 and Y/A 2003, the IRB has allowed companies to file within 7 months from the end of the accounting period. The extension of time is also applicable to the settlement of the balance of tax payable.

Effective Y/A 2014, the tax return must be submitted by way of an electronic medium or electronic transmission (2014 Budget).

Section 90(1B) of the ITA 1967 provides that under the self assessment system, the return filed by a taxpayer will be deemed as a notice of assessment served upon the taxpayer. Accordingly, any balance of tax payable after taking into account payments made via the instalment scheme would have to be remitted to the IRB together with the tax return within 7 months from the end of the accounting period.

Effective Y/A 2009, taxpayers are allowed to make amendments for additional assessment subject to the following conditions:

- (i) amendments allowed are in respect of errors resulting in additional assessment such as errors committed in under-reporting of income or over-claiming of deductions or expenses;
- (ii) amendments be allowed only once for each year of assessment;
- (iii) amendments be allowed within a period of 6 months from the due date of furnishing the tax returns; and
- (iv) taxpayer makes amendment in specified forms.

However, a taxpayer is subject to a penalty equivalent to the penalty imposed on a taxpayer who files a correct return but defaults in paying tax due within the stipulated period. From Y/A 2010 onwards, a company which commences business operations after 31 Dec 2007 is not required to submit the Statement of Section 108 Balance (Form R) when filing its tax return to the IRB.

### 5.2 Penalty provisions

#### (a) Failure to submit a tax return

Failure to submit a tax return will constitute as an offence under the ITA 1967 and upon conviction, the taxpayer will be liable to a fine ranging from RM200 to RM2,000 or face imprisonment for a term not exceeding 6 months or both.

However, if no prosecution is initiated, the Director General may require the person to pay a penalty equal to treble the amount of tax and/or additional tax which is payable (before any set-off, repayment or relief) for that year.

As a matter of practice, with effect from 1 Oct 2011, the IRB will impose penalties ranging from 20% to 35% of the tax payable for late filing of tax returns.

(b) *Failure to remit tax payable*

As explained above, since the tax return is deemed as a notice of assessment, the balance of tax payable (if any) should be remitted to the IRB together with the tax return. Failure to do so will result in the IRB imposing a penalty equivalent to 10% on the balance of tax payable and if the tax is still not paid after 60 days, a further 5% penalty will be imposed.

## TAX AUDITS

The IRB issued the Tax Audit Framework which takes effect from 1 Apr 2013. This revised tax audit framework replaces the tax audit framework issued in January 2009.

### 6.1 Nature

Under the self assessment system, tax audits will be IRB's key enforcement tool to ensure that the tax returns submitted are correct and have been prepared in accordance with the provisions of the law, guidelines and rulings issued by the IRB.

Essentially, an audit is an examination of a taxpayer's records to ensure that the income and tax liability declared to the IRB in the tax return are true, correct and comply with the tax laws and rulings.

IRB carries out 2 types of audits namely desk audit and field audit. The former will involve the review of documents / information obtained by correspondence and interviews at the IRB's offices whilst the latter would entail a visit to the taxpayer's premises for a detailed review of all relevant documents.

Cases for audit are selected through the computerised system based on risk analysis criteria and on various criteria such as business performance, financial ratios, type of industry, past compliance records, third party information, etc.

Once a taxpayer is selected for an audit, the IRB will inform the taxpayer via a telephone call followed by an official notification letter sent via mail or fax. The period between the date of notification and the audit visit is 14 days. A shorter period of notification may be fixed by IRB with the consent of the taxpayer. The scope of a tax audit under self assessment normally covers a period of 1 to 3 years, unless there are valid reasons to go beyond that period. The time frame for the conclusion of a tax audit is normally within 3 months.

Upon the completion of an audit, the IRB will issue a tax computation summarising the tax adjustments based on their findings and subsequently an additional assessment to collect the additional taxes from the taxpayer. The taxpayer may still appeal against this assessment by submitting the appeal, through the prescribed Form Q to the Special Commissioners of Income Tax within 30 days from when the assessment is raised.

With effect from 1 Jan 2014, the time-bar for tax audits is reduced from 6 years to 5 years.

### 6.2 Framework

To maintain and enhance public confidence in the tax administration, the IRB has issued the Revised Tax Audit Framework and the Tax Investigation Framework. The main areas covered in the frameworks are as follows:

- (i) criteria for audit and investigation selection;
- (ii) tax audit and investigation methodology;
- (iii) rights and responsibilities of taxpayers and tax agents, audit and investigation officers;
- (iv) settlement upon completion of an audit or investigation; and
- (v) offences and penalties.

The Tax Investigation Framework is effective 1 Jan 2007, whilst the Revised Tax Audit Framework is effective 1 Apr 2013.

### 6.3 Penalty provisions

#### (a) Penalties for omission / non-disclosure

Under the tax audit system, the IRB has also introduced a new penalty regime for non-disclosure and omission of information that affects a taxpayer's tax liability. The penalty regime is summarised as follows:

Voluntary disclosure before selection for audit	<ul style="list-style-type: none"><li>• Within 60 days from the due date for furnishing the return form : 10%</li><li>• More than 60 days but less than 6 months from the due date for furnishing the return form : 15.5%</li><li>• &gt; 6 months to 1 year : 20%</li><li>• &gt; 1 year to 3 years : 25%</li><li>• 3 years and above : 30%</li></ul>
Voluntary disclosure after the case is selected for audit but before audit commences	<ul style="list-style-type: none"><li>• 35%</li></ul>
Non-disclosure (discovery during audit)	<ul style="list-style-type: none"><li>• 100% of tax undercharged (may consider for 45% for 1st offence)</li></ul>
Repeated offences	<ul style="list-style-type: none"><li>• +10% for each repeated offence not exceeding 100%</li></ul>

#### (b) Penalty for not providing reasonable facilities and assistance

Based on Public Ruling 7/2000, failure by a taxpayer to provide reasonable facilities and assistance to the IRB when conducting an audit is an offence and upon conviction, the taxpayer may be liable to a fine of between RM1,000 to RM10,000 or face imprisonment for a term not exceeding 1 year or both.

#### (c) Failure to keep sufficient records

The company or persons responsible, upon conviction will be liable to a fine of between RM200 to RM2,000 or face imprisonment for a term not exceeding 6 months or both.

## TRANSFER PRICING AUDIT

With the introduction of new S. 140A of the ITA 1967 on transfer pricing, the IRB has issued the Transfer Pricing Guidelines 2012 and Income Tax (Transfer Pricing) Rules 2012 which are deemed to come into operation on 1 Jan 2009. Following this, the IRB has issued the Transfer Pricing Audit Framework which takes effect from 1 Apr 2013.

### 7.1 Nature

Essentially, a transfer pricing audit is an examination to ensure that controlled transactions comply with the arm's length principle and in accordance with the provisions of the law, guidelines and rulings issued by the IRB.

IRB carries out 2 types of audits namely transfer pricing desk audit and transfer pricing field audit. The former will involve the review of documents / information obtained by correspondences and interviews at the IRB's office whilst the latter would entail a visit to the taxpayer's premises for a detailed review of all relevant documents.

Cases for audit are selected based on the significance in amount of controlled transactions between related companies before a detailed risk analysis is carried out. The cases selected must be approved by a Selection Committee before proceeding with an audit.

Prior to an audit visit, a taxpayer will be requested to submit the relevant documents which include Transfer Pricing Documentation.

Once a taxpayer is selected for an audit, the IRB will inform the taxpayer via a telephone call followed by an official notification letter sent via mail or fax. The period between the date of notification and the audit visit is at least 14 days. The scope of a tax audit under self assessment normally covers a period of 3 to 6 years depending on the transfer pricing issues. With effect from 1 Jan 2014, the years of assessment to be covered will be restricted to 5 years, in line with the amendment to S. 91(1) of the ITA 1967.

Upon the completion of an audit, the IRB will issue a tax computation summarising the tax adjustments based on their findings and subsequently an additional assessment to collect the additional taxes from the taxpayer. The taxpayer may still appeal against this assessment by submitting the appeal, through the prescribed Form Q to the Special Commissioners of Income Tax within 30 days from the date the assessment is raised.

## 7.2 Framework

To maintain and enhance public confidence in the tax administration, the IRB has issued the Transfer Pricing Audit Framework. The main areas covered in the framework are as follows:

- (i) criteria for transfer pricing audit selection;
- (ii) transfer pricing audit methodology;
- (iii) rights and responsibilities of taxpayers and tax agents, audit officers;
- (iv) settlement upon completion of an audit; and
- (v) offences and penalties.

The Transfer Pricing Audit Framework is effective 1 Apr 2013.

## 7.3 Penalty provisions

### (a) Penalties for omission / non-disclosure

Under the transfer pricing audit system, the IRB has also introduced a new penalty regime for non-disclosure and omission of information on transfer pricing issues that affects a taxpayer's tax liability. The penalty regime is summarised as follows:

Condition	Penalty Rate		
	Normal Case	Voluntary disclosure after the case is selected for audit but before audit commences	Voluntary disclosure before selection for audit
Understatement or omission of income	45%	35%	15%
Taxpayer did not prepare transfer pricing documentation	35%	30%	15%

Condition	Penalty Rate		
	Normal Case	Voluntary disclosure after the case is selected for audit but before audit commences	Voluntary disclosure before selection for audit
Taxpayer prepared transfer pricing documentation but did not fully comply with the requirements under the Transfer Pricing Guidelines	25%	20%	10%
Taxpayer prepared a comprehensive, good quality, contemporaneous transfer pricing documentation in accordance with existing legislations	0%	0%	0%
Non-disclosure (discovery during audit)	100% of tax undercharged		
Repeated offences	+20% for each repeated offence not exceeding 100%		

*(b) Penalty for not providing reasonable facilities and assistance*

Based on Public Ruling 7/2000, failure by a taxpayer to provide reasonable facilities and assistance to the IRB when conducting an audit is an offence and upon conviction, the taxpayer may be liable to a fine of between RM1,000 to RM10,000 or face imprisonment for a term not exceeding 1 year or both.

*(c) Failure to keep sufficient records*

The company or persons responsible, upon conviction will be liable to a fine of between RM200 to RM2,000 or face imprisonment for a term not exceeding 6 months or both.

#### **7.4 Mutual Agreement Procedures**

Taxpayers residing in Malaysia can apply for assistance from the competent authorities in Malaysia through the Mutual Agreement Procedure, on issues arising from transfer pricing audit adjustments affecting cross-border transactions with related companies in any treaty partner country.

#### **7.5 Offsetting Adjustment**

Any additional adjustment in respect of transfer pricing for a particular assessment made in a controlled transaction can be presented with an offsetting adjustment on the assessment of the related party in the same transaction. The related party concerned must apply for the offsetting adjustment in writing within 21 days from the date of the notice of assessment / additional assessment is issued, to the branch where its tax file is handled, with a copy to the branch of the taxpayer where the initial transfer pricing adjustment has been made. The application for offsetting adjustment is subject to review and approval by the IRB.



## APPEAL AGAINST AN ASSESSMENT

If a taxpayer is dissatisfied with an assessment deemed to be served on him/her, the taxpayer should file an appeal by submitting an appeal letter or a Form Q within 30 days of the assessment being served on him/her, i.e. within 30 days of the date of submission of the tax return. Specific details and the grounds of appeal should be stated in the appeal letter.

In the event the IRB is unable to reach an agreement with the taxpayer, the case will be forwarded to the Special Commissioners. If the appeal was done by way of a letter, a Form Q must be submitted by the taxpayer.

Effective Y/A 2009, taxpayers with no chargeable income can file an appeal by using the Notification of Non-Chargeability instead of notice of assessment. The appeal is to be filed through the Director General using Form Q. Effective 1 Jan 2012, the issuance of Notification of Non-Chargeability is extended to the following cases:

- (i) persons exempted from tax under the ITA 1967 or the Promotion of Investments Act 1986 (PIA 1986);
- (ii) persons with no statutory income from a business source but assessment has been made in respect of other sources of income.

With the issuance of Public Ruling 3/2012 (Appeal Against An Assessment) by the IRB on 4 May 2012, an appeal against an assessment has to be submitted by using Form Q. An appeal letter will no longer be considered by the IRB.

Upon coming into operation of the Finance (No. 2) Act 2013, an appeal to the Special Commissioners is not applicable to the deemed assessment made under S. 90(1) or S. 91A of the ITA 1967 except where the taxpayer is aggrieved by the deemed assessment as a result of complying with the public ruling issued by the Director General (2014 Budget).

# B2 SELF ASSESSMENT FOR INDIVIDUALS

## BACKGROUND

The self assessment system (SAS) for individuals (include salaried individuals and sole proprietors) and for partnerships was implemented with effect from Y/A 2004 following the release of the Income Tax (Amendment) Act 2002.

Under SAS which is based on the concept of "File and Pay", individuals are required to:

- **File** their completed income tax return forms to the Inland Revenue Board (IRB) together with the payment of the balance of tax payable (if any).
- **Pay** their income **tax** liability through monthly salary deductions for salaried individuals or through bi-monthly instalments for individuals having business income.

### 2.1 Estimate of tax

For individuals other than salaried individuals, the IRB may issue a prescribed form (Form CP500) setting out the estimate of tax payable (ETP) under an instalment scheme. ETP is determined by the IRB based on the tax assessed in the preceding year. The taxpayer is required to pay the ETP in 6 bi-monthly instalments as directed by the IRB commencing from the month of March. Each instalment payment accompanied by a remittance slip (Form CP501) must be paid to the IRB within 30 days from the due date.

For salaried individuals, income tax will continue to be deducted through the monthly salary deductions under the Monthly Tax Deduction (MTD) scheme.

### 2.2 Variation of instalments

Every individual under an instalment payment scheme may apply to revise the instalment payments not later than 30 June of the relevant year by submitting the Form CP502. The IRB will issue a revised notice of instalment payments (Form CP503) if the application is successful, setting out the revised instalment payments. Where the revised estimate exceeds the amount of instalments paid to date, the difference shall be payable in the remaining months of the instalment scheme. In addition, if the revised estimated tax for a year of assessment is less than RM300, the individual is allowed to stop the subsequent payment starting from the date of submission of the Form CP502.

### 2.3 Penalty provisions

#### (a) Late payment of instalment

Where any instalment due and payable on the date specified by the IRB has not been paid within 30 days from the due date, a penalty of 10% shall be imposed on the amount unpaid without any further notice.

#### (b) Difference between the revised estimate submitted and final tax liability

When the tax payable excluding tax attributable to employment income, if any, exceeds the revised estimate (if a revision is submitted) by an amount exceeding 30% of the tax payable, the difference exceeding the 30% will be subject to a penalty of 10%.

## FILING OF TAX RETURNS

### 3.1 Filing of tax returns

Every individual who:

- (i) has chargeable income for a year of assessment; or

(ii) has no chargeable income for that year of assessment but:

- has chargeable income for the year of assessment immediately preceding that year of assessment; or
- has furnished a return for the immediately preceding year; or
- has been required to furnish a return (but failed to furnish a return) for the immediately preceding year,

must file a tax return to the Director General by 30 April of the following year unless that individual with no chargeable income receives a waiver from the Director General or has business income.

The tax filing deadline for a person carrying on a business, such as sole proprietor, partnership, club, association and Hindu joint family, is 30 June of the following year.

Under SAS, no supporting documents need to be submitted to the IRB, but should be kept for the purpose of tax audit. The taxpayer also has to indicate whether he/she has complied with the Public Rulings issued by the IRB. In cases where the taxpayer receives dividend income which results in a tax repayable position, HK-3 (Helaian Kerja 3) should be submitted together with the return. Effective Y/A 2008, the original dividend vouchers are not required to be submitted to the IRB.

An individual and his/her spouse are required to file separate income tax return forms regardless of whether the return forms are filed on a separate or combined assessment basis. The tax return furnished by the taxpayer is deemed to be a notice of assessment and the notice of assessment is deemed to be issued on the day the return is submitted to the IRB. Any balance of tax payable after taking into account the instalment payments made via the instalment payment scheme or salary deductions, if any, would have to be remitted to the IRB by 30 April/30 June of the following year.

With effect from Y/A 2011, to further enhance the e-Filing system in line with current technological advances, the IRB has launched the m-Filing system, whereby the system allows individual tax payers to furnish tax returns through e-Filing via mobile devices. The taxpayers can access the system at <https://mfiling.hasil.gov.my/> from the following supported devices:

- iPhone and iPad with iOS version 4.0 and above
- Android version 2.2 (Froyo) and above
- BlackBerry (OS 6 and above) and Playbook
- Windows Phone version 7.0 and above, 7.5 (Mango) recommended.

Meanwhile, with effect from Y/A 2012, it is proposed that information on total income, Monthly Tax Deductions, Employees Provident Fund contributions, insurance and zakat are pre-filled by the IRB for salaried taxpayers using the e-Filing system. Such information must be submitted by their employers to the IRB.

With effect from Y/A 2013, taxpayers who file income tax returns before the expiry of the stipulated due date will be given compensation of 2% p.a. on the amount of tax refunded late by the IRB computed on a daily basis commencing 1 day:

- (i) After 90 days from the due date for e-Filing; and
- (ii) After 120 days from the due date for manual tax filing.

With effect from Y/A 2014, it is proposed that salaried individuals may elect not to file a tax return provided that they meet the relevant criteria. Refer to A2.2.

### **3.2 Amendment to the self-assessed return**

A new provision has been gazetted in the Income Tax Act 1967 (ITA 1967) effective from Y/A 2009 to allow taxpayers to make self amendments for additional assessment under the following conditions:

- (i) Amendments allowed are in respect of errors resulting in increased assessments.
- (ii) Self amendment be allowed only once for each year of assessment.

- (iii) Self amendment be allowed within a period of 6 months from the due date of furnishing the tax form.
- (iv) Taxpayer makes self amendment in specified forms.

### 3.3 Penalty provisions

#### (i) Failure to submit a tax return

Failure to submit a tax return will constitute an offence under the Act and upon conviction, the taxpayer will be liable to a fine ranging from RM200 to RM2,000 or to imprisonment for a term not exceeding 6 months or both. The IRB is allowed to impose a penalty of up to 3 times the amount of tax and/or additional tax payable if no prosecution action is taken against the taxpayer.

As a matter of practice, effective from 1 June 2011, the following late filing penalty rates will be imposed by the MIRB on the tax payable before any set-off, repayment or rebates:

Submission of tax return	Rate
Within 12 months from the due date for furnishing the return	20%
Within 24 months from the due date for furnishing the return	25%
Within 36 months from the due date for furnishing the return	30%
After 36 months from the due date for furnishing the return	35%

#### (ii) Failure to remit tax payable

Failure to remit the balance of tax payable by 30 April/30 June of the following year will attract a penalty of 10%. A further 5% penalty will be imposed on any balance remaining unpaid after 60 days.

#### (iii) Under-declaration of income or excessive claim on deductions or expenses

**A taxpayer who makes a self amendment** within 6 months from the due date of furnishing the return will not be subject to a penalty for under-declaration of income or excessive claim on deductions or expenses. However, he/she will be subject to a late payment penalty equivalent to the penalty imposed on a taxpayer who files a correct return but defaults in paying tax due within the stipulated period.

Defaults in paying tax due within the stipulated period will attract a penalty of 10%. A further 5% penalty will be imposed on any balance remaining unpaid after 60 days.

## TAX AUDIT

### 4.1 Nature

Under SAS, tax audit is a primary activity of the IRB. It is aimed at enhancing voluntary compliance with the tax laws and regulations. A taxpayer can be selected for an audit at any time. However, it does not necessarily mean that a taxpayer who is selected for an audit has committed an offence.

A tax audit is an examination of a taxpayer's business records and financial affairs to ascertain that the right amount of income should be declared and the right amount of tax that should be calculated and paid are in accordance with tax laws and regulations. The IRB carries out 2 types of audit, namely desk audit and field audit.

#### (i) Desk audit

Desk audit is held at the IRB's office and is normally concerned with straightforward issues or tax adjustments which are easily dealt with via correspondence.

(ii) Field audit

Field audit takes place at a taxpayer's premises and involves the examination of the taxpayer's business records. In the case of a sole proprietorship or partnership, if the taxpayer's business records are incomplete, it may involve the examination of non-business records such as personal bank statements, etc.

Upon completion of an audit and if there is no adjustment to the tax computation, the taxpayer will be informed via a letter that the case has been finalised without any adjustments. On the other hand, if there are adjustments to be made, the IRB will issue a tax computation summarising the tax adjustments based on their findings. If an appeal is not made within a specific time, an additional assessment will be issued with appropriate penalties where applicable.

To facilitate the audit process, taxpayers must therefore ensure that businesses as well as non-business records are properly kept. Generally, the types of records to be kept are as follows:

- (i) Employment income — Forms EA/EC, pay slip, etc.
- (ii) Business income — sales and purchases invoices, cash bills, payment vouchers, official receipts for payments, bank statements, cheque butts and other relevant documents.
- (iii) Original receipts to substantiate all expenses or claims made.

With effect from 1 January 2014, to increase the certainty of the costs of doing business, enhance investor confidence and to be in tandem with best practices, it is proposed that the time bar for tax audits be reduced from 6 years to 5 years from the date the tax assessment is made. The proposal is not applicable for cases of false declaration, willful late payment and negligence. The proposal will not alter the requirement to keep records for 7 years.

#### **4.2 Tax audit framework**

A revised tax audit framework which is effective from 1 January 2009 has been issued by the IRB to replace the framework issued in January 2007. The framework is to ensure that a tax audit is carried out in a fair, transparent and impartial manner. The main areas covered in the framework are as follows:

- (a) Selection of cases;
- (b) Tax audit methodology;
- (c) Rights and responsibilities of taxpayers, tax agents and audit officers;
- (d) Confidentiality of information;
- (e) Offences and penalties;
- (f) Complaints and payment procedures;
- (g) Appeals.

This framework is not applicable to audit cases involving transfer pricing, thin capitalisation and advance pricing arrangement.

On 1 April 2013, a revised version of the Tax Audit Framework of Inland Revenue Board Malaysia was introduced in Section 1 of the document

#### **4.3 Penalty provisions**

*(a) Penalties for omission/understatement of income*

The penalty for omission or understatement of income is provided under S. 113(2) of the ITA 1967, which is 100% of the tax undercharged. However, the Director General of Inland Revenue may impose a lower penalty of 45% for the first offence.

In the event the taxpayer makes voluntary disclosure of the omitted income before the commencement of the tax audit, the Director General may impose the concessionary penalty rates.

The revised concessionary penalty rates as set out in the latest tax audit framework, which supersedes the old framework with effect from 1 January 2009, is as follows:

	Period from the due date of submitting return form	Old rate (%)	Revised rate (%)
Voluntary disclosure before case is selected for audit	< 60 days	15	10
	> 60 days to 6 months	15	15.5
	> 6 months to 1 year	15	20
	> 1 year to 3 years	20	25
	> 3 years and above	30	30
Voluntary disclosure after taxpayer has been informed but before the commencement of the audit visit		35	35

For each repeated offence, the rate of penalty shall be increased by 10% as compared to the last penalty rate imposed for the previous offence but is restricted to a sum not exceeding 100% of the amount of tax undercharged.

*(b) Penalty for not providing reasonable facilities and assistance*

Public Ruling 7/2000 on "Providing Reasonable Facilities and Assistance" is also applicable to individuals. The offender upon conviction may be liable to a fine of RM1,000 to RM10,000 or to imprisonment for a term not exceeding one year or both.

*(c) Penalty for not complying with a notice asking for certain information as required*

Pursuant to S. 120(1) of the ITA 1967, the offender upon conviction may be liable to a fine of RM200 to RM2,000 or to imprisonment for a term not exceeding 6 months or both.

*(d) Penalty for failure to keep sufficient records*

In accordance with Public Ruling 5/2000 (Revised), individuals carrying on a business as a sole proprietorship or a partnership are required to keep sufficient records. The offender upon conviction may be liable to a fine of not less than RM300 and not more than RM10,000 or to imprisonment for a term not exceeding 12 months or both.

## APPEAL AGAINST AN ASSESSMENT

If a taxpayer is dissatisfied with an assessment deemed to be served on him/her, he/she should file an appeal within 30 days from the date of submission of the tax return. Specific details and the grounds of appeal should be stated in the appeal to the IRB. In the case where a notice of additional assessment is issued because of audit adjustments made by the IRB, the appeal should be submitted within 30 days after the service of the notice of additional assessment.

A new provision of the ITA 1967, S. 97A, provides clarification in relation to an appeal against a notification of non-chargeability. Effective 1 January 2009, the right to appeal to the Special Commissioners of the Income Tax (SCIT) by a person is extended to cases which are not liable to tax.

With the issuance of Public Ruling 3/2012 (Appeal Against An Assessment) by the IRB on 4 May 2012, an appeal against an assessment has to be submitted by using Form Q. An appeal letter will no longer be considered by the IRB.

Upon coming into operation of the Finance (No. 2) Act 2013, an appeal to the Special Commissioners is not applicable to the deemed assessment made under S. 90(1) or S. 91A of the ITA 1967 except where the taxpayer is aggrieved by the deemed assessment as a result of complying with the public ruling issued by the Director General (2014 Budget).

# B3 TAX CALENDAR

## TAX CALENDAR AND REMINDERS

	<i>Due Date</i>
<b>1. Forms and Returns</b>	
Submission of Form E to the Inland Revenue Board (IRB)	By 31 March of the following year
To deliver Form EA to employee	By the last day of February of the following year
Submission of Tax Returns	
<ul style="list-style-type: none"> <li>Form BE, B, BT, M, MT, P, TF, TJ, TP</li> </ul>	<p>By 30 April of the following year for a person not carrying on a business. For a person carrying on a business such as sole proprietor, club, association and Hindu joint family, the tax filing deadline is 30 June of the following year. The tax filing deadline for partnerships (excluding limited liability partnerships, LLPs) is also 30 June of the following year</p> <p>With effect from Y/A 2014, an individual with Monthly Tax Deductions (MTD) made by his employer for a year of assessment which is deemed equivalent to the tax payable for that year of assessment will be exempted from filing of annual tax returns (2014 Budget)</p>
<ul style="list-style-type: none"> <li>Form C, R, TA, C1, TC, TR, TN, PT</li> </ul>	Within 7 months from the date following the close of its accounting period
<b>2. Amended Return Form</b>	
Submission of Amended Return Form	<p>Within 60 days from the statutory due date for submission of tax return (subject to an increase in tax of 10%)</p> <p>After the period of 60 days but not later than 6 months from the statutory due date for submission of tax return (subject to an increase in tax of 15.5%)</p>
<b>3. Deductions from Remuneration</b>	
Employers must remit to the IRB the tax deducted from employees' remuneration	
<ul style="list-style-type: none"> <li>As directed by IRB</li> </ul>	By the 10th day of the following month
<ul style="list-style-type: none"> <li>Under the MTD scheme</li> </ul>	By the 10th day of the following month

	<i>Due Date</i>
<b>4. Estimate of Tax Payable</b>	
<b><i>Individuals</i></b>	
Estimate of tax payable is determined by the IRB. Tax in respect of employment income is excluded in determining the estimate	–
<b><i>Trust bodies and co-operative societies</i></b>	
Every trust body and co-operative society must furnish an estimate of its tax payable	30 days before the beginning of the basis period
For trust bodies and co-operative societies which first commence operations <i>Y/A 2011 onwards</i>	Within 3 months from date of commencement of operations
For trust bodies and co-operative societies which first commence operations	Within 3 months from date of commencement of operations only if the basis period for that year is not less than 6 months
<b><i>Companies (including Business Trusts – effective 28 December 2012)</i></b>	
Every company must furnish an estimate of its tax payable	30 days before the beginning of the basis period
For companies which first commence operations <i>Y/A 2008 onwards</i>	Within 3 months from date of commencement of operations
Every Small and Medium Enterprise (SME) must furnish an estimate of its tax payable	First 2 years of assessment from the date of commencement of operations: exempted Third year of assessment onwards: 30 days before the beginning of the basis period
<i>Y/A 2011 onwards</i>	
For companies (except SME) which first commence operations	Within 3 months from date of commencement of operations only if the basis period for that year is not less than 6 months
<b><i>Limited liability partnerships (LLPs) (effective 26 December 2012)</i></b>	
Every LLP must furnish an estimate of its tax payable	30 days before the beginning of the basis period
For LLPs which first commence operations	Within 3 months from date of commencement of operations only if the basis period for that year is not less than 6 months



	<i>Due Date</i>
<b>5. Variation of Estimate of Tax Payable</b> <ul style="list-style-type: none"> <li>• Individuals</li> <li>• Companies, trust bodies, co-operative societies and limited liability partnerships</li> </ul>	<p>By 30 June of the relevant year of assessment</p> <p>In the 6th and 9th months of the basis period</p>
<b>6. Tax Instalments</b> <p>Taxpayers must remit to the IRB monthly/bimonthly tax instalments as per instalment scheme</p> <ul style="list-style-type: none"> <li>• Individuals</li> <li>• Companies, trust bodies, co-operative societies and limited liability partnerships</li> <li>• SME</li> </ul>	<p>Within 30 days of the due date of instalment</p> <p>By the 10th day of every month beginning from the 2nd month of basis period</p> <p>Y/A 2007 and prior years: by the 10th day of every month beginning from the 2nd month of basis period</p> <p>Y/A 2008 onwards: first 2 years of assessment from the date of commencement of operations: exempted; third year of assessment onwards: by the 10th day of every month beginning from the 2nd month of basis period</p>
<b>7. Notice of Objection/Appeal</b> <p>Notice of objection/appeal against an assessment must be lodged with the IRB on being served with:</p> <ul style="list-style-type: none"> <li>(i) a notice of assessment, deemed notice of assessment, notice of additional assessment or reduced assessment;</li> <li>(ii) advance assessment under S. 92 of the ITA 1967</li> <li>(iii) notification of non-chargeability</li> </ul>	<p>Within 30 days</p> <p>Upon coming into operation of the Finance (No. 2) Act 2013, the appeal to the Special Commissioners of Income Tax is not applicable to the deemed notice of assessment under S. 90(1) of the ITA 1967 or S. 91A of the ITA 1967 except where the taxpayer is aggrieved by the deemed assessment as a result of complying with public ruling issued by the Director General (2014 Budget)</p> <p>Within 3 months</p> <p>Within 30 days</p>
<b>8. Withholding Taxes</b> <p>Income tax must be withheld from:</p> <ul style="list-style-type: none"> <li>• Contract payments;</li> <li>• Interest;</li> </ul>	<p>Within 1 month of payment/crediting</p>

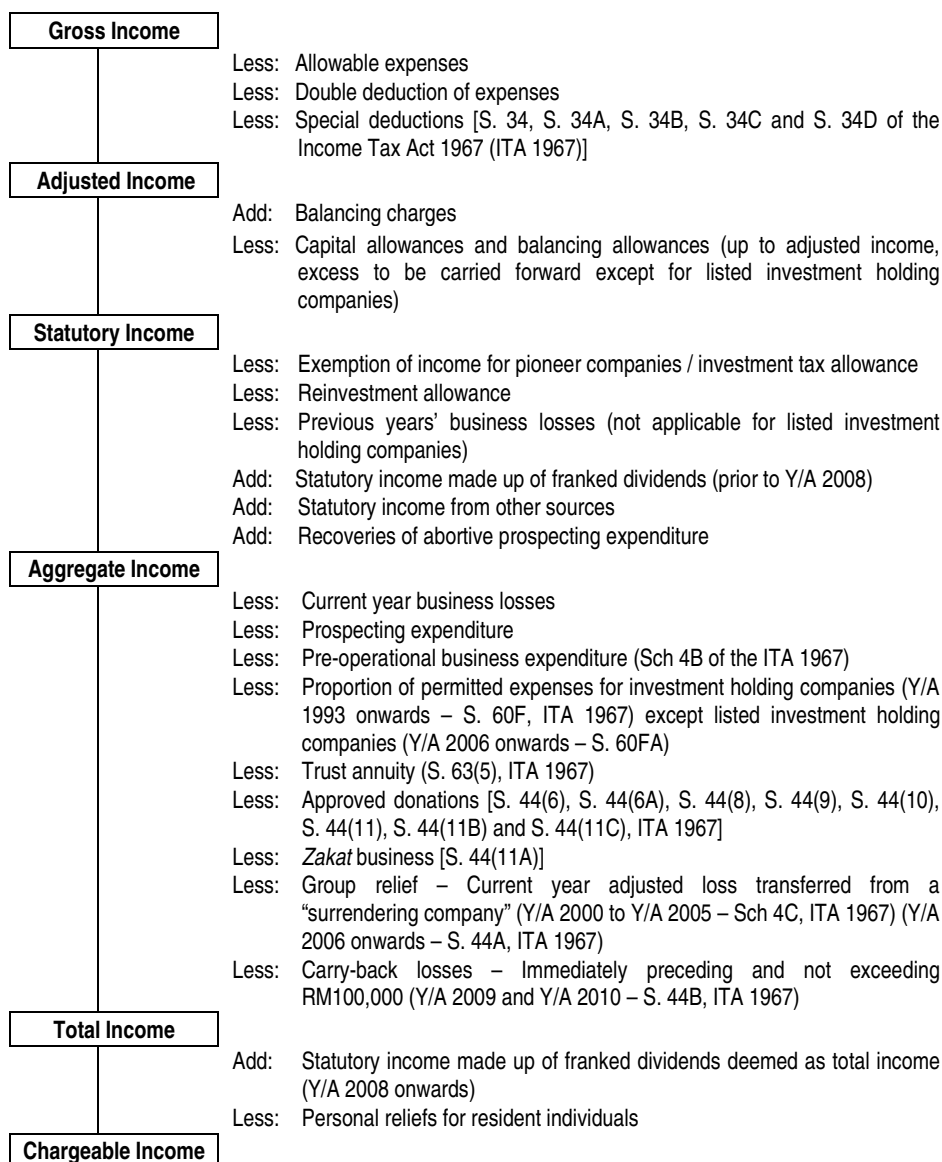
	<i>Due Date</i>
<ul style="list-style-type: none"> <li>Royalties;</li> <li>Special classes of income;</li> <li>Remuneration of public entertainers; and</li> <li>Gains or profits falling under S. 4(f) of the ITA 1967</li> </ul> <p>made to non-resident persons and remitted to the IRB with the prescribed form</p> <p>Income tax must be withheld from:</p> <ul style="list-style-type: none"> <li>Distribution of income of a unit trust (applies to income of a unit trust exempted under S. 61A of the ITA 1967); and</li> <li>Distribution of income of a takaful operator</li> </ul> <p>to unit holders / participants (other than a resident company) and remitted to the IRB with the prescribed form</p> <p>Income tax must be withheld from payment of withdrawal of contribution made by a private retirement scheme provider to an individual before reaching the age of 55 and remitted to the IRB with the prescribed form</p>	<p>Within 1 month of distributing/crediting</p> <p>Within 1 month of payment</p>
<p><b>9. Payment of Tax Assessed</b></p> <p><b>(i) Individuals</b></p> <p>The tax assessed less the instalments paid under S. 107B of the ITA 1967 and/or amounts deducted under the MTD scheme must be settled by the due date</p> <p><b>(ii) Companies, trust bodies, co-operative societies and limited liability partnerships</b></p> <p>The tax assessed less the instalments paid under S. 107C of the ITA 1967 must be settled by the due date</p>	<p>By 30 April of the following year for individuals without business income</p> <p>By 30 June of the following year for sole proprietor, club, association or Hindu joint family who is carrying on a business</p> <p>The last day of the 7th month from the financial year end</p>
<p><b>10. Commencement of Employment</b></p> <p>An employer who commences to employ an individual likely to be chargeable to tax is required to notify the IRB by completing Form CP22</p>	<p>Within 1 month from date of commencement of employment</p>

	<i>Due Date</i>
An individual who first arrives in Malaysia and is chargeable to tax	Within 2 months from date of arrival
<b>11. Cessation of Employment</b>  An employer is required to notify the IRB of the cessation of employment of an employee by the completion of Form CP22A unless the employee is on the MTD scheme or whose income is below the minimum amount for the MTD scheme, and the employee is not retiring from employment permanently	Not less than 1 month before the date of cessation
<b>12. Departure from Malaysia for a Period Exceeding 3 Months</b>  An employer is required to notify the IRB of departure of an employee from Malaysia for a period of more than 3 months by the completion of Form CP21	Not less than 1 month before the expected date of departure
<b>13. Moneys to be Withheld on Cessation of Employment and Departure from Malaysia</b>  Employers are required to withhold payment of any moneys payable to employees who have ceased or about to cease to be employed, or who are about to leave Malaysia for a period exceeding 3 months	To withhold for 90 days or until tax clearance is received, whichever is earlier
<b>14. Change of Address</b>  Every chargeable person who changes his/her address in Malaysia for another address in Malaysia must inform the IRB by submitting a prescribed form (Form CP600B)	Within 3 months from the date of the change of the address
<b>15. Notification of the Demise of Taxpayer</b>  Executors or administrators are required to submit a prescribed Form CP57 to notify the IRB of the death of a taxpayer	Upon appointment of the executor / administrator of the estate of the deceased person  With effect from 27 Jan 2011, assessments and additional assessments must be issued by the IRB within 3 years after the end of the year of assessment in the basis year for which: <ul style="list-style-type: none"> <li>the Director General is informed by the executor of the death of a taxpayer using the prescribed Form CP57;</li> </ul>

	<i>Due Date</i>
	<ul style="list-style-type: none"> <li>the estate duty affidavit (if any) was filed in Malaysia with respect to any part of the individual's estate; or</li> <li>where such an estate duty affidavit has been filed, the last of any corrective affidavits relating to that estate duty was filed,</li> </ul> <p>being the basis year in which the last of those events took place.</p>
<b>16. Payment Made to an Agent, Dealer or Distributor</b>  Every company must furnish a prescribed Form CP58 to its agents, dealers or distributors for payment of incentive made in a particular year: <ul style="list-style-type: none"> <li>– for calendar year 2011</li> <li>– for calendar year 2012 onwards</li> </ul>	<p>By 31 May 2012</p> <p>By 31 Mar of the following year</p>

**Note:** IRB refers to the Inland Revenue Board; and ITA 1967 refers to the Income Tax Act 1967.

# B4 COMPUTATION OF CHARGEABLE INCOME



# B5 DOUBLE DEDUCTIONS

## 5.1 TYPE AND ELIGIBILITY

Type	Conditions	Reference and Effective Date
1. Interest payable on loans to small businesses	(a) Employer to produce certificate of approval of loan from Authority (b) Interest must be allowable under S. 33 of the Income Tax Act 1967 (ITA 1967)	PU(A) 90/1981 Y/A 1982
2. Remuneration of disabled employees	(a) Employer has to prove to the Director General that the employee is physically or mentally disabled (b) Remuneration must be allowable under S. 33 of the ITA 1967	PU(A) 73/1982 Y/A 1982
3. Premium paid on export credit insurance taken with a company approved by the Minister of Finance (i) Conventional Insurance (ii) <i>Takaful</i> (Islamic)	Premium must be allowable under S. 33 of the ITA 1967 Premium must be allowable under S. 33 of the ITA 1967	PU(A) 526/1958 Y/A 1986 PU(A) 428/2010 Y/A 2011
4. Expenditure incurred by companies carrying on the business of providing higher education in Malaysia for the purpose of promoting the export of higher education	The Company/Institution: (a) must be resident in Malaysia (b) must be registered with the Ministry of Education Malaysia (MOE) (c) must get an approval letter from the MOE upfront before undertaking the promotional activities (d) can also engage an agency approved by the MOE to undertake the promotional activities outside Malaysia. The MOE will verify the expenses incurred for this purpose <i>Refer to section B5.2 for details of eligible outgoings and expenses.</i>	PU(A) 185/2001 Y/A 1996
5. Freight charges incurred for the export of rattan and wood-based products from a port / airport in Malaysia to a port / airport outside Malaysia	The person claiming a deduction must be engaged in the manufacturing of rattan and wood-based products (excluding veneer and sawn timber)	PU(A) 422/1990 Y/A 1991 PU(A) 54/2013 Y/A 2013 To be revoked w.e.f. Y/A 2016 [PU(A) 218/2012]

Type	Conditions	Reference and Effective Date
6. Research expenditure	<p>(a) The research must be:</p> <p>(i) approved by the Minister; or</p> <p>(ii) undertaken by a person participating in an industrial adjustment approved under S. 31A of the PIA 1986</p> <p>(b) Expenses must be incurred within 10 years from the date of approval for (a)(ii) above</p> <p>An application for double deduction of expenses is to be submitted directly to the IRB within 6 months before the financial year-end of the business. The IRB will only give approval for a research project.</p> <p><i>Refer to section B5.2 and Public Ruling 5/2004 dated 30 Dec 2004 for details of eligible outgoings and expenses, qualifying criteria and procedures.</i></p>	S. 34A of the ITA 1967 Y/A 1991
7. (i) Cash contributions to approved research institutes; (ii) Service fee to approved research institutes or companies; or (iii) Service fee to an R&D company or a contract R&D company	<p>(a) Approved research company/institute which fulfils the definition under S. 34B(4)(a) or 34B(4)(b) of the ITA 1967</p> <p>(b) Research and development (R&amp;D) company which fulfils the definition in S. 2 of the PIA 1986</p> <p>(c) Contract R&amp;D company which fulfils the definition in S. 2 of the PIA 1986</p> <p><i>Refer to section B5.2 for details of eligible outgoings and expenses.</i></p>	S. 34B of the ITA 1967 Y/A 1994
8. Overseas expenses incurred by hotel and tour operators for the promotion of tourism	<p>Hotel and tour operating business must be registered with the Malaysian Tourism Promotion Board</p> <p><i>Refer to section B5.2 for details of eligible outgoings and expenses.</i></p>	PU(A) 412/1991 Y/A 1991
9. Expenditure incurred on approved training by: (i) Manufacturing company	<p>(a) A training programme approved by MIDA; or</p> <p>(b) A training programme conducted by a training institution</p> <p>(c) The expenditure must be incurred in training its employees for the purpose of acquisition, upgrading and developing the employees' craft, supervisory and technical skills or increasing the productivity or quality of its products</p>	PU(A) 61/1992 Y/A 1992

Type	Conditions	Reference and Effective Date
(ii) Non-manufacturing company	(a) A training programme approved by the Minister of Finance or any agency appointed by the Minister of Finance; or (b) A training programme conducted by a training institution <i>Refer to section B5.2 for details of eligible outgoings and expenses.</i>	PU(A) 61/1992 Y/A 1992
(iii) Company carrying on a hotel or tour operating business	(a) A training programme approved by the Ministry of Culture, Arts and Tourism; or (b) A training programme conducted by a training institution (c) The hotel or tour operating business must be registered with the Malaysian Tourism Promotion Board <i>Refer to section B5.2 for details of eligible outgoings and expenses.</i>	PU(A) 61/1992 Y/A 1992
(iv) Handicapped persons	(a) A training programme conducted in Malaysia approved by the Minister of Finance; or (b) A training programme conducted by a training institution (c) The training programme is for the purpose of enhancing his/her employment prospects (d) The handicapped person must be registered with the Ministry of National Unity and Social Development (e) The person is not an employee of the company <i>Refer to section B5.2 for details of eligible outgoings and expenses.</i>	PU(A) 61/1992 Y/A 1992
10. Approved outgoings and expenses incurred for the promotion of exports from Malaysia	(a) Products exported must be products which qualify for an export allowance or abatement of statutory income for exports (b) The Company must be resident in Malaysia <i>Refer to section B5.2 for details of eligible outgoings and expenses.</i>	S. 41 of the PIA 1986 1 Jan 1986
11. Expenses incurred on international trade fairs held in Malaysia for the promotion of exports	(a) The trade fair must be an international trade fair approved by the Ministry of International Trade & Industry (MITI); (b) The company must be approved by the MITI to participate in the international trade fair; and	PU(A) 361/1991 Y/A 1992



Type	Conditions	Reference and Effective Date
	<p>(c) The expenditure must be a kind allowable under S. 33 of the ITA 1967 but excludes the cost of exhibits</p> <p><i>Refer to section B5.2 for further details on the claim.</i></p>	
12. Insurance premium paid for the export or import of cargo insured with local insurance companies	<p>(a) The risks are insured with any insurance company incorporated in Malaysia</p> <p>(b) The insurance premium must be allowed a deduction under S. 33 of the ITA 1967</p>	<p>PU(A) 72/1982 Y/A 1982 and PU(A) 79/1995 Y/A 1995</p> <p>To be revoked w.e.f. Y/A 2016 [PU(A) 220/2012 and PU(A) 219/2012]</p>
13. Expenditure incurred on advertising Malaysian brand name goods within Malaysia by:		
(i) Registered proprietor	<p>(a) The company is at least 70% Malaysian-owned;</p> <p>(b) The goods are of export quality;</p> <p>(c) The expenditure incurred in advertising the Malaysian brand name or incurred on professional fees must be incurred within Malaysia</p>	<p>PU(A) 62/2002 Y/A 2002</p>
(ii) Company owned by the registered proprietor	<p>(a) The registered proprietor does not claim the double deduction stated above; and</p> <p>(b) The company must be owned more than 50% by the registered proprietor</p> <p><i>Refer to section B5.2 for details of eligible outgoings and expenses.</i></p>	<p>PU(A) 171/2007 Y/A 2007</p>
14. Outgoings and expenses incurred for promotion of export of services	<p>The incentive has been extended to partnerships or sole proprietors (for promotion of export of professional services)</p> <p><i>Refer to section B5.2 for details of eligible outgoings and expenses.</i></p>	<p>PU(A) 193/1999 PU(A) 114/2002 Y/A 1996</p> <p>PU(A) 124/2003 Y/A 2003</p>
15. Freight charges for shipping goods from Sabah and Sarawak to Peninsular Malaysia	<p>(a) To be claimed by manufacturers</p> <p>(b) To use ports in Peninsular Malaysia</p>	<p>PU(A) 50/2000 Y/A 2000 (cyb)</p>

Type	Conditions	Reference and Effective Date
16. Expenditure incurred on advertising Malaysian brand names overseas	(a) Expenses on advertising of Malaysian brand names registered overseas; and (b) Professional fees paid to companies promoting Malaysian brand names <i>Refer to section B5.2 for details of eligible outgoings and expenses.</i>	PU(A) 62/2002 Y/A 2002
17. Outgoings and expenses incurred for promotion of export of professional services	Professional services include: (a) Legal; (b) Accounting; (c) Architectural; (d) Engineering and integrated engineering services; and (e) Medical and dental <i>Refer to section B5.2 for details of eligible outgoings and expenses.</i>	PU(A) 124/2003 Y/A 2003
18. Approved R&D expenditure incurred during the Pioneer period	The approved expenditure incurred by a pioneer company during its tax relief period may be elected to be accumulated and carried forward and be given a single deduction in the post pioneer period. The election has to be done on a yearly basis <i>Refer to section B5.2, Public Ruling 5/2004 dated 30 Dec 2004 and Addendum to Public Ruling 5/2004 dated 3 Apr 2008 for details of eligible outgoings and expenses, qualifying criteria and procedures.</i>	S. 34A Y/A 2003
19. Expenditure incurred on R&D activities undertaken overseas	The expenses incurred (including the training of Malaysian staff) will be considered for double deduction on a case-by-case basis	Economic Stimulus Package Y/A not mentioned
20. Expenditure incurred in obtaining certification for recognised quality systems and standards, and <i>halal</i> certification	The certification has to be evidenced by a certificate issued by a certification body as determined by the Minister	S. 34(6)(ma) Y/A 2005
21. Expenses for the registration of patents, trademarks and product licensing overseas	Malaysian resident company	PU(A) 14/2007 Y/A 2006
22. Expenditure incurred by employers in training their employees	The relevant fields include: (a) post-graduate courses in information communication and technology (ICT), electronics and life sciences; (b) post-basic courses in nursing and allied health care; and (c) aircraft maintenance engineering courses	PU(A) 261/2009 Y/A 2009 to Y/A 2012

Type	Conditions	Reference and Effective Date
23. Outgoings and expenses incurred for promotion of Malaysia as an International Islamic Financial Centre	<p>Eligible persons include:</p> <ul style="list-style-type: none"> <li>(a) a person approved by the Malaysia International Islamic Financial Centre Secretariat who establishes, manages and owns a private higher educational institution registered with the Ministry of Higher Education that provides professional courses in Islamic finance;</li> <li>(b) a person licensed, registered or approved by the Securities Commission under the Capital Markets and Services Act 2007;</li> <li>(c) a person licensed under the Islamic Banking Act 1983;</li> <li>(d) a person licensed under the Banking and Financial Institutions Act 1989;</li> <li>(e) a person registered under the Takaful Act 1984;</li> <li>(f) Bursa Malaysia Berhad and its related companies; or</li> <li>(g) such other persons as the Malaysia International Islamic Financial Centre Secretariat may approve</li> </ul> <p><i>Refer to section B5.2 for details of eligible outgoings and expenses.</i></p>	<p>PU(A) 307/2008 Y/A 2008 to Y/A 2010</p> <p>PU(A) 416/2009 The effective period is extended to Y/A 2015</p>
24. Expenses for implementing the structured internship programme approved by the Talent Corporation Malaysia Berhad in collaboration with the Ministry of Higher Education	<ul style="list-style-type: none"> <li>(a) The internship programme is for full-time undergraduate students from the Public/Private Higher Educational Institutions; and</li> <li>(b) Internship programme is for a minimum period of 10 weeks with a monthly allowance of not less than RM500.</li> <li>(c) The expenses allowed include the monthly allowances (no restriction) and expenses relating to trainer fees, provision of training, meals, travelling and accommodation for students (restricted to RM5,000 for each year of assessment)</li> </ul>	<p>PU(A) 130/2012 Y/A 2012 to Y/A 2016</p>
25. Scholarships awarded to students pursuing full-time course leading to an award of a diploma or bachelor's degree at local higher educational institution	<ul style="list-style-type: none"> <li>(a) The scholarship agreement between the Malaysian company and the student is executed between 8 Oct 2011 and 31 Dec 2016;</li> <li>(b) The student must be a Malaysian citizen and resident in Malaysia who has no means of his own, and whose parents or guardians have total monthly income not exceeding RM5,000;</li> </ul>	<p>PU(A) 228/2012 Y/A 2011 to Y/A 2016</p>

Type	Conditions	Reference and Effective Date
	(c) The local higher educational institution refers to any institution established under the Universities and University Colleges Act 1971, Universiti Teknologi MARA Act 1976 or the Private Higher Educational Institutions Act 1996.	
26. Expenses for participating in career fairs abroad approved by the Ministry of Finance	<p>(a) Career fair is organised or endorsed by Talent Corporation Malaysia Berhad;</p> <p>(b) Claimant is required to produce a letter from the Talent Corporation Malaysia Berhad confirming the career fair is an approved career fair; and</p> <p>(c) Eligible expenses include:</p> <ul style="list-style-type: none"> <li>• Travelling expenses for up to 3 persons (subject to economy class air fare; RM300 for accommodation per day and RM150 sustenance per day);</li> <li>• Marketing and promotional materials;</li> <li>• Payment made to organisers of career fair; and</li> <li>• Other direct expenses.</li> </ul>	PU(A) 129/2012 Y/A 2012 to Y/A 2016
27. Overseas promotional expenditure incurred by profit oriented private schools and international schools	<p>(a) The schools must be incorporated under the Companies Act 1965 or registered under the Societies Act 1966, and registered with the Ministry of Education (MOE) under Education Act 1996;</p> <p>(b) Eligible expenses include:</p> <ul style="list-style-type: none"> <li>• Market research;</li> <li>• Preparation of technical information;</li> <li>• Travelling expenses outside Malaysia for up to 3 persons (subject to economy class air fare, RM300 for accommodation per day and RM150 sustenance per day);</li> <li>• Participation in education fairs held outside Malaysia and approved by the MOE; and</li> <li>• Publicity and advertisement in media outside Malaysia.</li> </ul> <p>(c) The amount of deduction is restricted to RM100,000 for each year of assessment</p>	PU(A) 110/2012 Y/A 2012
28. Contribution made to the Malaysian Motor Insurance Pool	Insurers carrying on general business licensed under the Insurance Act 1996	PU(A) 419/2012 Y/A 2011 to Y/A 2015

Type	Conditions	Reference and Effective Date
29. Expenditure incurred for the provision and maintenance of child care centre and payment of child care allowance to the employees	Childcare centre provided by an employer for the benefit of his own employees and registered with the Department of Social Welfare	PU(A) 15/2013 Y/A 2013
30. Interest expenses and all costs involved in obtaining loans to revive abandoned housing projects incurred by a qualifying person	<p>(a) The abandoned housing projects must be certified by the Ministry of Housing and Local Government (MHLG)</p> <p>(b) Qualifying person refers to either a rescuing contractor or developer approved by MHLG, or a liquidator appointed by court; and</p> <p>(c) Loans approved from 1 Jan 2013 to 31 Dec 2015</p>	Applicable for 3 consecutive Y/As from the Y/A in which the loans are approved PU(A) 89/2013
31. Expenses incurred for the issuance of sukuk, primarily for agricultural sector (i.e. Agro-Sukuk)	The Agro-Sukuk must be approved by the Securities Commission or the Labuan Financial Services Authority	Y/A 2013 to Y/A 2015 (2013 Budget)
32. Expenses incurred for the issuance of retail debenture	<p>The retail debenture must be approved by the Securities Commission issued to retail investors</p> <p>Eligible expenses include:</p> <ul style="list-style-type: none"> <li>• Professional fees relating to due diligence, drafting and preparation of prospectus;</li> <li>• Printing and advertisement cost of prospectus;</li> <li>• Securities Commission prospectus registration fee</li> <li>• Bursa Malaysia processing fee and initial listing fee</li> <li>• Bursa Malaysia new issue crediting fee</li> <li>• Primary distribution fee</li> </ul>	PU(A) 71/2013 Y/A 2012 to Y/A 2015
33. 50% of the rental payment incurred by a Tun Razak Exchange (TRX) Marquee Status Company	<p>(a) The rented commercial building is located in TRX and used by the company for the purpose of its business</p> <p>(b) Maximum deduction period is 10 years from the date of commencement of business</p>	PU(A) 31/2013 Y/A 2014 to Y/A 2020
34. Company participating in Skim Latihan 1Malaysia for unemployed graduates	<p>A training programme approved by the Economic Planning Unit under the Prime Minister's Department</p> <p><i>Refer to section B5.2 for details of eligible outgoings and expenses.</i></p>	PU(A) 260/2013 1 Jun 2012 to 31 Dec 2016

<i>Type</i>	<i>Conditions</i>	<i>Reference and Effective Date</i>
35. Expenditure up to RM300,000 per annum incurred by anchor companies in implementing Vendor Development Programme (VDP) to develop local vendors	<p>The anchor company must sign a Memorandum of Understanding (MOU) with the Ministry of International Trade and Industry (MITI) and obtain MITI's certification prior to claiming the expenses.</p> <p>Qualifying expenses include:</p> <ul style="list-style-type: none"> <li>• Cost of product development, R&amp;D, innovation and quality improvement;</li> <li>• Cost of obtaining ISO/Kaizen/5S certifications, evaluation programme and business process reengineering for the purpose of increasing vendor capabilities; and</li> <li>• Cost of vendor skills training, capacity building, lean management system and financial management system</li> </ul>	Applicable to MOU signed from 1 Jan 2014 to 31 Dec 2016 (2014 Budget)
36. Expenses incurred on additional remuneration (difference between original salary and the minimum wages)	Employers (i.e. SMEs, cooperatives, associations and organisations) complying with minimum wages policy	1 Jan 2014 to 31 Dec 2014 (2014 Budget)
37. Expenses incurred in implementing flexible work arrangements (FWA)  (i) Training costs for employees, supervisors and managers  (ii) Consultancy fees to design FWA	The employer must obtain the FWA status from Talent Corporation Malaysia Berhad	Restricted to a period of 3 years of assessment and subject to application made to Talent Corporation Malaysia Berhad from 1 Jan 2014 to 31 Dec 2016 (2014 Budget)
38. Companies which have incurred expenses relating to training of employees in the areas of accounting and Information and Communication Technology (ICT) for undertaking implementation of Goods and Services Tax (GST) system	Training is related to implementation of GST system	Y/A 2014 and Y/A 2015 (2014 Budget)

## 5.2 DETAILS OF OUTGOINGS AND EXPENSES ELIGIBLE FOR DOUBLE DEDUCTION

### 1. Research Expenditure — S. 34A of the ITA 1967

#### (a) Raw materials used in research

Excluding the purchase of fixed assets used in the research and cost of moulds, dies and soft tools (life span not exceeding 1 year) which cannot be reused.

#### (b) Manpower in the research project

Only expenditure on the basic salary of an employee directly involved in the research project is eligible for double deduction. Expenditure such as EPF, SOCSO, bonus, medical fees and benefits-in-kind will not be considered for double deduction. If an employee is not involved in the research project on a full-time basis, expenditure claimed should be apportioned according to the time spent by that employee on research.

Salaries of employees involved in the research attending courses/seminars directly relevant to the research project may be considered for the claim.

Employees involved in the research are those providing technical input, feedback, guidance or direction on the research project.

#### (c) Technical services

Inclusive of:

- (i) Consultancy fees paid to a particular research organisation or individual for obtaining information/advice pertaining to the research being undertaken.
- (ii) Payment to a particular organisation for the use of testing equipment such as those available in SIRIM, FRIM and universities.
- (iii) Payment to a particular organisation or individual for analytical services and data evaluation processing.

The above payments are subject to the following restrictions:

- (i) If more than 70% of the allowable expenditure for a particular research project is for technical services undertaken outside Malaysia, then the expenditure for the technical services will not be allowed for double deduction. However, ordinary allowable expenditure incurred locally, such as raw materials, travelling, transportation, etc. will be allowed for double deduction.
- (ii) For technical services obtained overseas but undertaken in Malaysia, the expenditure for the technical services will be allowed for double deduction.
- (iii) If payment is made to a non-resident as in the case of employing a foreign researcher/consultant, deduction and payment of withholding tax, where applicable, must be made.

#### (d) Travelling cost

- (i) Travelling costs incurred by research employees related to visiting research stations. Allowable expenditure includes travelling costs and daily allowances. Daily allowances are restricted to RM400 per person or the actual cost incurred, whichever is lower. This allowance includes the cost of food and lodging.
- (ii) Travelling costs related to attending courses/seminars solely for the purpose of obtaining the latest or up-to-date scientific information which is directly relevant to research projects, locally or overseas. Allowable expenditure includes travelling costs, daily allowances and course/seminar fees. Daily allowances are restricted to RM400 per person or the actual cost incurred, whichever is lower. This allowance includes the cost of food and lodging. In the case of air travel, only the economy class rate will be allowed.

(e) *Transportation cost*

Cost of transporting materials used in the research.

(f) *Maintenance cost*

- (i) Motor vehicles;
- (ii) Buildings;
- (iii) Equipment and machinery which are directly used for the research project.

(g) *Rental*

- (i) Motor vehicles;
- (ii) Buildings;
- (iii) Equipment and machinery which are directly used for the research project.

(h) *Other expenditure*

A claim for expenditure other than those categorised under items (a) to (g) above can be made as long as it is not against the principle of allowing double deduction under S. 34A of the ITA 1967 (see note below). Detailed information on the types of expenditure and their relevance to the research project should be furnished.

Note:

Non-Allowable Expenditure

- (a) Capital expenditure incurred on plant and machinery, fixtures, land, premises, buildings, structure or works of a permanent nature;
- (b) Expenditure on alterations, additions or extensions of items in item (a) above;
- (c) Expenditure on acquisition of any rights in or over any property; and
- (d) Research fees paid to holding company.

Please refer to Public Ruling 5/2004 dated 30 December 2004 and Addendum to Public Ruling 5/2004 dated 3 April 2008 for further details.

**2. Research Expenditure – S. 34B of the ITA 1967**

Cash contribution

Cash contribution or donation is allowable if made:

- (i) to an approved research institute only; and
- (ii) contribution is not for the purpose of purchasing a capital asset, e.g. contribution towards a building fund or for the purchase of plant and machinery.

Payment for the use of services of an approved research institute/company

- (i) Payment that is capital in nature does not qualify for double deduction.
- (ii) This deduction will not be given to a related company of a research and development company which has been granted and is still enjoying investment tax allowance under the Promotion of Investments Act 1986.

**3. Overseas Expenses Incurred by Hotel and Tour Operators for Promotion of Tourism**

(a) *Expenses incurred in respect of publicity and advertisements in any media outside Malaysia*

- (i) Expenses which are allowable are advertising expenses in mass media outside Malaysia.
- (ii) Relevant advertisement notice together with details of the date(s) it was advertised should be kept and made readily available for audit purposes.



- (b) *Expenses directly attributable to the provision of brochures, magazines and guidebooks for prospective tourists*

Expenses which are allowable are the cost of printing and production of printed materials, including cost of delivery. The above printed materials are to be distributed overseas free of charge to prospective tourists.

- (c) *Expenses directly attributable to carrying out market research outside Malaysia*

(i) Expenses which are allowable for market research include expenses incurred in employing market consultants overseas to carry out market research and approval of the Minister of Culture, Arts and Tourism must be obtained prior to carrying out the market research. A letter from Lembaga Penggalakan Pelancongan Malaysia (LPPM) or Malaysian Tourism Board stating that the market research has the prior approval of the Minister of Culture, Arts & Tourism should be kept and made readily available for audit purposes.

(ii) The objectives for each market research are restricted to identifying new market potential.

- (d) *Expenses on travels overseas undertaken for purposes of negotiation or concluding contracts for overseas advertisements or for participation in trade fairs, conferences or forums approved by the Minister of Culture, Arts & Tourism*

(i) For expenses incurred for the purpose of participation in trade fairs, conferences or forums approved by the Minister of Culture, Arts & Tourism, a letter from the LPPM stating that such trade fairs, conferences or forums have been approved by the Minister should be kept and made readily available for audit purposes.

(ii) Allowable expenses with regard to the above are expenses in respect of travel to a country outside Malaysia by 1 representative of the company, such as:

- (a) economy class rate of travelling by air;
- (b) actual expenses for hotel accommodation subject to a maximum of RM300 per day;
- (c) actual expenses for sustenance subject to a maximum of RM150 per day; and
- (d) overseas ground transport.

- (e) *Expenses directly attributable to the holding of overseas trade fairs, conferences or forums approved by the Ministry of Culture, Arts & Tourism*

(i) For expenses directly attributable to the holding of overseas fairs, conferences or forums approved by the Minister of Culture, Arts & Tourism, a letter from the LPPM stating that such trade fairs, conferences or forums have been approved by the Minister should be kept and made readily available for audit purposes.

(ii) Allowable expenses with regard to the above include:

- (a) economy class rate of travelling by air;
- (b) actual expenses for hotel accommodation subject to a maximum of RM300 per day;
- (c) actual expenses for sustenance subject to a maximum of RM150 per day;
- (d) transportation cost of materials and exhibits for trade fairs;
- (e) expenses for the setting up of trade fairs and decoration;
- (f) cost of gifts and promotional items; and
- (g) overseas ground transport.

- (f) *Expenses for the cost of maintaining sales offices overseas for the purpose of promoting tourism to Malaysia*

Allowable expenses for maintaining sales offices overseas are rental, maintenance of office, and employees' remuneration.

#### **4. Expenditure Incurred on Approved Training**

##### **(a) Incentives for manufacturing companies**

Manufacturing companies are allowed to claim training expenses before or after commencement of business.

##### **(i) Training expenses incurred after the company has commenced business**

Double deduction is allowed to a manufacturing company for expenditure incurred after commencement of business in training its employees for the purpose of upgrading and developing the employees' craft, supervisory and technical skills or increasing the productivity or quality of its products under:

- (a) a training programme approved by the Malaysian Industrial Development Authority (MIDA); or
- (b) a training programme conducted by a training institution.

##### **(ii) Training expenses incurred before the company has commenced business**

In a similar manner, double deduction is allowed to a manufacturing company for expenditure incurred before commencement of business in training its employees for the acquisition of craft, supervisory and technical skills which will contribute directly to the future production of its products under:

- (a) a training programme approved by the Malaysian Industrial Development Authority (MIDA); or
- (b) a training programme conducted by a training institution.

The double deduction is however allowed against the adjusted income for the year of assessment in which the gross income first arises. For example, if a company with a 31 December year-end incurs training expenses of RM10,000 in 2008 before it commenced business and had its first sale in 2009, the training expense will be eligible for double deduction in the Y/A 2009.

##### **(b) Incentives for non-manufacturing companies**

Double deduction is allowed to a non-manufacturing company for expenditure incurred in training its employees under:

- (i) a training programme approved by the Minister of Finance or any agency appointed by the Minister of Finance; or
- (ii) a training programme conducted by a training institution.

##### **(c) Incentives for companies carrying on a hotel or tour operating business**

Double deduction is allowed to a company carrying on a hotel business in a hotel registered with the Malaysian Tourism Promotion Board or to a company carrying on a tour operating business registered with the Malaysian Tourism Promotion Board for expenditure incurred in training its employees under:

- (i) a training programme approved by the Minister of Culture, Arts & Tourism; or
- (ii) a training programme conducted by a training institution.

##### **(d) Incentives for companies that train handicapped persons**

Double deduction is allowed to any company for expenditure incurred in training any handicapped person registered with the Ministry of National Unity and Social Development, who is not an employee of the company under:

- (i) a training programme approved by the Minister of Finance, which is conducted in Malaysia; or
- (ii) a training programme conducted by a training institution.

The training programme should be for the purpose of enhancing the handicapped person's employment prospects.

For (a) to (d) above, the double deduction incentive is not applicable to companies that contribute for deduction to the Human Resource Development Fund.

*(e) Incentives for companies that participate in Skim Latihan 1Malaysia training scheme for unemployed graduates*

Double deduction is allowed for the following outgoings and expenses incurred by a company approved by the Economic Planning Unit under the Prime Minister's Department to participate in the Skim Latihan 1Malaysia training scheme:

- (i) Monthly training allowance of not less than RM1,000 paid to the trainees for a maximum period of 12 months;
- (ii) Expenditure incurred for the training provided to the trainees;
- (iii) Expenditure incurred for food, travelling and accommodation allowances of the trainees during the training scheme; and
- (iv) Fees paid to a person who has been appointed to conduct soft-skills training under the training scheme.

The total amount of deduction allowable for (ii) to (iv) for each trainee shall not exceed RM5,000 for each training scheme.

**5. Approved Outgoings and Expenses for the Promotion of Exports from Malaysia**

Double deduction is allowed in respect of the following outgoings and expenses incurred by a company on its business primarily and principally for the purpose of seeking opportunities, or in creating or increasing a demand for the export of goods or agricultural produce manufactured, produced, assembled, processed, packed, graded or sorted in Malaysia:

- (a) Expenses incurred in respect of publicity and advertisements in any media outside Malaysia;
- (b) Expenses directly attributable to the provision of samples without charge to prospective customers outside Malaysia, including the cost of delivery of the samples;
- (c) Expenses directly attributable to carrying out export market research or the obtaining of export marketing information;
- (d) Expenses directly attributable to the preparation of tenders for the supply of goods or agricultural produce (not being goods or agricultural produce of the same kind and specifications as those regularly manufactured, produced or supplied by the company) to prospective customers outside Malaysia;
- (e) Expenses by way of fares in respect of travel to a country outside Malaysia by a representative of the company, being travel necessarily undertaken for the purpose of negotiating or concluding contracts for sales of goods or agricultural produce on behalf of the company or for the purpose of participating in trade fairs or trade or industrial exhibitions approved by the Minister, and actual expenses subject to a maximum of RM300 per day for accommodation and RM150 per day for sustenance for the whole of the period commencing with the representative's departure and ending with his/her return to Malaysia;
- (f) Expenses for giving technical information to persons outside Malaysia relating generally to goods or agricultural produce of the company offered for sale, excluding expenses for giving technical information to purchasers after purchase;
- (g) Expenses directly attributable to the provision of exhibits for trade fairs or trade or industrial exhibitions which are held outside Malaysia and approved by the Minister;
- (h) Expenses for services rendered for public relations work connected with export;

- (i) Expenses directly incurred for participating in trade fairs or trade or industrial exhibitions approved by the Minister other than the expenses specified in subparagraphs (e) and (g);
- (j) Expenses for the cost of maintaining sales offices overseas for the purpose of promotion of exports from Malaysia;
- (k) Professional fees incurred in packaging design on the condition that the goods are of export quality and the company uses local professional services;
- (l) Expenses incurred for participating in virtual trade shows;
- (m) Expenses incurred for participating in trade portals for the promotion of local products; and
- (n) Cost of maintaining warehouses overseas.

Exports include the sale of locally manufactured goods from companies located in areas other than the Free Industrial Zones (FIZs) and licensed manufacturing warehouses (LMWs) to companies in the FIZ and to LMWs, and the sale of films and videos outside Malaysia.

#### **6. Expenses Incurred on International Trade Fairs Held in Malaysia for the Promotion of Exports**

For expenses incurred for the purpose of participation in international trade fairs approved by the Minister of International Trade and Industry (MITI), an approval letter should be kept and made readily available for audit purposes.

#### **7. Expenditure Incurred on Advertising Malaysian Brand Name Goods within Malaysia**

- (1) Qualifying advertising expenditure is expenditure incurred within Malaysia for the cost of advertising Malaysian brand name goods through:
  - (a) advertisements on the Internet where the host website is located in Malaysia;
  - (b) advertisements in magazines and newspapers where the magazines and newspapers are printed in Malaysia;
  - (c) advertisements on local licensed television stations;
  - (d) advertisements approved by the relevant local authority on advertisement hoarding located in Malaysia;
  - (e) advertisements in trade publications where the trade publications are printed in Malaysia;
  - (f) advertisements in any form in the course of sponsoring an approved international sporting event held in Malaysia; and
  - (g) advertisements in any form in the course of sponsoring an approved international trade conference or an approved international trade exhibition held in Malaysia.
- (2) Professional fees paid to Malaysian resident companies for advertising or promoting Malaysian brand name goods on behalf of the company which is the registered proprietor of the Malaysian brand name.

#### **8. Outgoings and Expenses Incurred for Promotion of Export of Services**

- (a) Expenses incurred in respect of market research for the purpose of the export of services;
- (b) The cost of tender preparations including the cost of preparation of models or payment made to a company resident in Malaysia for the preparation of models used in the bidding of international contracts as verified by the Professional Services Development Corporation Sdn Bhd for the purpose of the export of services;
- (ba) The cost of preparation of models or payment made to a company resident in Malaysia for the preparation of models used for participation in an international competition as verified by the Professional Services Development Corporation Sdn Bhd for the purpose of the export of services;
- (c) The cost of preparing technical information for the export of services;

- (d) Expenses by way of fares in respect of travel to a country outside Malaysia by a representative of the company, being travel necessarily undertaken for the promotion of the export of services, and actual expenses subject to a maximum of RM300 per day for accommodation and a maximum of RM150 per day for sustenance for the whole of the period commencing from the representative's departure from Malaysia and ending with his/her return to Malaysia;
- (e) Expenses for the cost of maintaining sales offices overseas for the purpose of promoting the export of services;
- (f) Expenses incurred in respect of publicity and advertisements in any media outside Malaysia for the promotion of the export of services;
- (g) Expenses incurred in feasibility studies for overseas projects identified for the purpose of tender;
- (h) Expenses incurred for participating in trade or industrial exhibitions in the country or overseas which are approved by the Malaysia External Trade Development Corporation; and
- (i) Expenses incurred for participating in exhibitions held in Malaysian Permanent Trade and Exhibition Centres overseas which are approved by the Malaysia External Trade Development Corporation.

**9. Outgoings and Expenses Incurred for Promotion of Export of Professional Services**

- (a) Expenses incurred in feasibility studies for overseas projects identified for the purpose of tender;
- (b) Tender preparations, which include the preparation of models, made by the person, used in the bidding of international contracts as verified by the Professional Services Development Corporation Sdn Bhd for the purpose of the export of professional services;
- (ba) Preparation of models, made by the person, which are used for participation in an international competition as verified by the Professional Services Development Corporation Sdn Bhd for the purpose of the export of professional services;
- (bb) Payment made by the person to a company resident in Malaysia for the preparation of models referred to in paragraphs (b) and (ba);
- (c) Expenses incurred in respect of market research for the purpose of the export of professional services;
- (d) The cost of preparing technical information for the export of professional services;
- (e) Expenses directly incurred for participating in a trade or industrial exhibition in Malaysia or overseas which is approved by the Malaysia External Trade Development Corporation;
- (f) Expenses directly incurred for participating in exhibitions held in a Malaysian Permanent Trade and Exhibition Centre overseas which are approved by the Malaysia External Trade Development Corporation;
- (g) Expenses by way of fares in respect of travel to a country outside Malaysia by a representative of the company, being a travel necessarily undertaken for the promotion of export of professional services, and actual expenses subject to a maximum of RM300 per day for accommodation and a maximum of RM150 per day for sustenance for the whole of the period commencing with the representative's departure from Malaysia and ending with his/her return to Malaysia;
- (h) Expenses for the cost of maintaining sales offices overseas for the purpose of promoting the export of professional services; and
- (i) Expenses incurred in respect of publicity and advertisements in any media outside Malaysia for the promotion of the export of professional services.

**10. Outgoings and Expenses Incurred for Promotion of Export of Higher Education**

- (a) Expenses incurred in respect of market research for the purpose of the export of higher education;
- (b) The cost of tender preparations for the purpose of the export of higher education;
- (c) The cost of preparing technical information for the export of higher education;

- (d) Expenses by way of fares in respect of travel to a country outside Malaysia by a representative of the company, being travel necessarily undertaken for the promotion of the export of higher education or participating in education fairs, for the purpose of promoting the export of higher education, which are held outside Malaysia and approved by the Ministry of Education Malaysia, and actual expenses subject to a maximum of RM300 per day for accommodation and a maximum of RM150 per day for sustenance for the whole of the period commencing with the representative's departure from Malaysia and ending with his/her return to Malaysia;
- (e) Expenses directly incurred for participating in education fairs for the purpose of promoting the export of higher education approved by the Ministry of Education Malaysia other than those expenses specified in paragraph (d) above;
- (f) Expenses for the cost of maintaining sales offices overseas for the purpose of promoting the export of higher education; and
- (g) Expenses incurred in respect of publicity and advertisements in any media outside Malaysia for the promotion of the export of higher education.

**11. Outgoings and Expenses Incurred for Promotion of Malaysia as an International Islamic Financial Centre**

- (a) Expenses incurred in respect of market research and feasibility study;
- (b) The cost of preparing technical information to a person outside Malaysia relating to types of services offered, excluding expenses for giving technical information to that other person after purchase;
- (c) Expenses directly incurred for participating in an event other than expenses specified in paragraph (d);
- (d) Expenses by way of fares in respect of travel to a country outside Malaysia by a representative of a person for the purpose of any event and the actual expenses are subject to a maximum of RM300 per day for accommodation and a maximum of RM150 per day for sustenance for the whole of the period commencing with the representative's departure from Malaysia and ending with his/her return to Malaysia for participating in the event;
- (e) Expenses incurred for the cost of maintaining sales offices overseas, provided that the sales offices had been approved by the Malaysia International Islamic Financial Centre Secretariat;
- (f) Expenses verified by the Malaysia International Islamic Financial Centre Secretariat which were incurred for participating in an event other than those specified in paragraphs (c) and (d); and
- (g) Expenses incurred in respect of publicity and advertisement in any media outside Malaysia.

# B6 CAPITAL ALLOWANCES

## A1. CURRENT CAPITAL ALLOWANCES RATES FOR PLANT

### A1. Standard rates

With effect from Y/A 2000 (cyb), capital allowances will be re-categorised into three classes and the rates of capital allowances are revised as follows:

<i>Type of Asset</i>	<i>Initial Allowance Rate</i>	<i>Annual Allowance Rate</i>
Heavy machinery and motor vehicles	20%	20%
Plant and machinery (general)	20%	14%
Others	20%	10%
Assets with a life span of not exceeding 2 years	–	Replacement basis
Accelerated capital allowances (ACA) be given to ALL qualifying plant expenditure under Sch 3 of the Income Tax Act 1967 (ITA 1967) incurred between the period of 10 Mar 2009 to 31 Dec 2010. This ACA does not apply to a person who has been granted incentives under the Promotion of Investments Act (PIA) 1986; reinvestment allowance; exemption under S. 127(3)(b) or S. 127(3A) of the ITA 1967; or who qualifies for an allowance at a higher rate under the ITA 1967 or Rules [PU(A) 111/2009].	20%	40%

## A2. SPECIAL RATES FOR PLANT

	<i>Initial Allowance</i>	<i>Annual Allowance</i>
Buses using natural gas in business of public transportation and natural gas refuelling equipment in a natural gas refuelling outlet [PU(A) 265/1997].	40%	20%
Imported prescribed heavy machinery used in construction, mining, plantation and timber industries [PU(A) 474/1997].	10%	10%
Machinery and plant (other than imported heavy machinery) used in specific industries [PU(A) 294/1998]:		
– Building and construction	30%	20% / 14%*
– Timber	60%	20% / 14%*
– Tin mining	60%	20% / 14%*
unless election made in writing.	20%	20% / 14%*

\* See section A1 above.

	<i>Initial Allowance</i>	<i>Annual Allowance</i>
Prescribed equipment and facility for collecting wastes, limiting pollution of the environment, checking excessive pollution and securing more efficient use of the equipment [PU(A) 295/1998].	40%	20%
Plant and machinery used for recycling of wastes or for further processing of wastes into finished products. This accelerated capital allowance (ACA) does not apply to a company which is granted incentives under PIA 1986 (except for deductions for promotion of exports), or granted reinvestment allowance [PU(A) 505/2000].	40%	20%
Plant and machinery used for the purpose of a qualifying project in respect of a promoted activity. This ACA does not apply to a company which is granted reinvestment allowance, pioneer status or investment tax allowance, or where it fails to submit a confirmation letter from the Malaysian Investment Development Authority (MIDA) concerning the activity or products [PU(A) 506/2000].	40%	20%
ACA on the purchase of pre-cast concrete mould used in the production of industrialised building system component [PU(A) 249/2006].	40%	20%
Qualifying expenditure on private motor vehicles restricted to: RM50,000	20%	20%
RM100,000 – applies only to new vehicle with total cost not exceeding RM150,000 purchased on or after 28 Oct 2000	20%	20%
ACA on machinery and equipment used in the agricultural sector including plantations:  Equipment eligible for ACA shall be determined by the Minister of Finance [PU(A) 188/2005].	20%	40%
ACA be given to small value assets not exceeding RM1,000 each but not exceeding a total value of RM10,000. (The maximum limit of RM10,000 is not applicable to small and medium enterprises (SMEs) with effect from Y/A 2009.)  [Note: Taxpayers are given the option to either claim the ACA (100%) or the normal CA.]	–	100%
ACA be given to:  (i) security control equipment [other than the Global Positioning System (GPS)] for a factory where the company is approved under the Industrial Co-ordination Act 1975 (Act 156); or	20%	80%



	<i>Initial Allowance</i>	<i>Annual Allowance</i>
(ii) any GPS for vehicle tracking for a container lorry of company bearing Carrier Licence A and for a cargo lorry of the company bearing Carrier Licence A or C issued under the Commercial Vehicles Licensing Board Act 1987 (Act 334). (Note: The rules are effective from Y/A 2009 to 2012.) New rules have extended ACA to Y/A 2015 and it is enhanced to include: (a) companies that install security control and surveillance equipment in residential areas; and (b) safety mirrors and panic buttons [PU(A) 4/2013].	20%	80%
ACA be given to new buses used in the business of a bus operator. The bus shall be used for commercial transportation of passengers or conveyance of tourists; locally assembled or constructed, as defined in Motor Vehicles (Registration and Licensing) Rules 1959; and not a reconditioned bus. Bus specified in the Gazette Order are stage bus, charter bus, express bus, mini bus, employees bus, feeder bus, school bus and excursion bus [PU(A) 356/2008]. (Note: The rules are effective from Y/A 2009 to 2011.)	20%	80%
SMEs be given ACA on ALL expenses incurred on plant and machinery that qualify for Sch 3 capital allowances. This ACA does not apply to a company which has been granted incentives under the PIA 1986; reinvestment allowance; or who qualified for an allowance under Para 19A of Sch 3 of the Act [PU(A) 357/2008]. (Note: The rules are effective from Y/A 2009 to 2010.)	20%	80%
ACA be given to information and communication technology (ICT) equipment including computer and software. This ACA does not apply to a company which has been granted incentives under the PIA 1986; or reinvestment allowance [PU(A) 358/2008]. (Note: The rules are effective from Y/A 2009 to 2013.) Budget 2014 has extended ACA to Y/A 2016.	20%	80%
ACA be given to expenses incurred on renovation or refurbishment of business premises between 10 Mar 2009 to 31 Dec 2010 which are prescribed by the Ministry of Finance. However, the amount of qualifying expenditure is restricted to RM100,000 for two years of assessment.	—	50%
ACA be given for equipment certified by the Ministry of Energy, Water and Communications and used exclusively to control the quality of electric power. This ACA does not apply to a company which has been granted incentives under the PIA 1986 (except for deduction for promotion of exports); or reinvestment allowance [PU(A) 87/2005].	20%	40%

	<i>Initial Allowance</i>	<i>Annual Allowance</i>
ACA to be given to a Tun Razak Exchange Marquee status company in respect of renovation costs incurred on a building located in the Tun Razak Exchange (Note: The rules are effective from 1 January 2014 until 31 Dec 2020) [PU(A) 29/2013].	20%	40%
ACA be given on qualifying plant expenditure incurred for the purpose of carrying out petroleum operations in a marginal field. The Rules do not apply to a person who has been granted investment allowance, operates in a Joint Development Area, operates in an area under a Government to Government agreement for joint exploration or the plant is used in both marginal and non-marginal fields. The Rules come into operation on 30 Nov 2010 and are effective from Y/A 2010 until Y/A 2024 [PU(A)119/2013].	25%	15%

## B. CAPITAL ALLOWANCES RATES FOR BUILDINGS

<b>Types of buildings</b>	<b>IA</b>	<b>AA</b>
Industrial buildings (standard rate unless special rates apply).	10%	3%
Building constructed and provided as living accommodation for individuals employed in a business where an industrial building is in use and excludes a director, an individual having control or an administrative staff.	40%	3%
Capital expenditure on public roads and ancillary structures recoverable through toll collection.	10%	6%
Building (constructed or purchased) for the provision of child care facilities (1 Jan 1994 onwards).	0	10%
Building (constructed or purchased) used for providing living accommodation to employees by a person engaged in a: <ul style="list-style-type: none"> <li>– Manufacturing business (1 Jan 1994 onwards)</li> </ul>	0	10%
<ul style="list-style-type: none"> <li>– Hotel or tourism business or approved service project (Y/A 1997 onwards).</li> </ul>	0	10%
Building (constructed or purchased) used for a school or an educational institution approved by the Minister of Education or any relevant authority or for the purposes of industrial, technical or vocational training approved by the Minister (Y/A 1996 onwards).	0	10%
Building (constructed or purchased) used as warehouse for the storage of goods, for export or for the storage of imported goods to be processed and distributed or re-exported (Y/A 1998 onwards).	0	10%
Building constructed pursuant to an agreement entered into with the Government on a build-lease-transfer basis on lease to the Government (Y/A 2000 (pyb) onwards).	10%	6%

Types of buildings	IA	AA
Building (constructed or purchased) used as an old folks care centre approved by Social Welfare Department (21 Sep 2002 onwards) [PU(A) 143/2003].	0	10%
Building (constructed or purchased) used by a BioNexus status company solely for its new business or expansion project (2 Sep 2006 onwards) [PU(A) 374/2007].	0	10%
Building (constructed or purchased) in a Cyberjaya Flagship Zone used by a MSC status company or rented to a MSC status company (Y/A 2006 onwards) [PU(A) 202/2006].	0	10%
Building constructed under a privatisation project and private financing initiatives approved by the relevant authorities (Y/A 2009 onwards) [PU(A) 119/2010].	10%	6%
Building (constructed or purchased) used for the purpose of a kindergarten approved by the Ministry of Education (Y/A 2013 onwards) [PU(A) 1/2013]	0	10%
Building (constructed or purchased) used for the purpose of a child care centre registered with the Department of Social Welfare (Y/A 2013 onwards) [PU(A) 2/2013].	0	10%
A commercial building (constructed or purchased) used for the purpose of a specified business by a Tun Razak Exchange Marquee status company in the Tun Razak Exchange (Effective Y/A 2014 for qualifying building expenditure incurred on or before 31 Dec 2020) [PU(A) 27/2013].	0	10%

### C. AGRICULTURE ALLOWANCES RATES

	Rate (Fraction of Expenditure Incurred)
Capital expenditure incurred on:	
(a) the clearing and preparation of land for the purposes of agriculture	1/2
(b) the planting (but not replanting) of crops on land cleared for planting	1/2
(c) the construction on a farm of a road or bridge	1/2
(d) building for the welfare of persons or as living accommodation for a person employed for the working of a farm	1/5
(e) any other building.	1/10

## D. FOREST ALLOWANCES RATES

	<i>Rate (fraction of expenditure incurred)</i>
Capital expenditure incurred on the construction in a forest of:	
(a) a road or building used for the purposes of a business which consists wholly or partly of the extraction of timber from the forest	1/10
(b) a building provided for the welfare of persons, or as living accommodation for a person, employed for such extraction of timber.	1/5

## E. GUIDELINES FOR NON-APPLICATION OF ACCELERATED CAPITAL ALLOWANCES

	<i>Date issued</i>
<p>This Guidelines clarify the non-application paragraphs in the following rules:</p> <ul style="list-style-type: none"> <li>Income Tax (Accelerated Capital Allowance) (Plant and Machinery) Rules 2008 [PU(A) 357/2008];</li> <li>Income Tax (Accelerated Capital Allowance) (Information and Communication Technology Equipment) Rules 2008 [PU(A) 358/2008]; and</li> <li>Income Tax (Accelerated Capital Allowance) (Plant and Machinery) Rules 2009 [PU(A) 111/2009].</li> </ul> <p>Tax treatment:</p> <p>(a) The eligibility of incentives under the PIA 1986, re-investment allowance under Sch 7A of the ITA 1967 or exemption under Para 127(3)(b) or 127(3A) of the ITA 1967 is by reference to a person. If the person decides to claim an incentive under PIA or reinvestment allowance or exemption under Para 127(3)(b) or Para 127(3A), then the person is not eligible for ACA. Only normal capital allowance rates can be claimed on the assets.</p> <p>(b) The ACA rules are not mutually exclusive with deductions that are determined by the Minister under S. 154 of the ITA 1967. A person who qualifies for a special deduction or double deduction approved by the Minister under S. 154 is still eligible for ACA.</p> <p>(c) A person who has claimed capital allowance under Para 19A of Sch 3 of the ITA 1967 (100% for assets valued not more than RM1,000 per asset and subject to a maximum of RM10,000 but the limit is not applicable to a SME company) is still eligible for ACA as the allowance is by reference to an asset and not on a person.</p> <p>(d) If an asset is eligible for a higher rate of initial allowance or annual allowance under any rules, the person cannot claim a lower rate that is provided for in one of the rules for the same asset.</p>	9 August 2012

	<i>Date issued</i>
<p>(e) Para 71, Sch 3 of the ITA 1967 applies to all assets including assets for which ACA is claimed if the disposal of the asset is made within two years from the date of acquisition. A balancing charge equal to the total allowances given is made except in the case of death of the owner of the asset or, with effect from Y/A 2009, other reasons acceptable to the Director General of Inland Revenue Malaysia.</p> <p>(f) In the case of a controlled transfer within 2 years, Para 71, Sch 3 of the ITA 1967 would be applicable and be subject to balancing charge. The recipient of the asset can claim capital allowance at normal rates based on the qualifying expenditure incurred. If no payment is made by the recipient, no capital allowance can be claimed.</p>	

# B7 PERSONAL RELIEFS

## PERSONAL RELIEFS

	w.e.f. Y/A 2008 RM	w.e.f. Y/A 2009 RM	w.e.f. Y/A 2010 RM	w.e.f. Y/A 2011 RM	w.e.f. Y/A 2012 RM	w.e.f. Y/A 2013 RM	
Taxpayer	8,000	8,000	9,000	9,000	9,000	9,000	
Medical expenses for parents (max)	5,000	5,000	5,000	5,000	5,000	5,000	(Note 1)
Medical expenses for taxpayer, spouse and children on serious diseases [include RM500 for medical examination expenses (max)]	5,000	5,000	5,000	5,000	5,000	5,000	(Note 2)
Disabled person (further deduction):							
Taxpayer	6,000	6,000	6,000	6,000	6,000	6,000	
Spouse	3,500	3,500	3,500	3,500	3,500	3,500	
Supporting equipment for disabled taxpayer, spouse, children or parent (max)	5,000	5,000	5,000	5,000	5,000	5,000	
Wife — if she has no source of income or elects for combined assessment	3,000	3,000	3,000	3,000	3,000	3,000	
Husband — if he has no source of income or elects for combined assessment	3,000	3,000	3,000	3,000	3,000	3,000	
Children (claimed by either husband or wife):							
• Per child (below 18 years of age)	1,000	1,000	1,000	1,000	1,000	1,000	
• Disabled child (unmarried)	5,000	5,000	5,000	5,000	5,000	5,000	
• Per child (over 18 years of age)							
– Overseas universities, colleges or similar establishments	4,000	4,000	4,000	4,000	4,000	6,000	(Note 3)
– Local universities, colleges or similar establishments	4,000	4,000	4,000	4,000	4,000	6,000	
– Disabled child pursuing tertiary education	4,000	4,000	4,000	4,000	4,000	6,000	
Life insurance premiums/Approved fund contributions/Private pension fund:							
• Taxpayer (max)	6,000	6,000	7,000	7,000	6,000	6,000	(Note 4)
• Further deduction for amount paid by wife under combined assessment (max)	—	—	—	—	—	—	

	w.e.f. Y/A 2008 RM	w.e.f. Y/A 2009 RM	w.e.f. Y/A 2010 RM	w.e.f. Y/A 2011 RM	w.e.f. Y/A 2012 RM	w.e.f. Y/A 2013 RM	
<b>Private Retirement Scheme/Annuity Premium</b>							
• Taxpayer (max)	–	–	–	–	3,000	3,000	(Note 5)
• Further deduction for amount paid by wife under combined assessment (max)	–	–	–	–	–	–	
<b>Insurance premiums for education or medical benefits:</b>							
• Taxpayer (max)	3,000	3,000	3,000	3,000	3,000	3,000	
• Further deduction for amount paid by wife under combined assessment (max)	–	–	–	–	–	–	
<b>Annuity premium on annuity purchased through EPF Annuity Scheme</b>							
• Taxpayer (max)	1,000	1,000	1,000	–	–	–	(Note 6)
• Further deduction for amount paid by wife under combined assessment (max)	–	–	–	–	–	–	
Fees for acquiring, technical, vocational, industrial, scientific, technological, law, accounting, Islamic financing, skills or qualifications at tertiary level or any course of study at post graduate level (max)	5,000	5,000	5,000	5,000	5,000	5,000	(Note 7)
Purchase of books, journals, magazines and other similar publications (excluding newspaper or banned publications) for the use of taxpayer, spouse or children	1,000	1,000	1,000	1,000	1,000	1,000	
Purchase of computer	3,000	3,000	3,000	3,000	3,000	3,000	(Note 8)
Amount deposited into Skim Simpanan Pendidikan Nasional for his child (max)	3,000	3,000	3,000	3,000	6,000	6,000	(Note 9)
Purchase of sports equipment	300	300	300	300	300	300	(Note 10)
Interest paid on housing loans	–	10,000	10,000	10,000	10,000	10,000	(Note 11)
Broadband subscription fees	–	–	500	500	500	–	(Note 12)
Special tax relief for middle income taxpayers	–	–	–	–	–	2,000	(Note 13)

### **Explanatory notes**

1. With effect from Y/A 2011, the medical treatment for own parents is extended to include expenses to care for parents. These expenses relate to care provided through a carer, for parents who suffer from diseases, physical or mental disabilities and need regular treatment certified by a qualified medical practitioner. Such treatment and care provided include treatment and care at home, day care centres or home care centres. The claims must be evidenced by a medical practitioner certifying that the medical condition of the parent requires medical treatment or special needs.
2. With effect from Y/A 2001, relief for medical expenses for taxpayer, spouse and children includes complete medical examination expenses of up to RM500.
3. It has been proposed that with effect from Y/A 2013, an unmarried child over 18 years old receiving full-time education at a recognised local institution of higher learning at diploma level and above or serving under articles/indentures with the view to qualifying in a trade or profession would be eligible for a relief of RM6,000. If the child is receiving full time education at a recognised institute of higher learning outside Malaysia, it must be an award at degree level and above. The second addendum to Public Ruling No 2/2005 on Computation of Income Tax Payable by a Resident Individual dated 3 January 2009, provides that a taxpayer is only entitled to the child relief if the child pursues study in courses and educational establishments recognised by the Government of Malaysia. The courses and Universities recognised by the Government are available in the website of the Public Service Department ([www.jpa.gov.my](http://www.jpa.gov.my)).
4. For Y/A 2010 and Y/A 2011, the relief is increased from RM6,000 to RM7,000. The increased relief amount of RM1,000 is given solely on deferred annuity scheme premium from insurance companies contracted with effect from 1 January 2010. The increased relief amount is also applicable to additional premium paid on existing deferred annuity scheme commencing payment from 1 January 2010. With effect from Y/A 2011, the relief of RM6,000 on contributions made for life insurance premiums and/or approved fund contributions will be extended to include contributions made to the Private Pension Fund to be launched by the Government in 2011.  
  
With effect from Y/A 2012, tax relief on deferred annuity premium is combined with the relief of contribution to private retirement scheme that is approved by Securities Commission. The relief of RM6,000 will only be applicable to contributions made for life insurance premium and/or approved scheme other than a private retirement scheme.
5. With effect from Y/A 2012, relief of RM3,000 is given to contributions made by individuals to Private Retirement Scheme approved by the Securities Commission and/or deferred annuity. This is applicable from Y/A 2012 to Y/A 2021.
6. With effect from Y/A 2011, relief on annuity premiums made on an annuity purchased through the EPF Annuity Scheme is abolished.
7. With effect from Y/A 2001, relief for fees expended on courses at institutions of higher learning in Malaysia (up to tertiary level) for the purpose of acquiring technical, vocational, industrial, scientific or technological skills or qualifications. With effect from Y/A 2006, the relief has been extended to include any course of study up to tertiary level in any institution or professional body in Malaysia recognised by the Government or approved by the Ministry of Finance as the case may be, undertaken for the purpose of acquiring law, accounting skills or qualifications. With effect from Y/A 2007, the relief has been extended to include courses in Islamic Financing. With effect from Y/A 2008, the relief has been extended to any course of study for a degree at Masters and Doctorate level.
8. With effect from Y/A 2007, the relief for purchase of a computer of up to RM3,000 is given once in 3 years. In the case of separate assessment, each spouse is eligible to claim the relief. If it is a combined assessment, such expense is deemed incurred by the spouse who pays income tax.
9. With effect from Y/A 2012, relief of up to RM6,000 is given for amount deposited into Skim Simpanan Pendidikan Nasional established under the Perbadanan Tabung Pendidikan Tinggi Nasional Act 1997 for his or her child. This is applicable from Y/A 2012 to Y/A 2017.



10. The relief is in respect of purchase of sports equipment for any sport activities as defined under the Sports Development Act 1997. Sports equipment does not include attire and shoes. The claim for the relief must be evidenced by a receipt issued for the purchase.
11. With effect from Y/A 2009, relief of up to RM10,000 a year is given for 3 consecutive years from the first year the housing loan interest is paid. The claim for deduction is subject to the following conditions:
  - (i) the taxpayer is a Malaysian citizen and a resident;
  - (ii) limited to 1 residential house including flat, apartment or condominium;
  - (iii) the sale and purchase agreement is executed between 10 March 2009 and 31 December 2010; and
  - (iv) the taxpayer has not derived any income in respect of that residential property.

where:

  - (a) 2 or more taxpayers are each entitled to claim deduction for the relevant year for interest expended in respect of the same residential property; and
  - (b) the total amount of interest expended by the taxpayer in the basis year for the relevant year exceeds the amount of deduction allowable for that relevant year,

each taxpayer shall be allowed, for that relevant year, an amount of deduction to be determined in accordance with the following formula:

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

Where:

  - A is the total amount of deduction allowed for that relevant year
  - B is the total interest expended in the basis year for that relevant year by that taxpayer; and
  - C is the total interest expended in the basis year for that relevant year by all such taxpayers.
12. Based on the IRB's guidelines issued on 12 April 2011, with effect from Y/A 2010 until 2012, relief of up to RM500 per year is given on broadband subscription fees. The RM500 relief can be given for fees paid for internet connection via cable or Digital Subscriber Line with the speed of 256kbps or more but not for fees paid for dialup service (56kbps) for internet connection. The fees must be those paid by individuals for broadband subscriptions that are registered under their personal name in the basis period for a year of assessment.
13. The relief of RM2,000 is provided to resident middle income taxpayers earning up to RM8,000 a month (aggregate income of up to RM96,000 per annum). This is applicable for Y/A 2013 only.

## EXPENSES CLAIMED AGAINST EMPLOYMENT INCOME

A person having employment income could claim expenses incurred in the performance of work such as:

- (a) travelling expenses which are incurred by the individual in the course of exercising his duties as an employee against the traveling allowance.
- (b) annual subscription paid to professional bodies when membership to such bodies is relevant to the performance of duties.
- (c) entertainment expenses which are incurred by the individual in entertaining existing client on behalf of the employer. However, this is limited to the amount of entertainment allowance paid by the employer.

## DONATION TO APPROVED FUND

Generally, a person is allowed a deduction against its aggregate income, any gift of money made by him in a basis year for that year to the Government, a State Government, a local authority or an institution or organisation approved for the purpose of S. 44(6) by the Director General on the application of the institution or organization concerned. However, this is provided that the amount to be deducted from the aggregate income of a person other than a company in respect of any gift of money made to any approved institution or organisation does not exceed 7% (with effect from Y/A 2007) of the aggregate income.

## SEPARATE ASSESSMENT

Separate assessment for wife's income from all sources and allowing the wife to elect for combined assessment with husband Y/A 1991 onwards

Separate assessment for wife's income from all sources and allowing the husband to elect for combined assessment with wife Y/A 2001 onwards

# B8 TAX RATES – INDIVIDUALS

## INCOME TAX RATES — RESIDENT INDIVIDUALS, CLUBS AND TRADE ASSOCIATIONS OR SIMILAR INSTITUTIONS, ESTATES (DOMICILED IN MALAYSIA), HINDU JOINT FAMILY

Chargeable Income RM		Y/A 2002 to Y/A 2008		Y/A 2009		Y/A 2010 to Y/A 2012		Y/A 2013 onwards		Y/A 2015 onwards	
		Tax Rate %	Tax Payable RM	Tax Rate %	Tax Payable RM	Tax Rate %	Tax Payable RM	Tax Rate %	Tax Payable RM	Tax Rate %	Tax Payable RM
First	2,500	0	0	0	0	0	0	0	0	0	0
Next	2,500	1	25	1	25	1	25	0	0	0	0
On	5,000		25		25		25		0		0
Next	5,000	3	150	3	150	3	150	2	100	1	50
On	10,000		175		175		175		100		50
Next	10,000	3	300	3	300	3	300	2	200	1	100
On	20,000		475		475		475		300		150
Next	15,000	7	1,050	7	1,050	7	1,050	6	900	5	750
On	35,000		1,525		1,525		1,525		1,200		900
Next	15,000	13	1,950	12	1,800	12	1,800	11	1,650	10	1,500
On	50,000		3,475		3,325		3,325		2,850		2,400
Next	20,000	19	3,800	19	3,800	19	3,800	19	3,800	16	3,200
On	70,000		7,275		7,125		7,125		6,650		5,600
Next	30,000	24	7,200	24	7,200	24	7,200	24	7,200	21	6,300
On	100,000		14,475		14,325		14,325		13,850		11,900
Next	50,000	27	13,500	27	13,500	26	13,000	26	13,000	24	12,000
On	150,000		27,975		27,825		27,325		26,850		23,900
Next	100,000	27	27,000	27	27,000	26	26,000	26	26,000	24	24,000
On	250,000		54,975		54,825		53,325		52,850		47,900
Next	150,000	28	42,000	27	40,500	26	39,000	26	39,000	24.5	36,750
On	400,000		96,975		95,325		92,325		91,850		84,650
Exceeding	400,000	28		27		26		26		25	

## INCOME TAX RATES — KNOWLEDGE WORKERS IN ISKANDAR MALAYSIA

With effect from Y/A 2010, the employment income of an individual who is a knowledge worker residing in Iskandar Malaysia and is employed with a person who is carrying on a qualified activity would be taxed at 15% of his/her chargeable income. The Malaysian Inland Revenue Board has clarified that qualifying individuals can opt to be taxed at 15% by indicating an option in the return form. Otherwise, the individuals will be taxed at scale rates.

The PU Orders on Income Tax (Determination of Knowledge Worker, Qualified Activity and Specified Region) Rules 2010 was issued on 29 Sep 2010.

The above Rules apply to a qualified person who has been granted approval by the Minister of Finance on his application made on or after 24 Oct 2009 but not later than 31 Dec 2015. With the approval, his employment income from 1 Jan 2010 from the designated company would be subject to tax at the concessionary rate of 15%.

The Order provides definitions for the following terms:

- (i) Qualified person
- (ii) Designated company
- (iii) Knowledge worker, qualified activities and specified region

Specified regions within the Iskandar Development Region are:

- (i) Nusajaya
- (ii) Western Gate Development
- (iii) Johor Bahru Central Business District
- (iv) Eastern Gate Development and
- (v) Skudai – Senai

## INCOME TAX RATES — RETURNING EXPERT PROGRAMME

In order to encourage skilled Malaysian professionals to return and boost the country's economic growth, the employment income of an approved individual under the Returning Expert Programme (REP) will be taxed at the flat rate of 15% for a period of 5 years. This is with effect from Y/A 2012.

A gazette order has been issued on 24 May 2012, Income Tax (Determination of Approved Individual and Specified Year of Assessment Under the Returning Expert Programme) Rules 2012 [P.U.(A)151], to provide for the ascertainment of chargeable income of specified individuals that is subject to tax under the Income Tax Act.

Specified individuals means those:

- (a) whose application under the Returning Expert Programme has been approved by the Minister of Finance;
- (b) whose income is received from an employment with any person resident in Malaysia; and
- (c) whose employment commences on or after 1 May 2011.

Further terms and conditions on REP can also be found in the Talent Corporation Malaysia Berhad's website at [www.talentcorp.com.my](http://www.talentcorp.com.my).

## B9 TAX RATES – COMPANIES AND OTHERS

### INCOME TAX RATES — COMPANIES

Y/A 1988 and prior	–	40%
Y/A 1989 to Y/A 1992	–	35%
Y/A 1993	–	34%
Y/A 1994	–	32%
Y/A 1995 to Y/A 1997	–	30%
Y/A 1998 to Y/A 2002	–	28%
Y/A 2003		
• Resident company with paid up capital of RM2.5 million and below at the beginning of the basis period		
On first RM100,000 chargeable income	–	20%
On subsequent chargeable income	–	28%
• Resident company with paid up capital above RM2.5 million at the beginning of the basis period	–	28%
• Non-resident company/branch	–	28%
Y/A 2004 to Y/A 2006		
• Resident company with paid up capital of RM2.5 million and below at the beginning of the basis period		
On first RM500,000 chargeable income	–	20%
On subsequent chargeable income	–	28%
• Resident company with paid up capital above RM2.5 million at the beginning of the basis period	–	28%
• Non-resident company/ branch	–	28%
Y/A 2007		
• Resident company with paid up capital of RM2.5 million and below at the beginning of the basis period		
On first RM500,000 chargeable income	–	20%
On subsequent chargeable income	–	27%
• Resident company with paid up capital above RM2.5 million at the beginning of the basis period	–	27%
• Non-resident company/ branch	–	27%
Y/A 2008		
• Resident company with paid up capital of RM2.5 million and below at the beginning of the basis period		
On first RM500,000 chargeable income	–	20%
On subsequent chargeable income	–	26%

• Resident company with paid up capital above RM2.5 million at the beginning of the basis period	–	26%
• Non-resident company/ branch	–	26%

Y/A 2009 to Y/A 2015

• Resident company with paid up capital of RM2.5 million and below at the beginning of the basis period		
On first RM500,000 chargeable income	–	20%
On subsequent chargeable income	–	25%
• Resident company with paid up capital above RM2.5 million at the beginning of the basis period	–	25%
• Non-resident company/ branch	–	25%

Y/A 2016 onwards

• Resident company with paid up capital of RM2.5 million and below at the beginning of the basis period		
On first RM500,000 chargeable income	–	19%
On subsequent chargeable income	–	24%
• Resident company with paid up capital above RM2.5 million at the beginning of the basis period	–	24%
• Non-resident company/ branch	–	24%

Note: “Y/A” refers to Year of Assessment  
“pyb” refers to preceding year basis  
“cyb” refers to current year basis

## INCOME TAX RATES — OTHERS

<i>Chargeable Person</i>	<i>Types of Income</i>	<i>Tax Rates</i>	<i>Year of Assessment</i>
Non-resident person, trust body, executor of deceased individual (not domiciled in Malaysia) and receiver appointed by the court	All types	40%	Y/A 1988 and prior
		35%	Y/A 1989 to Y/A 1992
		34%	Y/A 1993
		32%	Y/A 1994
		30%	Y/A 1995 to Y/A 1997
Non-resident person (other than companies)	All types	28%	Y/A 2002 to Y/A 2008
		27%	Y/A 2009
		26%	Y/A 2010 to Y/A 2014
		25%	Y/A 2015 onwards
Trust body, executor of deceased individual (not domiciled in Malaysia) and receiver appointed by the court	All types	28%	Y/A 1998 to Y/A 2006
		27%	Y/A 2007
		26%	Y/A 2008
		25%	Y/A 2009 to Y/A 2015
		24%	Y/A 2016 onwards

<i>Chargeable Person</i>	<i>Types of Income</i>	<i>Tax Rates</i>	<i>Year of Assessment</i>
Insurer	Inward reinsurance	5%	Y/A 1980 onwards
	Offshore insurance	5%	Y/A 1982 onwards
	Life fund	8%	Y/A 1985 onwards
Approved operational headquarters company	From rendering qualifying services (Effective from 21 Sep 2002, 100% exemption from tax)	10%	Y/A 1990 to 20 Sep 2002
Foreign fund management company	Income from provision of fund management services to foreign investors	10%	Y/A 1996 onwards
<i>Takaful</i> operator	Inward <i>retakaful</i>	5%	Y/A 2008 onwards
	Offshore <i>takaful</i>	5%	Y/A 2008 onwards
	Family fund	8%	Y/A 2008 onwards
<i>Limited liability partnership (LLP)</i>	Resident LLP with capital contribution of RM2.5 million and below at the beginning of the basis period		9 Feb 2012 to Y/A 2015
	• On first RM500,000 chargeable income	20%	
	• On subsequent chargeable income	25%	
	Resident LLP with capital contribution above RM2.5 million at the beginning of the basis period	25%	
	Non-resident LLP	25%	
	Resident LLP with capital contribution of RM2.5 million and below at the beginning of the basis period		Y/A 2016 onwards
	• On first RM500,000 chargeable income	19%	
	• On subsequent chargeable income	24%	
	Resident LLP with capital contribution above RM2.5 million at the beginning of the basis period	24%	
	Non-resident LLP	24%	

### Co-operative Society

All Types		Y/A 1995	Y/A 1996 to Y/A 2000 (pyb)	Y/A 2000 (cyb) to Y/A 2001	Y/A 2002	Y/A 2003 to Y/A 2009	Y/A 2010 to Y/A 2012	Y/A 2013 to Y/A 2014	Y/A 2015 onwards
RM 1	– RM 10,000	1%	0%	0%	0%	0%	0%	0%	0%
RM 10,001	– RM 20,000	3%	2%	1%	0%	0%	0%	0%	0%
RM 20,001	– RM 30,000	6%	5%	4%	3%	2%	2%	0%	0%
RM 30,001	– RM 40,000	9%	8%	7%	6%	6%	6%	5%	5%
RM 40,001	– RM 50,000	12%	11%	10%	9%	9%	9%	5%	5%
RM 50,001	– RM 60,000	16%	14%	13%	12%	12%	12%	5%	5%
RM 60,001	– RM 75,000	16%	14%	13%	12%	12%	12%	10%	10%
RM 75,001	– RM 100,000	20%	18%	17%	16%	16%	16%	10%	10%
RM 100,001	– RM 150,000	24%	22%	21%	20%	20%	20%	15%	15%
RM 150,001	– RM 250,000	27%	25%	24%	23%	23%	23%	20%	18%
RM 250,001	– RM 500,000	30%	28%	27%	26%	26%	26%	22%	21%
RM 500,001	– RM 750,000	32%	30%	29%	28%	27%	26%	24%	23%
RM 750,001	and above	32%	30%	29%	28%	27%	26%	25%	24%

### PETROLEUM INCOME TAX RATES

Y/A 1993 and prior – 45%

Y/A 1994 to Y/A 1997 – 40%

Y/A 1998 onwards – 38%

Joint Development Areas:

- First 8 years of production – 0%
- The next 7 years – 10%
- Subsequent years of production – 20%



## WITHHOLDING TAX RATES

<i>Reference</i>	<i>Chargeable Person</i>	<i>Types of Income</i>	<i>Tax Rates</i>	<i>Year of Assessment</i>
S. 109 ITA 1967	Non-resident person	Interest (except as exempted)	15%	Y/A 1985 and prior
			20%	Y/A 1986 to 27 Oct 1994
			15%	28 Oct 1994 onwards
S. 109 ITA 1967	Non-resident person	Royalties	15%	Y/A 1973 to 27 Oct 1994
			10%	28 Oct 1994 onwards
		Royalties for franchised education scheme	Nil	20 Oct 2001
S. 109A ITA 1967	Non-resident person	Remuneration of public entertainer	15%	Y/A 1973 onwards
S. 109B ITA 1967	Non-resident person	Special classes of income under S. 4A ITA 1967		
		– Technical fee, installation fee and rental of moveable property	15%	Y/A 1984 to 27 Oct 1994
			10%	28 Oct 1994 to 20 Sep 2002
		– Technical fee and installation fee for services performed in Malaysia and rent of moveable property	10%	21 Sep 2002 onwards
		– Technical fee and installation fee for services performed outside Malaysia	Abolished	21 Sep 2002 onwards
S. 107A ITA 1967	Non-resident contractor, consultant or professional	Service portion of contract payments	20% (15% and 5%)	1 Jan 1983 to 20 Sep 2002
			13% (10% and 3%)	21 Sep 2002 onwards

<i>Reference</i>	<i>Chargeable Person</i>	<i>Types of Income</i>	<i>Tax Rates</i>	<i>Year of Assessment</i>
S. 109C ITA 1967	Resident individual	Interest received from approved bank, finance company or institution	5%	1 Jan 1986– 29 Aug 2008  Effective 30 Aug 2008, the interest income received from an approved bank, finance company or institution by resident individuals is exempt from tax – Income Tax (Exemption) (No. 7) 2008.
S. 109D ITA 1967	Non-resident unit holder	Distribution of income by Real Estate Investment Trust / Property Trust Fund which is exempted under S. 61A ITA 1967	28%	Y/A 2005 to 31 Dec 2006
	Foreign institutional investors		20%	1 Jan 2007 to 31 Dec 2008
			10%	1 Jan 2009 to 31 Dec 2016
	Non-corporate investor		15%	1 Jan 2007 to 31 Dec 2008
			10%	1 Jan 2009 to 31 Dec 2016
	Non-resident company investor		27%	1 Jan 2007 to Y/A 2007
S. 109E ITA 1967	Non-resident company participants	Distribution of profits by a <i>takaful</i> operator	26%	Y/A 2008
			25%	Y/A 2009 onwards
	Other participants (excluding resident company)		8%	Y/A 2008 onwards
S. 109F ITA 1967	Non-resident person	Gains or profits falling under S. 4(f) ITA 1967	10%	1 Jan 2009 onwards

<i>Reference</i>	<i>Chargeable Person</i>	<i>Types of Income</i>	<i>Tax Rates</i>	<i>Year of Assessment</i>
S. 109G ITA 1967	Individual	Contributions withdrawn from a deferred annuity or a Private Retirement Scheme before reaching the age of 55 (other than by reason of permanent total disablement, serious disease, mental disability, death or permanently leaving Malaysia)	8%	Private Retirement Scheme - 1 Jan 2013 onwards  Deferred Annuity – Upon coming into operation of Finance (No. 2) Act 2013

**Note:** With regards to interest, royalties and special classes of income, please refer to the relevant double tax agreement for any variation, if applicable.  
“ITA 1967” refers to the Income Tax Act 1967.

## REAL PROPERTY GAINS TAX (RPGT) RATES

Please refer to Section C3.

# B10 INCOME TAX REBATES

## INCOME TAX REBATE FOR INDIVIDUALS

	Y/A 2001 to 2008 RM	Y/A 2009 onwards RM
(a) Rebate given to taxpayer		
– chargeable income not exceeding RM10,000 [up to Y/A 2000(cyb)] / RM35,000 (Y/A 2001 onwards)	350	400
– chargeable income exceeds RM10,000	Nil	Nil
Additional rebate for wife		
– if she does not elect for separate assessment or has no income or elects for combined assessment with husband	350	400
– if she elects for separate assessment	Nil	Nil
Additional rebate for husband		
– if he has no income or elects for combined assessment with wife	350	400
(b) Rebate given to wife if she elects for separate assessment or does not elect for combined assessment	350	400

## INCOME TAX REBATE FOR ZAKAT, FITRAH OR ANY OTHER ISLAMIC RELIGIOUS DUES

Y/A 1978 onwards	— Full rebate in respect of <i>zakat</i> , <i>fitrah</i> or any other Islamic religious dues paid by tax resident individuals and evidenced by a receipt.
Y/A 2004 onwards	— Tax rebate granted to a Labuan offshore company for any <i>zakat</i> paid subject to the maximum of tax charged (i.e. 3% of net profits, or RM20,000 upon election).
Y/A 2005 onwards	— Tax rebate granted to companies (excluding Labuan companies) for the payment of <i>zakat perniagaan</i> paid in the basis period for that relevant year to an appropriate religious authority established under any written law or any person authorised by such religious authority.  The rebate is limited to 2.5% of the company's aggregate income in the relevant year.
Y/A 2007 onwards	— Tax rebate granted to cooperatives and trust bodies for payment of <i>zakat perniagaan</i> to Islamic religious authorities be allowed subject to a maximum of 2.5% of the aggregate income.

## **INCOME TAX REBATE IN RESPECT OF THE PURCHASE OF A PERSONAL COMPUTER**

Y/A 2007 onwards — Rebate is amended to a tax relief (Please refer Personal Reliefs Section — B7).

## **INCOME TAX REBATE IN RESPECT OF ANY FEE PAID TO THE GOVERNMENT FOR THE ISSUE OF AN EMPLOYMENT PASS, VISIT PASS OR WORK PASS**

Y/A 1998 to Y/A 2010 — Full rebate of fee paid.

*Note: Where the amount of rebate exceeds the income tax charged, the excess shall not be refunded or be available as a credit to set off the tax liability for any subsequent year of assessment.*

# B11 DOUBLE TAX AGREEMENTS

## TAXES ON VARIOUS PAYMENTS TO NON-RESIDENTS

	<i>Royalties %</i>	<i>Interest %</i>	<i>Technical fees</i>	<i>S. 4(f) income<sup>(a)</sup> %</i>
1. Albania, Republic	10	Nil or 10	10	10
2. Argentina*	10	15	10	10
3. Australia	10	Nil or 15	Nil <sup>++</sup>	10
4. Austria	10	Nil or 15	10	10
5. Bahrain	8	Nil or 5	10	10
6. Bangladesh	Nil or 10	Nil or 15	10	10
7. Belgium <sup>#</sup>	10	Nil or 10 or 15	10	10
8. Bosnia & Herzegovina**	8	Nil or 10	10	10
9. Brunei	10	Nil or 10	10	10
10. Canada	Nil or 10	Nil or 15	10	10
11. Chile	10	Nil or 15	5	10
12. China, People's Republic <sup>#</sup>	Nil or 10	Nil or 10	10	10
13. Croatia	10	Nil or 10	10	10
14. Czech Republic	Nil or 10	Nil or 12	10	10
15. Denmark	Nil or 10	Nil or 15	10	10
16. Egypt	10	Nil or 15	10	10
17. Fiji	10	Nil or 15	10	10
18. Finland	Nil or 10	Nil or 15	10	10
19. France	Nil or 10	Nil or 15	10	10
20. Germany – Old agreement	Nil or 10	Nil or 15	Nil	Nil
– New agreement	7	Nil or 10	7	Nil
21. Hong Kong S.A.R.	8	Nil or 10	5	10
22. Hungary	10	Nil or 15	10	10
23. India – Old agreement	10	Nil or 10	10	10
– New agreement	10	Nil or 10	10	10
24. Indonesia	Nil or 10	Nil or 10	10	10
25. Ireland	8	Nil or 10	10	10
26. Islamic Republic of Iran	Nil or 10	Nil or 15	10	10
27. Italy	Nil or 10	Nil or 15	10	10
28. Japan	10	Nil or 10	10	10
29. Jordan	10	Nil or 15	10	Nil
30. Kazakhstan	10	Nil or 10	10	10
31. Korea, Republic	Nil or 10	Nil or 15	10	10

32. Kuwait <sup>#</sup>	10	Nil or 10	10	10
	<i>Royalties %</i>	<i>Interest %</i>	<i>Technical fees</i>	<i>S. 4(f) income<sup>(a)</sup> %</i>
33. Kyrgyz, Republic	10	Nil or 10	10	10
34. Laos	10	Nil or 10	10	10
35. Lebanon	8	Nil or 10	10	10
36. Luxembourg	8	Nil or 10	8	10
37. Malta	10	Nil or 15	10	10
38. Mauritius	10	Nil or 15	10	10
39. Mongolia	10	Nil or 10	10	10
40. Morocco	10	Nil or 10	10	10
41. Myanmar	10	Nil or 10	10	10
42. Namibia	5	Nil or 10	5	10
43. Netherlands	Nil or 8	Nil or 10	8	10
44. New Zealand	Nil or 10	Nil or 15	10	10
45. Norway	Nil	Nil or 15	10	10
46. Pakistan	Nil or 10	Nil or 15	10	10
47. Papua New Guinea	10	Nil or 15	10	10
48. Philippines	Nil or 10	Nil or 15	10	10
49. Poland	Nil or 10	Nil or 15	10	10
50. Qatar	8	Nil or 5	8	10
51. Romania	Nil or 10	Nil or 15	10	10
52. Russia	Nil or 10	Nil or 15	10	10
53. San Marino	10	10	10	10
54. Saudi Arabia – Old agreement*	10	15	10	–
– New agreement	8	Nil or 5	8	10
55. Senegal**	10	Nil or 10	10	10
56. Seychelles <sup>#</sup>	10	Nil or 10	10	10
57. Singapore – Old agreement	10	Nil or 15	10	–
– New agreement	8	Nil or 10	5	10
58. South Africa	5	Nil or 10	5	10
59. Spain	7	Nil or 10	5	10
60. Sri Lanka	10	Nil or 10	10	10
61. Sudan	10	Nil or 10	10	10
62. Sweden – Old agreement	Nil or 10	Nil or 15	10	–
– New agreement	8	Nil or 10	8	10
63. Switzerland	Nil or 10	Nil or 10	10	10
64. Syria	10	Nil or 10	10	10
65. Taiwan <sup>(b)</sup>	10	10	7.5	10
66. Thailand	Nil or 10	Nil or 15	10	10

	5 (JDA)		5 (JDA)	
67. Turkey <sup>#</sup>	10	Nil or 15	10	10
	<i>Royalties %</i>	<i>Interest %</i>	<i>Technical fees</i>	<i>S. 4(f) income<sup>a</sup> %</i>
68. Turkmenistan	10	Nil or 10	Nil	Nil
69. United Arab Emirates	10	Nil or 5	10	10
70. United Kingdom	8	Nil or 10	8	10
71. United States of America <sup>*</sup>	10	15	10	10
72. Uzbekistan	10	Nil or 10	10	10
73. Venezuela	10	Nil or 15	10	10
74. Vietnam	10	Nil or 10	10	10
75. Zimbabwe	10	Nil or 10	10	10

### Explanatory Notes

- (a) Section 4(f) income refers to gains and profits not specifically provided for under S. 4 of the Income Tax Act 1967 (ITA 1967). Such income include commissions and guarantee fees.
- (b) For Taiwan, the withholding tax rates on interest and technical fees are arrived at based on the Income Tax Exemption (No. 10) Order 1998 [PU(A)201/1998].
- \* Limited double tax treaty.
- \*\* Gazetted DTAs; not yet entered into force.
- # Protocol which amends limited articles of the treaty has been gazetted but not entered into force.
- ++ The NIL figure is obtained from the IRB website. The IRB concedes that where an Australian resident renders technical services in Malaysia, the payer of the fee need not withhold tax on the income derived from Malaysia if the Australian resident has no permanent establishment in Malaysia.
- JDA: Joint Development Area

### General Comments

1. Payments of approved royalties or approved industrial royalties and interest on approved loans and long term loan (as defined in each double tax agreement) to non-residents are usually tax exempt.
2. Where the rate of tax on the above payments is not specifically mentioned in the respective double tax agreement, the applicable rate of tax as stated in the Income Tax Act 1967 (ITA 1967) is inserted herein.
3. Where the rate of tax as stated in the ITA 1967 is lower than the maximum rate of tax as mentioned in the respective double tax agreement, the lower rate of tax shall apply and is inserted herein.
4. There is no withholding tax on dividends paid by Malaysian resident companies.



# B12 TAX INVESTIGATIONS

## TAX INVESTIGATION FRAMEWORK

### A. NATURE

To create and maintain public confidence in the tax administration system, the tax system must be fair, transparent and equitable. Compliance with the tax legislation must be strictly enforced and tax offences such as non-compliance and tax evasion should be penalised, as provided for in the Income Tax Act 1967 (ITA). For enforcement purposes, the Inland Revenue Board (IRB) carries out tax investigations.

Tax investigations normally imply surprise visits made by the IRB's officers to a taxpayer's business premises, personal residences, agent/representatives and various third parties' premises. It generally involves an examination of the taxpayer's business and/or individual books, records and documents. Such examination is to ensure that the correct amount of tax is collected, to ascertain the persons responsible for the offence, to pursue criminal prosecution and enhance voluntary compliance with tax laws and regulations.

The investigation will only be carried out in cases where it is suspected based on precise and definite evidence that the taxpayer is deliberately trying to avoid paying tax or has committed an act of wilful evasion under ITA and other Act such as Real Property Gains Tax Act 1976, Petroleum (Income Tax) Act 1967, Promotion of Investments Act 1986, Stamp Act 1949, Labuan Business Activity Tax Act 1990 and Anti-Money Laundering and Anti-Terrorism Financing Act 2001 (AMLATFA).

The IRB issued a tax investigation framework which is effective from 1 Oct 2013. The areas covered in the framework inter alia are:

- (a) Selection of cases and years of assessment covered;
- (b) Tax investigation methodology;
- (c) Rights and responsibilities of investigation officer, taxpayer and tax agent/representative;
- (d) Offences and penalties;
- (e) Payment procedures;
- (f) Appeals; and
- (g) Investigations under the AMLATFA.

### B. INVESTIGATION ACTIVITIES

The focus is to gather admissible evidence with a view to prosecute the tax evader who has committed an offence pursuant to the provisions in the ITA, Penal Code (Act 574), Criminal Procedure Code (Act 593), Evidence Act 1950 (Act 56), Whistleblower Protection Act 2010 (Act 711) and any other relevant Acts.

The IRB officers can also conduct the investigation pursuant to the provisions under the AMLATFA for the purpose of tracking the proceeds of tax evasion as the offences under S. 112 (non-submission of tax returns), S. 113 (makes or furnishes incorrect returns) and S. 114 (wilful evasion) of the ITA are serious offences in the Second Schedule of the AMLATFA. Action can be taken to freeze, seize and confiscate the movable and immovable property acquired through the proceeds of tax evasion.

The IRB offices will notify the taxpayer whether the investigation is being carried out under the ITA, AMLATFA or both. Even if the investigation is carried out under the ITA, it does not preclude the investigation to be carried out under the provisions of the AMLATFA at any time.

#### **C. SELECTION OF CASES AND YEARS OF ASSESSMENT COVERED**

Case selection methodologies for investigation employed are:

- i. Selection through risk analysis;
- ii. Information from informers and / or the public;
- iii. Review of income tax return;
- iv. Information based on intelligence; and
- v. Information from other law enforcement agencies.

#### **D. RIGHTS AND RESPONSIBILITIES**

##### **1. IRB**

- (a) An investigation officer must adhere to rules and code of ethics drawn up by the IRB and is required to carry out his duties in the following manner:
  - Professional, well mannered, trustworthy, honest and with integrity;
  - Always ready to give explanations on the objectives of investigation and the rights and responsibilities of taxpayers;
  - Knowledgeable and fair in administering tax laws;
  - Respect the rights and responsibilities of the taxpayer and tax agent / representative.
- (b) The investigation officer is prohibited from:
  - Having any personal or financial interest whatsoever in a business being investigated;
  - Proposing and suggesting to the taxpayer that a certain tax agent/representative be appointed as the tax agent/representative of the case;
  - Abusing his position or power in carrying out his duties as provided under S. 118 of the ITA; and
  - Disclosing any information obtained during the investigation to irrelevant persons.

##### **2. Taxpayer**

- (a) The taxpayer has the right to know the consequences of failing to submit the necessary information and documents requested by the officers;
- (b) The taxpayer has the right to the identification of officers;
- (c) The taxpayer has the right to appoint an approved tax agent or a team of advisers/spokespersons any time on the condition that a proper written authorisation letter to act on the taxpayer's behalf is submitted to the IRB;
- (d) The taxpayer has the right to appoint an attorney during the process of investigation and / or prosecution held;
- (e) The taxpayer is allowed to bring along interpreter(s) during the interview/discussion session if the taxpayer is not conversant in Bahasa Malaysia or English;

- (f) The taxpayer is allowed to make copies of documents which are used in the investigation and retained by the IRB; and
  - (g) The taxpayer is required to:
    - Provide the investigation officers with access to and make copies of records and documents in the custody of, or under the control of, or belonging to the taxpayer;
    - Permit investigation officers to take possession of records and documents in the custody of, or under the control of, or belonging to the taxpayer;
    - Where records and documents are maintained in a language other than the national language, to render a translation in the national language of the said records and documents within the time specified not being less than thirty (30) days from the date of service of notice by the DGIR. For East Malaysia, translation is permitted either in the national language or in English, as the case may be;
    - Provide complete responses for request of information either in writing or orally; and
    - Co-operate with the investigation officers.
  - (h) The taxpayer is prohibited from:
    - Appointing an unapproved tax agent;
    - Giving any form of gifts to the investigation officer and transacting any business with the investigation officer;
    - Making any form of payments to the investigation officer; and
    - Obstructing or hindering the investigation officer in the exercise of his functions. Such obstruction is an offence under S. 116 of the ITA. Upon conviction, the person who obstructs the investigation officer could be liable to a fine between RM1,000 to RM10,000 or imprisonment for a term not exceeding one year or both.
3. Tax Agent
- (a) The conduct of a tax agent is governed by the code of ethics formulated by IRB which is based on principles of integrity, accountability, transparency and social responsibility and as prescribed under S. 153 of the ITA;
  - (b) A tax agent is expected to carry out his duties in the following manner:
    - Professional and fully conversant with tax laws and practices;
    - Be honest, trustworthy, transparent, act with integrity and give fullest co-operation when dealing with the taxpayer and IRB;
    - Provide good advice to the taxpayer and fulfill his obligations as required under the tax laws;
    - Always give complete and accurate feedback relating to the progress of the investigation and advise the taxpayer correctly based on the true facts of the investigation case;
    - Safeguard the confidentiality of all information and ensure that information is not disclosed to any unauthorised party; and
    - Promptly notify the IRB upon having ceased to be a tax agent to the taxpayer.
  - (c) The tax agent is prohibited from:
    - Using information acquired or abusing his position as tax agent to his own advantage;
    - Delaying investigation work or acting irresponsibly towards entrusted duties; and
    - Offering inducements to the investigation officer.

## E. OFFENCES AND PENALTIES

For any omission or understatement of income as a result of an investigation, penalties will be imposed based on the provisions of S. 112, S. 113 and S. 114 of the ITA. A summary of the offences and penalties is:

Offences	Penalties
Failure to furnish a return in accordance with S. 77(1) or 77A(1); or give notice of chargeability pursuant to S. 77(3) [S. 112]	A penalty of between RM200 to RM2,000 or 6 months imprisonment or both [S. 112(1)].
Makes an incorrect return by omitting or understating any income affecting his own chargeability or the chargeability to tax of another person [S. 113 (1)(a) and (b)]	Be liable to a fine of between RM1,000 and RM10,000, plus a special penalty of double the amount of tax undercharged (200%).
Wilful evasion of tax [S. 114]	A fine of between RM1,000 and RM20,000 or to imprisonment for a term not exceeding 3 years or both, and shall pay a special penalty of treble the amount of tax (300%).

## F. APPEALS

A taxpayer who was convicted by the court and is dissatisfied with the conviction may appeal to a higher court.

## G. INVESTIGATIONS UNDER THE AMLATFA

Failure to furnish a return (S. 112 of the ITA), making an incorrect return (S. 113 of the ITA) and wilful evasion of tax (S. 114 of the ITA) are regarded as serious offences in the Second Schedule of the AMLATFA. Any person who has been convicted of money laundering offences under Section 4 of the AMLATFA, will be liable to a fine of not more than RM5 million or imprisonment for a term not exceeding 5 years or both.

Investigations under the AMLATFA and the ITA can be conducted separately or simultaneously.

Taxpayer's responsibilities under an AMLATFA investigation:

- Allow the officer access to any premises and allow himself to be examined;
- Present when being called for inspection by the officer;
- Answer any questions raised by the officer;
- Provide any information or a clear statement upon request by the officer;
- Co-operate and comply with any genuine request made by the officer in the performance of his duties;
- Do not hide and provide any property, document or information that may be reasonably required by the officer of which he has control over the documents being requested; and
- Do not destroy any property, record, report or document for the purpose of preventing seizure or confiscation of the respective property, record, report or document.

For failure to comply with the above obligations, a taxpayer will be committing an offence under Section 34 of the AMLATFA and will be liable to a fine of not more than RM1 million or imprisonment for a term not exceeding one year or both. A further fine not exceeding RM1,000 will be imposed for each offence repeated after the conviction.

# B13 PUBLIC RULINGS

## LIST OF PUBLIC RULINGS

<i>Ruling No.</i>	<i>Name and Content of Ruling</i>	<i>Issued/ Updated</i>	<i>Effective Date/Year of Assessment (Y/A)</i>
10/2013	Taxation of Business Trust	3 Jul 2013	–
9/2013	Special Deduction for Expenditure on Treasury Shares	27 Jun 2013	–
8/2013	Gratuity	25 Jun 2013	–
7/2013	Unit Trust Funds Part 1 – An Overview	28 May 2013	–
6/2013	Unit Trust Funds Part II – Taxation of Unit Trusts	23 May 2013	–
5/2013	Taxation of Unit Holders of Unit Trust Funds	23 May 2013	–
4/2013	Accelerated Capital Allowance	15 Apr 2013	–
3/2013	Benefits In Kind	15 Mar 2013	–
2/2013	Perquisites from Employment	28 Feb 2013	–
1/2013	Deductions for Promotion of Exports	4 Feb 2013	–
12/2012	Share Schemes Benefit for Cross Border Employees	24 Dec 2012	–
11/2012	Employee Share Scheme Benefit	13 Dec 2012	–
10/2012	Tax Treatment of Malaysian Ship	13 Dec 2012	–
9/2012	Taxation of Real Estate Investment Trusts/ Property Trust Funds	26 Nov 2012	–
8/2012	Real Estate Investment Trusts/ Property Trust Funds – An Overview	2 Nov 2012	–
7/2012	Taxation of Unit Holders of Real Estate Investment Trusts/ Property Trust Funds	29 Oct 2012	–
6/2012	Reinvestment Allowance	12 Oct 2012	–
5/2012	Clubs, Associations or Similar Institutions	25 Jun 2012	–
4/2012	Deduction for Loss of Cash and Treatment of Recoveries	1 Jun 2012	–
3/2012	Appeal Against an Assessment	4 May 2012	–
2/2012	Foreign Nationals Working in Malaysia – Tax Treaty Relief	3 May 2012	–
1/2012	Compensation for Loss of Employment	27 Jan 2012	Y/A 2012 onwards
12/2011	Tax Exemption on Employment Income of Non-Citizen Individuals Working for Certain Companies in Malaysia	20 Dec 2011	Y/A 2011 onwards
11/2011	Bilateral Credit and Unilateral Credit	20 Dec 2011	Y/A 2011 onwards
10/2011	Gratuity	5 Dec 2011	Y/A 2011 onwards
9/2011	Co-operative Society	16 Nov 2011	Y/A 2011 onwards

<i>Ruling No.</i>	<i>Name and Content of Ruling</i>	<i>Issued/ Updated</i>	<i>Effective Date/Year of Assessment (Y/A)</i>
8/2011	Foreign Nationals Working in Malaysia	16 Nov 2011	Y/A 2011 onwards
7/2011	Notification of Change in Accounting Period of a Company / Trust Body/ Co-operative Society	23 Aug 2011	Y/A 2012 onwards
6/2011	Residence Status of Individuals	16 May 2011	Y/A 2011 onwards
5/2011	Residence Status of Companies and Bodies of Persons	16 May 2011	Y/A 2011 onwards
4/2011	Income from Letting of Real Property	10 Mar 2011	Y/A 2011 onwards
3/2011	Investment Holding Company	10 Mar 2011	Y/A 2006 onwards
2/2011	Interest Expense and Interest Restriction	7 Feb 2011	Y/A 2011 onwards
1/2011	Taxation of Malaysian Employees Seconded Overseas	7 Feb 2011	Y/A 2011 onwards
2/2010	Allowable Pre-Operational and Pre-Commencement of Business Expenses	3 Jun 2010	Y/A 2010 onwards
1/2010	Withholding Tax on Income under Paragraph 4(f)	19 Apr 2010	1 Jan 2009
2/2004	Benefits-In-Kind – Fourth Addendum	19 Apr 2010	Superseded by Public Ruling 3/2013
4/2005	Withholding Tax on Special Classes of Income – Second Addendum	4 Jan 2010	
3/2009	Professional Indemnity Insurance	30 Jul 2009	Y/A 2008 onwards
2/2009	Construction Contracts	22 May 2009	Y/A 2006 onwards
1/2009	Property Development	22 May 2009	Y/A 2006 onwards
1/2006	Perquisites from Employment – Third Addendum	30 Jul 2009	Superseded by Public Ruling 2/2013
1/2006	Perquisites from Employment – Second Addendum	25 Feb 2009	Superseded by Public Ruling 2/2013
6/2005	Trade Association – Addendum	1 Jul 2009	Y/A 2009 onwards
3/2001	Appeal Against an Assessment – Addendum	18 May 2009	Superseded by Public Ruling 3/2012
2/2004	Benefits-In-Kind – Third Addendum	17 Apr 2009	Superseded by Public Ruling 3/2013
3/2005	Living Accommodation Benefit Provided for the Employee by the Employer – Addendum	5 Feb 2009	Y/A 2009 onwards
3/2008	Entertainment Expenses	22 Oct 2008	Y/A 2008 onwards
2/2008	Reinvestment Allowance	3 Apr 2008	Replaced with Public Ruling 6/2012
1/2008	Special Allowances for Small Value Assets	27 Mar 2008	Y/A 2006 onwards

<i>Ruling No.</i>	<i>Name and Content of Ruling</i>	<i>Issued/ Updated</i>	<i>Effective Date/Year of Assessment (Y/A)</i>
5/2004	Double Deduction Incentive on Research Expenditure – Addendum	3 Apr 2008	Y/A 2008
2/2005	Computation of Income Tax Payable by a Resident Individual – Second Addendum	3 Jan 2008	
4/2005	Withholding Tax on Special Classes of Income – Addendum	30 Nov 2007	2 Sep 2006
1/2006	Perquisites from Employment – Addendum	30 Aug 2007	Superseded by Public Ruling 2/3013
1/2003	Tax Treatment relating to Leave Passage – Addendum	23 Aug 2007	Y/A 2007
3/2004	Entertainment Expense – Addendum	23 Aug 2007	Superseded
6/2006	Tax Treatment of Legal and Professional Expenses	6 Jul 2006	Y/A 2006 onwards
5/2006	Professional Indemnity Insurance	31 May 2006	Superseded
4/2006	Valuation of Stock in Trade and Work in Progress Part I	31 May 2006	Y/A 2006 onwards
3/2006	Property Development and Construction Contracts	13 Mar 2006	Superseded
2/2006	Tax Borne by Employers	17 Jan 2006	Y/A 2005 onwards
1/2006	Perquisites from Employment	17 Jan 2006	Superseded by Public Ruling 2/2013
2/2005	Computation of Income Tax Payable by a Resident Individual – Addendum	6 Jul 2006	Y/A 2006 onwards
2/2004	Benefits-In-Kind – Second Addendum	17 Jan 2006	Superseded by Public Ruling 3/2013
6/2005	Trade Association	8 Dec 2005	Y/A 2005 onwards
5/2005	Deduction for Loss of Cash and Treatment of Recoveries	14 Nov 2005	Replaced with Public Ruling 4/2012
4/2005	Withholding Tax on Special Classes of Income	12 Sep 2005	12 Sep 2005
3/2005	Living Accommodation Benefit Provided for the Employee by the Employer	11 Aug 2005	Y/A 2005 onwards
2/2005	Computation of Income Tax Payable by a Resident Individual	6 Jun 2005	Y/A 2004 onwards
1/2005	Computation of Total Income for Individual	5 Feb 2005	Y/A 2004 onwards
2/2004	Benefits-In-Kind – Addendum	20 May 2005	Superseded by Public Ruling 3/2013
5/2004	Double Deduction Incentive on Research Expenditure	30 Dec 2004	Y/A 2005 onwards

<i>Ruling No.</i>	<i>Name and Content of Ruling</i>	<i>Issued/ Updated</i>	<i>Effective Date/Year of Assessment (Y/A)</i>
4/2004	Employee Share Option Scheme Benefit	9 Dec 2004	Replaced with Public Ruling 11/2012
3/2004	Entertainment Expense	8 Nov 2004	Superseded
2/2004	Benefits-In-Kind	8 Nov 2004	Superseded by Public Ruling 3/2013
1/2004	Income from Letting of Real Property	30 Jun 2004	Superseded
2/2003	"Key-Man" Insurance	30 Dec 2003	Y/A 2004 onwards
1/2003	Tax Treatment relating to Leave Passage	5 Aug 2003	Y/A 2003 onwards
2/2002	Allowable Pre-operational & Pre-commencement of Business Expenses for Companies	8 Jul 2002	Superseded
1/2002	Deduction for Bad & Doubtful Debts and Treatment of Recoveries	2 Apr 2002	Y/A 2002 onwards
7/2001	Basis Period for Business & Non-Business Sources (Companies)	30 Apr 2001	Y/A 2001 onwards
6/2001	Basis Period for a Business Source (Individuals & Persons other than Companies/ Co-operatives)	30 Apr 2001	Y/A 2001 onwards
5/2001	Basis Period for a Business Source (Co-operatives)	30 Apr 2001	Y/A 2001 onwards
4/2001	Basis Period for a Non-Business Source (Individuals & Persons other than Companies)	30 Apr 2001	Y/A 2001 onwards
3/2001	Appeal Against an Assessment	18 Jan 2001	Superseded by Public Ruling 3/2012
2/2001	Computation of Initial & Annual Allowances in respect of Plant & Machinery	18 Jan 2001	Y/A 2000 Current Year Basis (CYB) onwards
1/2001	Ownership of Plant and Machinery for the Purpose of Claiming Capital Allowances	18 Jan 2001	Y/A 2000 (CYB) onwards
6/2000	Keeping Sufficient Records (Persons other than Companies & Co-operatives) – Revised	30 Jun 2001	Y/A 2001 onwards
5/2000	Keeping Sufficient Records (Individuals & Partnerships) – Revised	30 Jun 2001	Y/A 2001 onwards
4/2000	Keeping Sufficient Records (Companies & Co- operatives) – Revised	30 Jun 2001	Y/A 2001 onwards
8/2000	Wilful Evasion of Tax and Related Offences	30 Dec 2000	1 Jan 2001
7/2000	Providing Reasonable Facilities and Assistance	16 Jun 2000	–
6/2000	Keeping Sufficient Records (Persons other than Companies & Co-operatives)	1 Mar 2000	Superseded
5/2000	Keeping Sufficient Records (Individuals & Partnerships)	1 Mar 2000	Superseded
4/2000	Keeping Sufficient Records (Companies & Co- operatives)	1 Mar 2000	Superseded



<i>Ruling No.</i>	<i>Name and Content of Ruling</i>	<i>Issued/ Updated</i>	<i>Effective Date/Year of Assessment (Y/A)</i>
3/2000	Basis Period for a Business Source (Individuals & Persons other than Companies & Co-operatives)	1 Mar 2000	Superseded
2/2000	Basis Period for a Business Source (Companies & Co-operatives)	1 Mar 2000	Superseded
1/2000	Basis Period for a Non-business Source	1 Mar 2000	Superseded

The above public rulings may be downloaded from the Inland Revenue Board's website at <http://www.hasil.gov.my> under the heading "Law & Regulation – Public Rulings".

# B14 ADVANCE RULINGS

## 1. Introduction

With effect from 1 January 2007, a person may apply for an advance ruling from the Director General of Inland Revenue (DGIR) on how the provisions of the Income Tax Act 1967 (ITA 1967) would apply to the person and to the arrangement for which the advance ruling is sought. This service was introduced with insertion of S. 138B to the ITA 1967 while specific provisions were gazetted in the Income Tax (Advance Ruling) Rules 2008. Guidelines on Advance Rulings were also issued to provide further clarifications on the scope, procedures and fees imposed.

## 2. Objective

An advance ruling aims to ensure clarity and consistency of tax treatment since it is a written statement by the DGIR on the interpretation and application of income tax provisions to a person or arrangement, which is not clearly stated or provided for in the ITA 1967. As an advance ruling is only issued for a proposed arrangement that is seriously contemplated, it would minimise tax disputes as prior confirmation is obtained from the DGIR on the tax treatment in question.

## 3. Scope of advance ruling

The DGIR is not permitted to make an advance ruling that authorises or requires the Minister of Finance or the DGIR to:

- impose or remit a penalty;
- remit any tax due and payable;
- approve any application under the ITA 1967;
- inquire into the correctness of any return or other information supplied by any person;
- prosecute any person; or
- recover any debt owing by any person.

Similarly, an advance ruling shall not be made under the following circumstances:

- the application for advance ruling is frivolous, vexatious or for hypothetical situations;
- the arrangement for which the advance ruling is sought has been entered into or effected prior to the ruling being issued;
- the subject matter of the ruling requires interpretation of foreign law or is being dealt with or should be dealt with by the competent authorities;
- an advance ruling which applies to the subject matter already exists for the period or year of assessment concerned and had been issued earlier to the same person;
- an audit or investigation is being carried out by the DGIR on the subject matter for which the ruling is sought whether in relation to the applicant or any other person;
- insufficient information was furnished by the applicant;
- where an opinion is required from the DGIR with respect to generally accepted accounting principles or commercially accepted practices;
- the subject matter of the ruling involves an advance pricing arrangement or a tax avoidance scheme;
- the ruling sought involves an interpretation of a provision in the ITA 1967, rules or regulations that have not been enacted; or
- in the opinion of the DGIR, it would be unreasonable to make the ruling with the resources available.

The DGIR may also decline to make an advance ruling if:

- the matter on which the ruling is requested is purely a question of fact;
- the correctness of the ruling would depend on assumptions made in respect of a future event or any matter;
- the subject matter of the ruling is currently under appeal pursuant to S. 99 of the ITA 1967 whether in relation to the applicant or any other person; or
- the applicant has outstanding debts in respect of fees payable for earlier advance ruling applications.

Where an application for advance ruling is declined, the DGIR shall notify the applicant in writing of his decision and reasons thereof.

#### **4. Application and notification procedures**

A person may apply for an advance ruling in his own right or on behalf of a person who is not registered yet. Two or more persons may also jointly apply for an advance ruling on how the provisions of ITA 1967 would apply to each person in respect of the same arrangement.

The application must be made in a prescribed form [Borang KA(1/2007)], by furnishing the information and documents requested therein together with a non-refundable application fee of RM500. The form can be obtained from the Technical Department of the Inland Revenue Board or be downloaded from its website. Further fees at the rate of RM150 per hour after the first 4 hours of processing time, may also be payable if additional time or cost were incurred by the DGIR for the ruling. The advance ruling will only be issued to the applicant after all fees payable are paid.

A withdrawal may be made by the applicant at any time before the ruling is issued by forwarding a notice in writing to the DGIR. A person who withdraws his application for an advance ruling is still liable to pay all fees incurred up to the time of receipt of the letter of withdrawal by the DGIR. Otherwise, the advance ruling would be issued within 60 days from the date a complete application is submitted and an application for an extension of the period or year of assessment to which the ruling applies can be made within 3 months prior to the end of the period or year of assessment stated in the advance ruling or any other period approved by the DGIR.

In making the advance ruling, the DGIR may at any time request for further information, carry out on-site inspection and make assumptions as he considers most appropriate. The DGIR can decline to make an advance ruling where insufficient information is provided by the applicant. All information in an advance ruling is treated as confidential and will not be published in public in any form.

#### **5. Form and nature of an advance ruling**

The advance ruling made by the DGIR shall state that the ruling is made pursuant to S. 138B of the ITA 1967 and it shall include the following:

- the identity of the person, the provisions of the ITA 1967 and the arrangement specified in the application to which the advance ruling applies;
- how the provisions of the ITA 1967 would apply to the arrangement and to the person to which the advance ruling applies;
- the period or year of assessment for which the ruling applies;
- material assumptions made by the DGIR about future events or other matters; and
- the conditions to which the advance ruling is subject to, if any.

A person who has obtained an advance ruling is required to disclose the following information in the preparation of his relevant annual tax return:

- the existence of an advance ruling;
- whether or not he has complied with the advance ruling; and
- whether there are any material changes made to the arrangement identified in the advance ruling.

## **6. Withdrawal and cessation of an advance ruling**

The DGIR may at any time, withdraw an advance ruling after its issuance. A notification of withdrawal would be issued to the person to whom the ruling applies but the date of withdrawal shall not be retrospective. A person who has effected the arrangement before the withdrawal date would be allowed to apply the advance ruling issued to him until the period stated in the ruling ends. However, the advance ruling would not be applicable if the arrangement is effected after the date of withdrawal.

An advance ruling made would be binding on the DGIR and the person concerned in relation to the arrangement for the period or year of assessment as specified in the ruling, notwithstanding any other provision of the ITA 1967. If the arrangement is not effected within the specified period or year of assessment, the ruling will automatically lapse and should not be taken as a precedent for other cases. The advance ruling is final and no appeal can be lodged regardless of its outcome. If the proposed arrangement is effected, the advance ruling has to be complied with and any objection has to be appealed under S. 99 of the ITA 1967 that is against the notice of assessment. The exceptions below are provided under S. 138B of the ITA 1967 where an advance ruling would not be binding on the DGIR:

- the arrangement carried out by the person is materially different from the arrangement stated in the ruling;
- there was a material omission or misrepresentation in, or in connection with the application of the ruling;
- the DGIR made an assumption about a future event or another matter that is material to the ruling and that assumption proves to be incorrect subsequently; or
- the person fails to satisfy any of the conditions stipulated by the DGIR in the advance ruling.

The advance ruling would also cease to apply if the provision of the ITA 1967 which is the subject of the ruling is repealed or amended such that it alters the way in which the tax law applies. The cessation date of the advance ruling is from the date the repeal or amendment is effective. Any typographical or minor errors would not affect or render a ruling void if the errors do not alter the application of the ITA 1967 in the ruling.

# B15 IRB EXCHANGE RATES

## RATES OF FOREIGN EXCHANGE – AVERAGE ANNUAL RATES

<i>Foreign Currency</i>	<i>2006 RM</i>	<i>2007 RM</i>	<i>2008 RM</i>	<i>2009 RM</i>	<i>2010 RM</i>	<i>2011 RM</i>	<i>2012 RM</i>
Aust \$1	2.7885	2.9084	2.8526	2.8085	2.9890	3.1857	3.2288
Arab Saudi 1 Riyal	0.9877	0.9265	0.8972	0.9490	0.8678	0.8238	0.8318
Brunei \$1	2.3305	2.3038	2.3768	2.4470	2.3859	2.4563	2.4958
Bahrain 1 Dinar	9.8261	9.1412	8.8466	9.3478	8.5417	8.1129	8.1935
Canada \$1	3.2648	3.2396	3.1665	3.1239	3.1585	3.1243	3.1207
China 1 Renminbi	0.4646	0.4563	0.4846	0.5210	0.4807	0.4780	0.4944
Euro 1	4.6479	4.7529	4.9339	4.9538	4.3224	4.2961	4.0092
HK \$1	0.4772	0.4450	0.4322	0.4591	0.4189	0.3969	0.4021
India 1 Rupee	0.0820	0.0844	0.0781	0.0739	0.0716	0.0666	0.0586
Indonesia 1 Rupiah	0.0004	0.0004	0.0003	0.0003	0.0004	0.0004	0.0003
Japan 1 Yen	0.0318	0.0295	0.0326	0.0381	0.0371	0.0388	0.0391
S. Korea 1 Won	0.0038	0.0037	0.0031	0.0028	0.0028	0.0028	0.0028
New Zealand \$1	2.4063	2.5534	2.3904	2.2521	2.3449	2.4411	2.5257
Norway 1 Krone	0.5777	0.5932	0.6025	0.5672	0.5394	0.5511	0.5361
Pakistan 1 Rupee	0.0614	0.0571	0.0480	0.0437	0.0382	0.0358	0.0334
Philippines 1 Peso	0.0722	0.0754	0.0758	0.0748	0.0721	0.0714	0.0739
Singapore \$1	2.3306	2.3040	2.3773	2.4471	2.3863	2.4567	2.4959
S. Africa 1 Rand	0.5522	0.4926	0.4116	0.4259	0.4444	0.4276	0.3810
Sri Lanka 1 Rupee	0.0356	0.0314	0.0310	0.0310	0.0288	0.0280	0.0245
Switzerland 1 Franc	2.9553	2.8937	3.1077	3.2813	3.1232	3.4901	3.3259
Taiwan \$1	0.1139	0.1057	0.1067	0.1077	0.1032	0.1051	0.1055
Thailand 1 Baht	0.0976	0.1007	0.1009	0.1036	0.1026	0.1014	0.1004
UK £1	6.8176	6.9464	6.2176	5.5655	5.0305	4.9521	4.9417
US \$1	3.7043	3.4721	3.3657	3.5590	3.2546	3.0894	3.1196
Kuwait 1 Dinar	N/A	N/A	12.513	12.3469	11.3506	11.1851	11.1385
Argentina 1 Peso	N/A	N/A	1.0552	0.9479	0.8245	0.7418	0.6810

<i>Foreign Currency</i>	<i>2006 RM</i>	<i>2007 RM</i>	<i>2008 RM</i>	<i>2009 RM</i>	<i>2010 RM</i>	<i>2011 RM</i>	<i>2012 RM</i>
Mexico 1 Peso	N/A	N/A	0.3011	0.2614	0.2549	0.2469	0.2349
Brazil 1 Real	N/A	N/A	1.8439	1.7795	1.8319	1.8334	1.5886
Myanmar 1 Kyat	N/A	N/A	0.5225	0.5531	0.5057	0.4801	0.1250
Denmark 1 Krone	N/A	N/A	0.6592	0.6653	0.5804	0.5766	0.5386
Iran 1 Rial	N/A	N/A	0.0003	0.0004	0.0003	0.0003	0.0003
Lebanon 1 Paun	N/A	N/A	0.0022	0.0024	0.0022	0.0021	0.0021
Bangladesh 1 Taka	N/A	N/A	0.0491	0.0518	0.0468	0.0418	0.0381
Sweden 1 Krona	N/A	N/A	0.5145	0.4668	0.4523	0.4759	0.4605
Vietnam 1 Dong	N/A	N/A	0.0002	0.0002	0.0002	0.0001	0.0001
Turkey 1 New Lira	N/A	N/A	2.5792	2.2737	2.1436	1.8329	1.7171
U.A.E. 1 Dirham	N/A	N/A	0.9074	0.9595	0.8768	0.8327	0.8410
Chile 1 Peso	N/A	N/A	0.0064	0.0063	0.0063	0.0063	0.0064
Qatar 1 Riyal	N/A	N/A	0.9157	0.9680	0.8850	0.8400	0.8484
Israel 1 Shekel	N/A	N/A	0.9875	0.8979	0.8538	0.8092	0.8065
Nigeria 1 Naira	N/A	N/A	N/A	0.0238	0.0216	0.0198	0.0196
Russia 1 Ruble	N/A	N/A	N/A	0.1114	0.1062	0.1042	0.0995

# B16 INCOME EXEMPT FROM TAXES – INDIVIDUALS

1. **Official emoluments of rulers and consorts of rulers and former rulers or consorts of former rulers**  
Official emoluments of Rulers or Ruling Chiefs as defined in S. 76 of the Income Tax Act 1967 (ITA) and consorts of rulers and former rulers or consorts of former rulers (Sch 6 Para 1A, 1B, 2).
2. **Income and official emoluments of diplomatic and consular staff**  
Income and official emoluments of diplomatic and consular staff by virtue of laws relating to diplomatic and consular privileges (Sch 6 Para 3, 4).
3. **Wound and disability pensions**  
Wound and disability pensions granted to persons in respect of service in various armed and defence forces in Malaysia or in a Commonwealth country and pensions granted to wives or dependent relatives of members of any of the forces (Sch 6 Para 7).
4. **Disability pensions for war injuries**  
Disability pensions granted in respect of war service injuries to members of civil defence organisations in any territory comprised in Malaysia on 1 Jan 1968 (Sch 6 Para 8).
5. **Bounties to reserve forces**  
Bounties paid out of funds provided by Parliament to members of the Royal Malaysian Naval Volunteer Reserve, Malaysian Territorial Army and Royal Malaysian Air Force Volunteer Reserve (Sch 6 Para 9).
6. **Emoluments of members of armed forces or civil servants of Commonwealth countries**  
Emoluments of members of armed forces or civil servants of Commonwealth countries performing duties in Malaysia where the emoluments are payable out of the public funds of and subject to foreign tax of that Commonwealth country (Sch 6 Para 10).
7. **Dividends distributed by co-operative societies to members (Sch 6 Para 12A)**
8. **Death gratuities**  
Sums received by way of death gratuities or as consolidated compensation for death or injuries (Sch 6 Para 14).
9. **Compensation for loss of employment and payments for restrictive covenants**  
Compensation for loss of employment or in consideration for any covenant entered into by the employee restricting his/her right to take up a similar employment is exempt as follows:
  - (a) whole sum of compensation if due to ill health; or
  - (b) RM10,000 for every completed year of service with the same employer or with companies in the same group. The tax exemption of RM10,000 is applicable to the payment made in respect of an individual who ceased employment on or after 1 July 2008 (Sch 6 Para 15).
10. **Pensions to widows, widowers and children**  
Pensions granted or paid under any written law relating to widows, widowers and orphans' pensions or under an approved scheme to or for the benefit of the widow, widower, child or children of a deceased contributor to the scheme (Sch 6 Para 16).

- 11. Income derived from trading in commodities through consignees by non-residents**  
Income derived by non-residents from trading in Malaysia through consignees in commodities (rubber, copra, pepper, tin, tin ore, gambier, sago flour or cloves) produced outside Malaysia (Sch 6 Para 18).
- 12. Interest or discount on Government securities or bonds**
  - (a) Interest or discount paid or credited to any individual in respect of Bon Simpanan Malaysia issued by Central Bank of Malaysia or in respect of any savings certificates or security or bond issued or guaranteed by the Government. With effect from Y/A 2006, this exemption is extended to discount received (Sch 6 Para 19, 35).
  - (b) Interest accrued in respect of bonds issued under the Bon Simpanan Malaysia Siri Kedua (BSM 2) by Bank Simpanan Nasional [PU(A) 473/97].
- 13. Interest or discount on debentures, Islamic Securities other than convertible loan stock**  
With effect from Y/A 2003, interest income earned by individuals from debentures other than convertible loan stock approved by the Securities Commission is exempt from tax. With effect from Y/A 2006, the exemption is extended to discount received (Sch 6 Para 35).  
With effect from Y/A 2010, the exemption is extended to cover interest or discount from Islamic Securities [Sch 6 Para 35(b)].
- 14. Income from employment exercised in Malaysia not exceeding 60 days**  
Income derived by a non-resident in exercising an employment in Malaysia:
  - (a) for less than 60 days in the basis year for a year of assessment; or
  - (b) for a continuous period not exceeding 60 days which overlaps the basis years for 2 successive years of assessment; or
  - (c) for a continuous period which overlaps 2 successive basis years and which together with that period, does not exceed 60 days (Sch 6 Para 21).
- 15. Education allowances**  
Education allowances paid to designated officers under the overseas service agreements of North Borneo or Sarawak (Sch 6 Para 23).
- 16. Scholarships**  
Sums received by an individual in the nature of a scholarship or other similar grant or allowance whether or not it is in connection with an employment of that individual (Sch 6 Para 24).
- 17. Retirement gratuities**  
Retirement gratuities paid due to ill health or on or after reaching the retiring age of 55 or other compulsory age of retirement specified under any written law from an employment which had lasted 10 years with the same employer or with companies in the same group [Sch 6 Para 25(1)].  
With effect from Y/A 2007, full income tax exemption is given for the retirement benefit if the retirement takes place on reaching the compulsory age of 50 but before 55 and that person has served not less than 10 years with the same employer. The exemption is on condition that the compulsory retirement age is provided for in the employment contract or collective agreement between the employer and the employee [Sch 6 Para 25(1)(c)].
- 18. Retirement gratuities and payments in lieu of leave of Government servants**  
Retirement gratuities or payment in lieu of leave paid out of public funds on retirement from an employment under any written law or on termination of a contract of employment (Sch 6 Para 25A, 25B).



**19. Interest paid to non-residents**

- (a) Interest derived from Malaysia by non-residents on any approved loan (Sch 6 Para 27).
- (b) Interest derived from Malaysia by non-residents and paid or credited by any person carrying on the business of banking or finance in Malaysia and licensed under the Banking and Financial Institutions Act 1989 or the Islamic Banking Act 1983 or by any other institution approved by the Minister, provided that the exemption shall not apply to interest paid or credited on funds required for purposes of maintaining net working funds as prescribed by the Central Bank of Malaysia (Sch 6 Para 33).

**20. Remittance of foreign source income to Malaysia**

Income arising from sources outside Malaysia and received in Malaysia by any person who is not resident in Malaysia (Sch 6 Para 28). Effective Y/A 2004, exemption on foreign source income is extended to include a resident individual, a trust body, a co-operative and a Hindu joint family [Sch 6 Para 28(1)].

**21. Pensions**

Pensions derived from Malaysia received by an individual who has reached the age of 55 or compulsory age of retirement from employment specified under any written law or due to ill health. The pension must be in respect of exercising a former employment in Malaysia and where the pension is paid other than under any written law, it must be from an approved pension or provident fund, scheme or society. Where a person is paid more than 1 pension, the highest pension paid will be exempted (Sch 6 Para 30).

**22. Gratuities or pensions paid to politicians**

Gratuity or pension derived from Malaysia and paid to a resident person under any law applicable to the President or Deputy President of the Senate, Speaker or Deputy Speaker of the House of Representatives, Speaker of the State Legislative Assembly, Member of the Senate, Member of the House of Representatives or Member of the State Legislative Assembly, provided the person has attained the age of 55 or has ceased to hold office due to ill health. This exemption applies to the higher or highest pension only where the person is eligible for exemption under Para 30 and Para 30A of Sch 6 (Sch 6 Para 30A).

**23. Royalties on literary and artistic work**

Royalties for a year of assessment received by an individual resident in Malaysia in respect of:

	Y/A 1994 onwards RM
(a) Publication of, or the use of or the right to use, any literary work or any original painting (Sch 6 Para 32B)	20,000
(b) Publication of, or the use of or the right to use, any artistic work (Sch 6 Para 32)	10,000
(c) Recording discs or tapes (Sch 6 Para 32)	10,000

**24. Income from musical composition or translation**

Income of up to RM20,000 for a year of assessment received by an individual resident in Malaysia in respect of any musical composition (Sch 6 Para 32D).

- 25. Income from translation of books or literary works**  
Income of RM12,000 for a year of assessment received by an individual resident in Malaysia in respect of any translation of books or literary works at the specific request of any agency of the Ministry of Education or Minister of Higher Education or the Attorney General's Chambers (Sch 6 Para 32A).
- 26. Income from employment on board a Malaysian ship**  
Income of an individual derived from exercising an employment on board a Malaysian ship as defined in S. 54A(6) of the ITA (Sch 6 Para 34). With effect from Y/A 2007, this exemption is extended to employment on board a foreign ship which is operated by a resident person who is the registered owner of a Malaysian ship [Sch 6 Para 34 (1) and 34(2)].
- 27. Interest from financial institutions**  
(a) Bonus from money deposited in any savings account with the Lembaga Urusan dan Tabung Haji [PU(A) 64/96].  
(b) Interest received from moneys deposited in all approved institutions (with effect from 30 Aug 2008) [PU(A) 211/2009].
- 28. Gains or profits from financial institutions under Interest-Free Banking Scheme**  
Gains or profits from deposits placed in any investment account under the Interest-Free Banking Scheme for a period exceeding 12 months with a bank or finance company licensed under the Banking and Financial Institutions Act 1989 or the Islamic Banking Act 1983 [PU(A) 65] or with Bank Simpanan Nasional [PU(A) 155/98].
- 29. Prize monies received by professional sportsmen and sportswomen**  
Prize monies received by professional sportsmen and sportswomen (individuals who are engaged in sport for a livelihood) from participation in a sports tournament (with effect from Y/A 1990) [PU(A) 428].
- 30. Income derived from employment in Labuan**  
(a) Tax exemption up to the equivalent of 50% of gross income of a non-citizen derived from an employment in a managerial capacity with a Labuan entity for the Y/A 1992 to 2004 [PU(A) 382 and PU(A) 100/2000] and Y/A 2005 to Y/A 2010 [PU(A) 84/2007]. This exemption has been extended to include co-located office or marketing office in Labuan and the exemption is in effect from Y/A 2011 to Y/A 2020 [PU(A) 420/2011]. "Labuan entity" has the same meaning assigned to it in the Labuan Business Activity Tax Act 1990 (Act 445).  
(b) Tax exemption up to the equivalent of 50% of gross income of a non-citizen individual derived from exercising an employment in Labuan in a managerial capacity in a trust company from Y/A 1998 to Y/A 2001 [PU(A) 102/2000], Y/A 2002 to Y/A 2005 [PU(A) 405/2004], Y/A 2006 to Y/A 2010 [PU(A) 81/2007] and Y/A 2011 to Y/A 2020 [PU(A) 420/2011]. "Trust company" has the same meaning assigned to it in the Labuan Trust Companies Act 1990 (Act 442).  
(c) Tax exemption on fees received by a non-citizen individual in his/her capacity as a director of a Labuan entity for the Y/A 2002 to 2006 [PU(A) 260/2003], Y/A 2007 to Y/A 2010 [PU(A) 80/2007] and Y/A 2011 to Y/A 2020 [PU(A) 419/2011].  
(d) Tax exemption of 50% on the gross housing and Labuan Territory allowances received by a citizen from exercising an employment in Labuan with the Federal or State Government, a statutory body or a Labuan entity from Y/A 1998 until Y/A 2001 [PU(A) 307/2000], Y/A 2002 to Y/A 2005 [PU(A) 406/2004], Y/A 2006 to Y/A 2010 [PU(A) 82/2007] and Y/A 2011 to Y/A 2020 [PU(A) 421/2011].
- 31. Dividend income declared from tax exempt accounts**  
Dividends received by an individual paid out from an Exempt Account under the Promotion of Investments Act 1986 (PIA) or under Sch 7A(5) of the ITA.

- 32. Income from Labuan entities or trusts**  
 (a) Dividends received from a Labuan entity distributed out of income derived from an offshore business activity or income exempt from tax.  
 (b) Distributions received from a Labuan trust by the beneficiaries.  
 (c) Royalties received from a Labuan entity by non-resident persons or another offshore company.  
 (d) Interest received from a Labuan entity by resident and non-resident persons (other than persons licensed to carry on banking and insurance business).  
 (e) Amounts received from a Labuan entity by non-resident persons or another offshore company in consideration of services, advice or assistance specified in S. 4A (i) and (ii) of the ITA [Items (a) to (e) – PU(A) 437/2007].  
 (f) Any gains or profit falling under S. 4(f) of the Act received by a non-resident from a Labuan entity (effective 1 Jan 2009) [PU(A) 389/2009].
- 33. Cash awards received by scientists, writers and artists**  
 With effect from Y/A 1993, all cash awards received from the Government, State Government or a local authority by scientists, writers and artists by profession [PU(A) 223/93].
- 34. Pension or gratuity paid to a judge**  
 Any pension or gratuity paid or payable to any person who has been appointed a judge from among members of the public service and which payment is paid or payable in respect of his/her services in the public service prior to his/her appointment as a judge [PU(A) 336/93].
- 35. Grants of remembrance allowance**  
 A grant of remembrance allowance granted under S. 3 and a grant to next of kin of recipient under S. 5 and 6 payable pursuant to the Seri Pahlawan Gagah Perkasa (Remembrance Allowance) Act 1990 [PU(A) 196/94].
- 36. Annuities**  
 Sums received by way of annuities granted under annuity contracts issued by Malaysian life insurers (whose ownership or membership are held in majority by Malaysian citizens) from Y/A 1995 onwards (Sch 6 Para 36).
- 37. Income from a resident company engaged in sea transport business**  
 Income received by a non-resident under an agreement or arrangement for participation in a pool from a company resident in Malaysia engaged in the business of transporting passengers or cargoes by sea [PU(A) 322/1995].
- 38. Dividends declared by closed-end funds**  
 Dividends declared out of the exempt income of closed-end funds received by shareholders (S. 60H, ITA).
- 39. Income from cultural performances**  
 Income (other than emoluments in the exercise of his/her official duties) of an individual resident in Malaysia derived from his/her performances in cultural performances approved by the Minister (Sch 6 Para 32C).
- 40. Income from provision of qualifying professional services in Labuan**  
 Income tax exemption of up to 65% of the statutory income for each year of assessment for Y/A 2000 to Y/A 2004 from a source consisting of provision of qualifying professional services (legal, accounting, financial or secretarial services rendered in Labuan to a Labuan entity) [PU(A) 103/2005]. The above exemption was extended to Y/A 2010 [PU(A) 83/2007] and has been further extended to Y/A 2011 to Y/A 2020 [PU(A) 418/2011].

41. **Income earned by drivers from car and motorcycle racing events of international standard**  
Income tax exemption from Y/A 1999 on income earned by drivers from car and motorcycle racing events of international standard [PU(A) 501/2000].
42. **Dividends from domestic companies paid out of dividends from Labuan entities**  
Income tax exemption for dividends received by shareholders of domestic companies which are paid out of the dividends received from Labuan entities [PU(A) 99/2000].
43. **Income of Malaysian experts remitted from overseas into Malaysia**  
Income of Malaysian experts or their spouses approved by the special committee arising from a source outside Malaysia and remitted into Malaysia within 2 years from the date of their return from abroad to serve the nation [PU(A) 67/2001].
44. **Income from export of qualifying services**  
Income tax exemption equivalent to 10% of the value of increased exports of qualifying services provided in or from Malaysia to foreign clients but not exceeding 70% of the statutory income for a year of assessment effective Y/A 1999 or Y/A 2001 depending on the type of qualifying services provided [PU(A) 154/2001].  
The income tax exemption will be increased to 50% of the value of increased exports with effect from Y/A 2002 [PU(A) 57/2002]. For healthcare service providers, the income tax exemption will be increased to 100% of the value of increased exports for Y/A 2010 to Y/A 2014.
45. **Interest from bonds and securities issued by Pengurusan Danaharta Nasional Bhd**  
Tax exemption (including withholding tax) on interest received from such bonds and securities issued within and outside Malaysia effective from Y/A 1999 [PU(A) 220/2001].
46. **Grant or subsidy received from Federal and State Government**  
Statutory income of any person in relation to a source of income derived from the allocations given by the Federal and State Government in the form of grant or subsidy is exempt effective from Y/A 2002 [PU(A) 33/2003].
47. **Discount or profit received from bonds or securities issued by Pengurusan Danaharta Nasional Bhd**  
Tax exemption (including withholding tax) on discount or profit received from sale of bonds or securities issued within and outside Malaysia effective from Y/A 1999 [PU(A) 153/2003].
48. **Fees or honorarium received by lecturers/experts from the National Accreditation Board (LAN)**  
Income tax exemption on fee or honorarium (other than emoluments in the exercise of his/her official duties) received by an individual for services which have been verified by the National Accreditation Board (LAN) for purposes of validation, moderation or accreditation of franchised education programmes in higher educational institutions with effect from Y/A 2004 (Sch 6 Para 32E).
49. **Income received by researchers from commercialisation of research findings**  
Income tax exemption of 50% of the statutory income for a period of 5 years commencing from the date of first payment received by an individual from the commercialisation of scientific research which has been verified by the Ministry of Science, Technology and Environment with effect from Y/A 2004 [PU(A) 94/2004].
50. **Interest from Merdeka Bonds issued by the Central Bank of Malaysia.**  
Tax exemption on interest received from such bonds with effect from Y/A 2004 (Sch 6 Para 34A).

- 51. Employment income from Operational Headquarters, Regional Offices, International Procurement Centres or Regional Distribution Centres**  
Income tax exemption on a portion of a non-citizen individual's income derived from an employment with an operational headquarters company or a regional office, to be computed in accordance with the formula provided in the Gazette Order [PU(A) 382/2003]. With effect from Y/A 2008, the exemption has been extended to non-citizen individuals working with International Procurement Centres or Regional Distribution Centres [PU(A) 101/2008].
- 52. Perquisite in relation to service awards**  
With effect from Y/A 2008, income tax exemption on perquisite in relation to service, innovation and productivity awards of up to a maximum amount of RM2,000 for each year of assessment. The exemption in respect of Long Service Award shall only be given to employees when they have served the same employer for more than 10 years (Sch 6 Para 25C).
- 53. Payments received pursuant to a separation scheme**  
Income tax exemption on payments received by employees pursuant to a separation scheme where employees are given an option for an early termination of an employment contract. The exemption is on condition that such schemes do not expressly or impliedly provide for the employee to be reemployed under any other scheme of employment by the same employer or any other employer [Sch 6 Para 15(3)].
- 54. Interest received by non-resident depositors**  
A non-resident depositor is exempt from tax in respect of interest received from the following institutions:
  - (a) Amlslamic Bank Berhad with effect from Y/A 2006 [PU(A) 155/2007].
  - (b) Hong Leong Islamic Bank Berhad with effect from Y/A 2006 [PU(A) 108/2007].
  - (c) Kuwait Finance House (Malaysia) Berhad with effect from Y/A 2006 [PU(A) 363/2006].
- 55. Income derived from a Malaysian shipping company**  
With effect from 2 Sep 2006, the income (from rental of a ship on voyage or time charter basis, or a bare boat made under any agreement or arrangement for the use of that ship) of a non-resident person derived from a Malaysian shipping company [PU(A) 58/2007].
- 56. Allowance derived from Malaysian Airline System Berhad**  
With effect from Y/A 2005, productivity allowance or incentive allowance received by the pilot and cabin crew from exercising employment with Malaysian Airline System Berhad is exempt from tax [PU(A) 230/2006].

“Pilot” means the captain and co-pilot who are under the service of Malaysian Airline System Berhad.

“Cabin crew” means the in-flight supervisor, chief steward or stewardess, leading steward or stewardess and flight steward or stewardess who are under the service of Malaysian Airline System Berhad.
- 57. Income received by non-resident experts in Islamic finance**  
Income of non-resident experts in Islamic finance for the period 8 Sep 2007 to 31 Dec 2016. The experts have to be verified by the Malaysian Islamic Financial Centre Secretariat [PU(A) 114/2008].
- 58. Dividend income**  
Income tax exemption for dividend income received by individuals with effect from Y/A 2008 under the single-tier tax system (Sch 6 Para 12B).

**59. Interest income from Islamic securities**

With effect from Y/A 2008, interest paid or credited to any person in respect of Islamic securities originating from Malaysia, other than convertible loan stock:

- (a) issued in any currency other than Ringgit; and
- (b) approved by the Securities Commission.

With effect from Y/A 2010, the above exemption is also extended to include Islamic Securities approved by the Labuan Financial Services Authority [Sch 6 Para 33B(b)].

**60. Payment received from Malaysian Technical Co-operation Programme**

Income tax exemption with effect from Y/A 2007 on payment received by a non-citizen who is also a non-resident from participating in the Malaysian Technical Co-operation Programme [PU(A) 437/2008].

**61. Perquisites and Benefits-In-Kind [PU(A) 152/2009]**

An employee is exempt from tax in respect of the following:

- (a) perquisites in relation to travel allowance, petrol card, petrol allowance or any of its combination for travelling between the home and work place up to RM2,400 per year (effective from Y/A 2008 to Y/A 2010);
- (b) perquisites in relation to travel allowance, petrol card, petrol allowance or toll rate or any of its combination for travelling for official duties up to RM6,000 per year;
- (c) parking rate or parking allowance;
- (d) meal allowance;
- (e) child care allowance of up to RM2,400 a year;
- (f) gifts and monthly bills for fixed line telephone, mobile phone, pager, or broadband;
- (g) the amount of subsidy on interest of housing, education or car loan shall be determined in accordance with the following formula:

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

- A difference between the amount of interest to be borne by the employee and the amount of interest payable by the employee in a basis period for a year of assessment
- B the total aggregate of balance of the principal amount of the housing, education or car loan taken by the employee in a basis period for a year of assessment or RM300,000.00, whichever is the lower
- C the total aggregate of the principal amount of the housing, education or car loan taken by the employee.

- (h) medical benefits exempted from tax be extended to include expenses on maternity and traditional medicines but exclude complimentary medicine and homeopathy;
- (i) discounted price for consumable business products of the employer up to RM1,000 per year; and
- (j) discounted price for services provided by the business of the employer and for the benefit of the employee, spouse and child of the employee.

The above exemptions are not extended to an employee where the employee has control over his/her employer. All the above proposals are effective from Y/A 2008 except for item (a) which is effective from Y/A 2008 to Y/A 2010.

**62. Income received by a non-resident expert for providing technical training services [PU(A) 262/2009]**

Withholding tax exemption is given to non-resident experts on income received for providing technical training services in the following fields:

- (a) postgraduate courses in information communications and technology (ICT), electronics and life sciences;
- (b) post basic courses in nursing and allied healthcare; and
- (c) aircraft maintenance engineering courses.

The above is applicable from 30 Aug 2008 until 31 Dec 2012.

**63. Income from the *sukuk ijarah***

Tax exemption on income from the *sukuk ijarah*, other than convertible loan stock, issued in any currency by 1Malaysia Sukuk Global Bhd with effect from Y/A 2010 [PU(A) 169/2010].

# **B17 INCOME EXEMPT FROM TAXES – COMPANIES AND UNINCORPORATED BUSINESSES**

- 1. Income of the Government or a State Government or a local authority (Sch 6 Para 5, 6)**
- 2. Income of co-operative societies**
  - (a) In respect of the first 5 years commencing from the date of registration; and
  - (b) Thereafter, where the members' funds of such co-operative society as at the first day of the basis period for a year of assessment is less than RM750,000 (Y/A 1996 and prior – RM500,000) (Sch 6 Para 12).
- 3. Income of charitable institutions and trust bodies**
  - (a) Income (other than dividend income) of a charitable institution, trust body of any trust or body of persons established in Malaysia for charitable purposes only and approved by the Director General (until Y/A 2002).
  - (b) Income (other than dividend income) of an institution or organisation approved under S. 44(6) or non-profit religious institutions or organisations established in Malaysia (Sch 6 Para 13).
- 4. Income of trade union**

Income (other than gains or profits from a business and dividend income) of trade unions registered under any written law relating to trade unions (Sch 6 Para 17).
- 5. Income derived from trading in commodities**

Income of foreign companies derived from trading in Malaysia through consignees in commodities (rubber, copra, pepper, tin, tin ore, gambier, sago flour or cloves) produced outside Malaysia (Sch 6 Para 18).
- 6. Income of approved schemes**

Income of approved schemes arising in or outside Malaysia (Sch 6 Para 20).
- 7. Income of national and State amateur sports organisations**

Income (other than dividend income) of national and State amateur sports organisations certified by the President and Secretary of the Olympic Council of Malaysia (Sch 6 Para 26).
- 8. Income from group inclusive inbound tours**

Income derived from the business of operating group inclusive tours by companies resident in Malaysia licensed under the Tourism Act 1992 in carrying on an inbound tour operating business for Y/A 1986 to Y/A 2006 [PU(A) 256/1991, PU(A) 101/1995, PU(A) 68/2000 and PU(A) 59/2002].

To qualify for this exemption, the total number of inbound tourists on group inclusive tours from outside Malaysia shall not be less than 500 inbound tourists per year. The tours have to be certified by the Ministry of Tourism.

The above exemption has been extended for another 5 years until Y/A 2011 [PU(A) 137/2007 and PU(A) 138/2007].

This exemption has been reintroduced effective from Y/A 2013 to Y/A 2015 with the condition that the total number of inbound tourists on group inclusive tours from outside Malaysia shall not be less than 750 inbound tourists per year [PU(A) 7/2013].



**9. Income from Professional Services in Labuan**

Exemption of up to 50% of the adjusted income of a person derived from a source consisting of the provision of qualifying professional service rendered in Labuan by that person or his/her employees to an offshore company from the Y/A 1992 to Y/A 1997 [PU(A) 158/1991].

Effective Y/A 1997 to Y/A 2004, a tax exemption of up to 65% of statutory income from this source will be given [PU(A) 29/1997 and PU(A) 103/2005].

This exemption was extended for another 6 years from Y/A 2005 until Y/A 2010 [PU(A) 83/2007].

“Qualifying professional service” means legal, accounting, financial or secretarial service and includes the services provided by a trust company as defined in the Labuan Trust Companies Act 1990 [PU(A)158/1991, PU(A)29/1997, PU(A)103/2005 and PU(A)83/2007].

From Y/A 2011 to Y/A 2020, a tax exemption of 65% of the statutory income derived from a source consisting of the provision of legal, accounting, financial or secretarial services rendered by a person in Labuan to a Labuan entity will be given.

“Labuan entity” means the entity specified in the Schedule to the Labuan Business Activity Act 1990 (Act 445) [PU(A) 418/2011].

**10. Income from business which relates to qualifying assets or the letting of qualifying assets in Labuan**

Exemption up to 50% of the adjusted income of a person, derived from carrying on a business which relates to a qualifying asset (road, drainage, telecommunication facility, school, hospital, office, port or airport facility, hotel, any public utility or amenity or any recreational facility) or the letting of a qualifying asset in Labuan where the person has either undertaken construction of or purchased the qualifying asset. The exemption shall be for the year of assessment in which the adjusted income first arises from that source and for 4 subsequent years of assessment. In the case where the qualifying asset is purchased, the exemption shall not exceed 5 years of assessment commencing from the year of assessment in which the adjusted income first arose from the source. The construction project of a qualifying asset must commence within a period of 6 years from 1 Oct 1990 [PU(A) 355/1995].

**11. Income of offshore companies**

- (a) Income of offshore companies derived from offshore non-trading activities, such as the holding of investments in securities, stocks, shares, loans deposits and immoveable properties, by an offshore company for its own behalf is exempt from tax.
- (b) Income of offshore companies derived from offshore trading activities, such as banking, insurance, trading, management, licensing or any other activity which is not an offshore non-trading activity, will be taxed at either 3% on the audited net profit or RM20,000 for each year of assessment.
- (c) Dividends received by an offshore company.
- (d) Royalties received from an offshore company.
- (e) Interest received from an offshore company.
- (f) Amounts received from another offshore company in consideration of services, advice or assistance specified in S. 4A(i) and (ii), ITA 1967.

[Items (a) and (b) – S. 2, 4, 7, 8 and 9 of the Labuan Offshore Business Activity Tax Act 1990; and items (c) to (f) – PU(A) 437/2007.] With effect from 11 Feb 2010, the word “offshore” has been deleted and any reference to the Labuan Offshore Business Activity Tax Act 1990 shall be construed as a reference to the Labuan Business Activity Tax Act 1990.

**12. Income from offshore companies or trusts**

- (a) Dividends received from an offshore company which are paid, credited or distributed out of income derived from an offshore business activity or income exempt from tax;

- (b) Distributions received from an offshore trust by the beneficiaries;
- (c) Royalties received from an offshore company by a non-resident person;
- (d) Interest received from an offshore company by a non-resident person (other than interest accruing to a business carried on by a non-resident in Malaysia where that non-resident person is licensed to carry on a business under the Banking and Financial Institutions Act 1989, Islamic Banking Act 1983, Insurance Act 1996 or Takaful Act 1984);
- (e) Interest received from an offshore company by a resident person (other than a person licensed to carry on a business under the Banking and Financial Institutions Act 1989, Islamic Banking Act 1983, Insurance Act 1996 or Takaful Act 1984); and
- (f) Amounts received from an offshore company by a non-resident in consideration of services, advice or assistance specified in S. 4A(i) and (ii), ITA 1967.  
[Items (a) to (f) – PU(A) 437/2007]
- (g) Gains or profits falling under S. 4(f) received by a non-resident.

**13. Income of companies granted incentives under the Promotion of Investments Act 1986**

- (a) Pioneer status – see Chapter B18 “Tax Incentives”.
- (b) Investment tax allowance – see Chapter B18 “Tax Incentives”.
- (c) Abatement of adjusted income – see Chapter B18 “Tax Incentives”.
- (d) Abatement of adjusted income for exports – see Chapter B18 “Tax Incentives”.

**14. Statutory income of companies carrying on shipping business**

- (a) 70% of statutory income of companies resident in Malaysia derived from carrying on the business of transporting passengers or cargo by sea on a Malaysian ship registered under the Merchant Shipping Ordinance 1952 (S. 54A, ITA 1967) (100% exempted for Y/A 2011 and prior – 2012 Budget.)
- (b) 70% of statutory income of companies derived from letting out on charter a Malaysian ship owned by them on a voyage or time charter [S. 54A, ITA 1967 and PU(A) 473/1998]. (100% exempted for YA 2011 and prior – 2012 Budget.)

100% of the above statutory income is exempted from Y/A 2012 to Y/A 2013 [PU(A) 167/2012].

**15. Income of research companies and new technology-based firms**

Please refer to Chapter B18 “Tax Incentives”.

**16. Gains of unit trusts**

Gains from the realisation of investments such as shares and properties by unit trusts (but still subject to the RPGT Act 1976) [S. 6(1)(b), ITA 1967].

**17. Disposal of shares by venture capital companies**

Gains arising from the disposal of shares in a venture company, provided that the shares are disposed of within 3 years (Y/A 1991 and prior – 2 years) after the date on which they are listed for quotation on a stock exchange in Malaysia [S. 60D(l), ITA 1967]. This exemption was withdrawn with effect from Y/A 2000 (cyb) and re-introduced under item 37 of this section.

**18. Interest paid to non-residents by banks**

Interest derived from Malaysia by non-residents and paid or credited by any person carrying on the business of banking or finance (Y/A 1995 and prior – banking only) in Malaysia and licensed under the Banking and Financial Institutions Act 1989 (Sch 6 Para 33). Profits or interest income received by non-residents from financial institutions established under the Islamic Banking Act 1983 and other financial institutions approved by the Minister of Finance (2007 Budget). Interest paid or credited in

the basis year for a year of assessment to a non-resident by Bank Kerjasama Rakyat Malaysia Berhad with effect from 30 Aug 2008 [PU(A) 211/2009].

**19. Interest income from bonds received by non-resident companies**

Interest income derived by non-resident companies from the following:

- (a) Ringgit-denominated Islamic securities and debentures, other than convertible loan stocks, approved by the Securities Commission; or
- (b) Securities issued by the Government.  
(Sch 6 Para 33A)

**20. Interest on Government savings certificates**

Interest received in respect of any savings certificates issued by the Government (Sch 6 Para 19).

**21. Income arising from sources outside Malaysia**

Income arising from sources outside Malaysia and received in Malaysia by a resident company (other than a company carrying on the business of banking, insurance, shipping and air transport) with effect from Y/A 1995 to Y/A 1997 (S. 3C, ITA 1967) and from Y/A 1998 onwards [PU(A) 469].

Income arising from sources outside Malaysia and received in Malaysia by any person (other than a resident company carrying on the business of banking, insurance, shipping and air transport) effective from Y/A 2004 (Sch 6 Para 28).

**22. Interest or discount paid to unit trusts and listed closed-end funds**

Interest paid to unit trusts and listed closed-end funds in respect of:

- (a) securities or bonds issued or guaranteed by the Government; or
- (b) debentures, other than convertible loan stock, approved by the Securities Commission; or
- (c) Bon Simpanan Malaysia issued by the Central Bank of Malaysia.

With effect from Y/A 2010, the exemption is extended to Islamic securities, other than convertible loan stock, approved by the Securities Commission (Sch 6 Para, 35(b)).

**23. Interest paid to unit trusts and closed-end funds**

Interest derived from bonds (other than convertible loan stock) paid or credited by any company listed on the Malaysian Exchange of Securities Dealing and Automated Quotation Berhad (MESDAQ) [PU(A) 310/2001].

**24. Income from export of services outside Malaysia**

Income of a company resident in Malaysia derived from export of services carried on by the company outside Malaysia for projects undertaken by a non-resident company shall be exempted from income tax in the following manner:

- (a) 50% of the income remitted and declared by the company in its return for the Y/A 1993; and
- (b) 70% of the income remitted and declared by the company in its return for the Y/A 1994.

"Export of services" covers drilling rig services of oil and gas wells outside Malaysia, transportation of oil and gas offshore structures and pipelines, and chartering of marine vessels for offshore oil and gas activities [PU(A) 138/1995].

Also, refer further to the exemption of income arising from sources outside Malaysia in item 21 above.

**25. Grant from Industrial Technical Assistance Fund (ITAF)**

Monies received by way of grant from the Industrial Technical Assistance Fund (ITAF) subject to a maximum of RM580,000 for small and medium scale companies (with shareholders' funds not exceeding RM500,000 for small scale companies and RM2,500,000 for medium scale companies) effective from 1 Aug 1990 [PU(A) 213/1995].

- 26. Income arising from transactions made under a securities borrowing and lending agreement**  
Income (other than dividends, lending fees, interest-earned on collateral and rebate) accruing to a borrower and a lender arising from a loan of securities listed on the Kuala Lumpur Stock Exchange and the return of the same or equivalent securities and, the corresponding exchange of collateral, in respect of a securities borrowing and lending transaction made under a Securities Borrowing and Lending Agreement [PU(A) 430/1995].
- 27. Income of trade associations**  
Income received by a trade association is exempted from tax up to 50% of the statutory income for each year of assessment:  
(a) from Y/A 1996 to Y/A 2000 (pyb) if the trade association was established before 1 Jan 1996; and  
(b) for a maximum period of 5 years commencing from the year of assessment in which the trade association was established if it was established on or after 1 Jan 1996 until 31 Dec 2001 [PU(A) 56/2002].  
With effect from Y/A 2002, tax exemption will be allowed on the statutory income from members' subscription fees derived according to the specified formula [PU(A) 55/2002]. Where a trade association has claimed an exemption under the exemption order PU(A) 55/2002, it cannot also claim the same under exemption order of PU(A) 56/2002.  
With effect from Y/A 2005, the exemption of members' subscription fees will be based on the attributable method by taking into consideration actual expenditure incurred [PU(A) 190/2005].  
With effect from Y/A 2009, professional associations have been incorporated into the definition of trade associations (S. 53, ITA 1967).
- 28. Income of club, association or similar institution**  
With effect from Y/A 2009, income derived from transactions with members is not subject to tax (S. 53A, ITA 1967).
- 29. Gains arising from investments by closed-end fund company**  
Gains from realisation of investments by a closed-end fund company with effect from Y/A 1997 (S. 60H, ITA 1967).
- 30. Interest received by a unit trust**  
Interest derived by a unit trust from Malaysia and paid or credited by any bank or financial institution licensed under the Banking and Financial Institutions Act 1989 or the Islamic Banking Act 1983 (Sch 6 Para 35A).
- 31. Income arising from sources outside Malaysia for unit trusts**  
Income derived from sources outside Malaysia and received in Malaysia by a unit trust with effect from Y/A 1998 [PU(A) 469/1997].  
The aforementioned exemption order has been revoked. With effect from Y/A 2004, income arising from sources outside Malaysia and received in Malaysia by a unit trust is exempt from tax (Sch 6 Para 28).
- 32. Income of organisers of sports, shows, exhibitions and festivals**  
Income tax exemption of 50% from 23 Oct 1998 to 31 Dec 2000 on income earned by promoters from organising sports, cultural and art shows, exhibitions and festivals involving foreign participation [PU(A) 502/2000].
- 33. Income earned by organisers of car and motorcycle racing events**  
Income tax exemption of 50% from Y/A 1999 on income earned by promoters of cars and motorcycles from organising racing events of international standard held in Malaysia [PU(A) 501/2000].

- 34. Income from organising domestic tour packages**  
Income of companies derived from operating domestic tours with at least 1,200 local tourists per year will be exempted from tax from Y/A 1999 to Y/A 2006 [PU(A) 67/2000 and PU(A) 58/2002].  
Companies have to be licensed under the Tourism Industry Act 1992 and the tours have to be certified by the Ministry of Tourism.  
The above exemption was extended to a further period of 5 years from Y/A 2007 to Y/A 2011 [PU(A) 137/2007].  
This exemption has been reintroduced effective from Y/A 2013 to Y/A 2015 with the condition that the total number of local tourists on domestic tours is at least 1,500 tourists per year [PU(A) 451/2012].
- 35. Dividend received by a resident company from foreign income remittances**  
Dividend distributed from income arising from sources outside Malaysia and received in Malaysia by a resident company (other than a company carrying on the business of banking, insurance, shipping and air transport) [PU(A) 450/1995 and PU(A) 469/1997]. The aforementioned exemption orders have been revoked. The exemption is now provided for under Sch 6 Para 28. Refer further to item 21 above.
- 36. Income of non-residents arising from use of moveable property in leasing business in Labuan**  
Withholding tax exemption with effect from 25 Oct 1997 on the income of a non-resident person arising from the use of any moveable property by an offshore company licensed under the Offshore Banking Act 1990 or approved by the Labuan Offshore Financial Services Authority (LOFSA) to carry out leasing business in Labuan [PU(A) 69/1998].
- 37. Income of Venture Capital Companies (VCCs)**  
Income tax exemption of income from all sources up to 10 years or equivalent to the life span of the fund, whichever is lesser, with effect from Y/A 2000 (cyb) [PU(A) 211/2001]. Interest income arising from savings or fixed deposits and profits from *Syariah*-based deposits has been excluded with effect from Y/A 2003 [PU(A) 75/2005]. VCCs investing at least 50% of its investment funds in venture companies in the form of seed capital to be given income tax exemption for 10 years [PU(A) 420/2006]. With effect from Y/A 2008, VCCs investing at least 70% of its investment funds in venture companies at the point of the first investment or, where the investment is in the form of seed capital, at least 50% of its invested funds at the point of the first investment will be given income tax exemption for 10 years [PU(A) 159/2009]. A VCC investing at least 30% of its investment funds in venture companies at the point of the first investment in the form of seed capital, start-up financing, early stage financing or its combination and has made an application for the exemption to the Securities Commission between 30 Aug 2008 and 31 Dec 2013 will be given income tax exemption for 5 years [PU(A) 159/2009].
- 38. Tax credit for banks/insurance companies/stockbroking firms undergoing mergers**  
Tax credit of a sum equivalent to half of the losses suffered by the acquired bank/insurance company/stockbroking firm at prevailing income tax rate will be given to the acquiring bank/insurance company/stockbroking firm against tax suffered for 2 years of assessment immediately following the year of assessment in which the merger is completed (2000 Budget).
- 39. Income derived from promotion of conferences held in Malaysia**  
Tax exemption on the statutory income of resident conference promoters derived from organising conferences held in Malaysia with at least 500 foreign participants with effect from Y/A 1997 [PU(A) 500/2000].
- 40. Income from export of qualifying services**

Income tax exemption equivalent to 10% of the value of increased export of qualifying services provided in or from Malaysia to foreign clients but not exceeding 70% of the statutory income for a year of assessment effective from 1 Jan 1998 or Y/A 2001 depending on the type of qualifying services provided [PU(A) 154/2001].

The income tax exemption will be increased to 50% of the value of increased exports with effect from Y/A 2002 [PU(A) 57/2002]. For healthcare service providers, the income tax exemption will be increased to 100% of the value of increased exports for Y/A 2010 to 2014.

- 41. Interest from bonds and securities issued by Pengurusan Danaharta Nasional Bhd**  
Tax exemption (including withholding tax) on interest received from such bonds and securities issued within and outside Malaysia effective from Y/A 1999 [PU(A) 220/2001].
- 42. Royalty income of non-resident franchisors**  
Royalty income received by non-resident franchisors from private institutions of higher learning for franchised education schemes approved by the Ministry of Education is exempt from tax effective from 20 Oct 2001 [PU(A) 135/2002].
- 43. Income derived from organising international trade exhibitions in Malaysia**  
Income tax exemption on income derived from organising international trade exhibitions approved by MATRADE, held in Malaysia and the organiser brings in at least 500 foreign trade visitors per year with effect from Y/A 2002 [PU(A) 113/2002].
- 44. Income of non-residents from rental of ISO containers**  
Income from rental of ISO containers received by non-residents from shipping companies in Malaysia is exempt from tax with effect from 20 Oct 2001 [PU(A) 210/2002].
- 45. Grant or subsidy received from Federal and State Government**  
Statutory income of any person in relation to a source of income derived from the allocations given by the Federal and State Government in the form of a grant or subsidy is exempted from tax effective from Y/A 2002 [PU(A) 33/2003].
- 46. Exemption on income derived by an approved offshore trading company**  
Income tax exemption on an approved offshore trading company in respect of the chargeable income derived from offshore trading in accordance with a formula for a period of 5 consecutive years of assessment commencing from the year of assessment in which the approval is given. Effective from 20 Oct 2001 [PU(A) 152/2003].
- 47. Discount or profit received from bonds or securities issued by Pengurusan Danaharta Nasional Bhd or Danaharta Urus Sendirian Berhad**  
Tax exemption (including withholding tax) on discount or profit received from the sale of bonds or securities issued at a discount and without interest payable within and outside Malaysia effective from Y/A 1999 [PU(A) 153/2003].
- 48. Income of a Malaysian International Trading Company (MITC) approved by the Malaysia External Trade Development Corporation**  
Income tax exemption equivalent to 10% for Y/A 2002 of the value of increased export derived from export sales (but not exceeding 70% of the statutory income) for 5 consecutive years of assessment starting from the year of assessment in which the MITC first qualifies for the exemption [PU(A) 60/2002]. With effect from Y/A 2003, the rate of 10% has been increased to 20% [PU(A) 181/2003].

**49. Income of venture capital management companies**

Income tax exemption on income arising from profit sharing agreements with a venture capital company effective from Y/A 2003 [PU(A) 77/2005].

- 50. Certain income of specific insurance and *takaful* operators**  
Income tax exemption in respect of the statutory income of selected insurance companies (as specified in the Gazette Order) in relation to their sources of income derived from the Employees Provident Fund Annuity Scheme Fund which is managed by them. The exemption order is effective from 1 July 2000 [PU(A) 288/2005].
- 51. Income from cemeterial grounds, columbarium, etc.**  
Income tax exemption to qualifying persons in respect of the statutory income in relation to its income received or derived from managing public cemeterial grounds. This exemption order is effective from Y/A 2004 [PU(A) 266/2005].
- 52. Income arising from the provision of qualifying services by Operational Headquarters (OHQ) in Malaysia**  
Full tax exemption on income arising from qualifying services rendered to its related companies overseas for 10 years effective from Y/A 2003 onwards. In addition, tax exemption is given to income from qualifying services rendered to related companies in Malaysia provided that the income does not exceed 20% of the total income from qualifying services [PU(A) 307/2005].
- 53. Income of Regional Distribution Centres (RDCs) and International Procurement Centres (IPCs)**  
Income tax exemption given to RDCs and IPCs for 10 years. This exemption order is effective from Y/A 2003 onwards [PU(A) 308/2005 and PU(A) 309/2005].
- 54. Income received from an approved MSC status company by a non-resident company**  
Income tax exemption given to a non-resident company which receives the following types of income from an approved MSC status company:  
  - (a) payment for technical advice or technical services;
  - (b) licensing fees in relation to technology development; and
  - (c) interest on loans for technology development.

This exemption order is effective from 1 Oct 2002 [PU(A) 102/2005].
- 55. Profits of newly established overseas branches or remittances of new overseas subsidiaries of banks of banks, insurance and *takaful***  
The profits of newly established branches of banks or remittances from new overseas subsidiaries of banks will be allowed income tax exemption for 5 years. This incentive is effective from 2 Sep 2006 until 31 Dec 2009 [PU(A)278/2007].  
  
The above exemption has been extended to 31 Dec 2015 [PU(A) 413/2009] and also to insurance and *takaful* sectors. The date of commencement of operations of the effective period for the 5-year tax exemption is given the flexibility to be deferred to begin not later than the third year of operations [PU(A) 411/2009].
- 56. Interest received from Kuwait Finance House Berhad**  
Interest income received by non-resident depositors from the Kuwait Finance House (Malaysia) Berhad is exempted from income tax from Y/A 2006 [PU(A) 363/2006].
- 57. Interest received from Hong Leong Islamic Bank Berhad**  
Interest income received by non-resident depositors from the Hong Leong Islamic Bank Berhad is exempted from income tax from Y/A 2006 [PU(A) 108/2007].
- 58. Income of a Real Estate Investment Trust (REIT)**  
Total income of a REIT for a particular year of assessment will be exempted from tax if the unit trust distributes 90% or more of its total income for that year of assessment effective from Y/A 2007 (S. 61A, ITA 1967).



**59. Islamic banking and *takaful* business**

A 10-year tax exemption from Y/A 2007 to Y/A 2016 is granted for entities that have been approved by the Central Bank of Malaysia to carry on the following businesses:

- (i) International Islamic Bank;
- (ii) International Takaful Operator; or
- (iii) International Currency Business Unit.

The exemption will apply to income derived from businesses that are carried on in currencies other than Ringgit Malaysia and in respect of a “qualifying Ringgit account”. A “qualifying Ringgit account” is an investment account denominated in Ringgit Malaysia which is related and incidental to the business of the entity [PU(A) 154/2007].

**60. Interest received from Amlslamic Bank Berhad**

Interest income received by non-resident depositors from the Amlslamic Bank Berhad is exempted from income tax from Y/A 2006 [PU(A) 155/2007].

**61. Special Purpose Vehicle (SPV) for Islamic finance**

An SPV resident in Malaysia and established solely for the purpose of complying with the *Syariah* requirement in the issuance of Islamic securities is exempt from income tax in respect of the statutory income from the issuance of Islamic securities effective from Y/A 2007 (S. 60I, ITA 1967).

**62. Income of companies managing foreign Islamic funds**

A resident company’s statutory income from the business of providing fund management services to foreign investors is exempt from tax for 10 years of assessment from Y/A 2007 to Y/A 2016. The exemption is only for those funds managed in accordance with the *Syariah* principle as certified by the Securities Commission for each year of assessment during the exempt period [PU(A) 199/2007].

**63. Income of companies managing Islamic funds**

Local and foreign companies managing Islamic funds for local and foreign investors will be given income tax exemption on all fees received from managing the funds effective from Y/A 2008 until Y/A 2016.

**64. Income of International Islamic banks and Islamic Bank Units**

Income tax exemption will be granted to International Islamic Banks and Banking Units as well as international *takaful* companies and *takaful* units effective from 8 Sep 2007 to Y/A 2016.

**65. Income tax exemption for non-profit oriented schools**

All income received by non-profit oriented Government-assisted and private schools will be given tax exemption, which includes schools formed by a body of persons, a trust body or a company limited by guarantee effective from Y/A 2008.

**66. Dividends received under the single-tier tax system**

Dividends received under the single-tier tax system will be exempted from tax effective from Y/A 2008 (Sch 6 Para 12B).

**67. Tax exemption for trade unions and amateur sports organisations**

The dividend income derived by registered Trade Unions and National/State amateur sports organisations will be exempted from income tax effective from Y/A 2008 (Sch 6, Para 17 and 26).

**68. Review of withholding tax exemption on interest**

Effective from Y/A 2008, withholding tax exemption on interest paid or credited to a non-resident will be extended to the following under Sch 6, Para 33, 33A, 33B, 35 and 35A:

(i) Interest paid or credited to any company not resident in Malaysia (other than such interest accruing to a place of business in Malaysia of such company) in respect of securities issued by the Government; or Islamic securities or debentures issued in Ringgit, other than convertible loan stock, approved by the Securities Commission;

or

(ii) Interest paid or credited to any non-resident person in respect of Islamic securities originating from Malaysia, other than convertible loan stock –

(a) issued in any currency other than Ringgit; and

(b) approved by the Securities Commission;

or

(iii) Interest or discount paid or credited to any non-resident individual –

(a) in respect of securities or bonds issued or guaranteed by the Government; or

(b) in respect of debentures, other than convertible loan stock, approved by the Securities Commission; or

(c) in respect of Bon Simpanan Malaysia issued by the Central Bank of Malaysia.

or

(iv) Income of a unit trust in respect of interest derived from Malaysia and paid or credited by any bank or financial institution licensed under the Banking and Financial Institutions Act 1989 or the Islamic Banking Act 1983.

With effect from Y/A 2010, the exemption for item (ii) above is extended to Islamic securities approved by the Labuan Offshore Financial Services Authority, and the exemption for item (iii)(b) above is extended to Islamic securities approved by the Securities Commission.

**69. Income from the sale of certified emission reduction units**

Income received from the sale of certified emission reduction units by a company incorporated under the Companies Act 1965 (Act 125) and resident in Malaysia will be exempted from the Y/A 2008 until Y/A 2010 [PU(A) 378/2008]. The exemption is extended to Y/A 2012 [PU(A) 478/2010].

**70. Income derived from dealing in securities and advising on corporate finance**

A resident in Malaysia is exempt in the basis period for a year of assessment from the payment of income tax in respect of statutory Income derived from the regulated activity of dealing in securities under the Capital Markets and Services Act 2007 (Act 671) relating to the arranging, underwriting and distributing of *sukuk*.

The above applies to non-ringgit *sukuk* that originates from Malaysia and is issued or guaranteed by the Government of Malaysia or approved by the Securities Commission under the Capital Markets and Services Act 2007 and is effective Y/A 2009 until Y/A 2011 [PU(A) 394/2008]. The exemption is extended to Y/A 2014 [PU(A) 445/2011].

**71. Interest due and payable by an individual on a housing loan granted by a bank or financial institution**

Where in respect of any amount of interest due and payable by an individual, on a housing loan granted by a bank or financial institution in the basis period for a year of assessment, a moratorium on such interest is approved by the bank or financial institution, such interest shall not constitute the gross income of that bank or financial institution for that basis period for a year of assessment.

The above refers only to interest which is due and payable for a period of 12 consecutive months beginning from the month where the moratorium is approved by the bank or financial institution and is effective from the Y/A 2009 and subsequent years of assessment [PU(A) 109/2009].

- 72. Interest income from Islamic securities**  
Interest paid or credited to any person in respect of Islamic securities originating from Malaysia, other than convertible loan stock –  
(a) issued in any currency other than Ringgit; and  
(b) approved by the Securities Commission.  
With effect from Y/A 2010, the exemption is extended to Islamic securities, other than convertible loan stock, approved by the Labuan Offshore Financial Services Authority (Sch 6, Para 33B(b)).
- 73. Income from consolidation of a management project**  
Individuals, partnerships, co-operatives and companies which are resident in Malaysia and have business sources in Malaysia are exempted from the payment of income tax in respect of statutory income derived by such persons from a consolidation of a management project [PU(A) 415/2009].
- 74. Income from undertaking an approved forest plantation project**  
Companies which undertake an approved new forest plantation project are exempted from payment of income tax for a period of 5 years and those that undertake an expansion forest plantation project are exempted from the payment of tax for a period of 10 years [PU(A) 473/2009].
- 75. Income from *sukuk ijarah* issued by 1Malaysia Sukuk Global Berhad**  
Income derived by any person from the *sukuk ijarah*, other than convertible loan stock, issued in any currency by 1Malaysia Sukuk Global Berhad.
- 76. Gains or profits received from the investment in Islamic securities**  
Gains or profits received by an individual, unit trust or listed close-end fund from the investment in Islamic securities other than convertible loan stock which are issued in accordance with the principles of '*Mudharabah, Musyarakah, Ijarah, Istisna*' or any other principle approved by the Shariah Advisory Council established by the Securities Commission under the Capital Markets and Services Act 2007. Effective from Y/A 2007 to Y/A 2009 [PU(A) 160/2011].
- 77. Gains or profits received from a limited liability partnership**  
Gains or profits received by partners of a limited liability partnership is exempted from tax effective from the coming into operation of the Limited Liability Partnerships Act 2012 (Sch 6 Para 12C).
- 78. Income of a life insurer or *takaful* operator**  
Income tax exemption in respect of the income of a life insurer or *takaful* operator in respect of an investment from a life fund or family fund in a deferred annuity scheme approved by Bank Negara Malaysia. The exemption is effective from Y/A 2012 (Sch 6 Para 20A) (2013 Budget).
- 79. Income of a licensed resident bank or finance company, insurance, *takaful* operator on the business of giving loan to the rescuing contractor or developer in an abandoned housing project**  
Income tax exemption in respect of the statutory income of a qualifying person derived from interest which is related to the business of giving loan to the rescuing contractor or developer in an abandoned housing project for a period of 3 consecutive years of assessment (the exempt years of assessment) commencing from the first Y/A in which the interest income accrues to that qualifying person. A qualifying person is a person resident in Malaysia who is a bank or finance company licensed or deemed to be licensed under the Banking and Financial Institutions Act 1989, a bank licensed under the Islamic Banking Act 1983, a development financial institution prescribed under the Development Financial Institutions Act 2002, an insurance business licensed under the Insurance Act 1996, or a *takaful* operator licensed under the *Takaful* Act 1984. This provision takes effect from Y/A 2013 and subsequent years of assessment [PU(A) 88/2013].

**80. Income of BNM Kijang Berhad or any holder of Sukuk Kijang**

Income tax exemption given to BNM Kijang Berhad or any holder of Sukuk Kijang in the basis period for a Y/A in relation to any income derived from Sukuk Kijang. The provisions of S. 109 and 109B of the Income Tax Act shall not apply to the income exempted under this Order.

For the purpose of this Order, "Sukuk Kijang" means the Islamic securities of nominal value of up to two hundred and fifty million United States dollars (USD\$250,000,000) issued or to be issued in accordance with the Shariah principle of Ijarah by BNM Kijang Berhad. This exemption order is effective from 12 Aug 2013 [PU(A) 262/2013].

**Note:** All references to Sch 6 in this section on "Income exempt from taxes" refer to Sch 6 of the ITA 1967. "cyb" refers to current year basis and "pyb" refers to preceding year basis.

# B18 TAX INCENTIVES

## 18.1 EXECUTIVE SUMMARY

Malaysia offers a wide range of tax incentives for the promotion of investments in selected industry sectors. Through tax incentives, the Government aims to attract foreign direct investments (FDIs) as investors from abroad need to be incentivised to relocate or set up their operations in Malaysia. These tax incentives appear in various forms, such as exemption on income, extra allowances on capital expenditure incurred, double deduction of expenses, special deduction of expenses, preferential tax treatments for promoted sectors, exemption of import duty, sales tax and excise duty, etc. As such, although Malaysia is neither a tax haven nor a low tax jurisdiction, for companies which are eligible for the tax incentives, the effective tax rates may be significantly below the normal corporate tax rate of 25%. For instance, a manufacturing company with a pioneer status tax incentive pays an effective tax at the rate of 7.5% as only 30% of its profits are subject to tax.

In the past, many of the tax incentives were directed to encourage growth in the manufacturing and agricultural sectors. This trend has changed in recent years when the service sector began to play a bigger role in the Malaysian economy. Players in the service sectors such as those involved in Islamic financial services, ICT, education, tourism, healthcare as well as research and development, are now getting their fair share of the tax incentives.

Some of the major tax incentives available in Malaysia are the Pioneer Status (PS), Investment Tax Allowance (ITA) and Reinvestment Allowance (RA). The salient features of these incentives are discussed below.

### Pioneer Status (PS)

The standard PS incentive is a partial exemption from the payment of income tax for a period of 5 years up to 70% of a company's statutory income (income after deduction of allowable expenses and capital allowances). The period of tax exemption commences from the "production date" as determined by the Minister of International Trade and Industry. Based on the corporate tax rate of 25%, the effective tax rate for a PS company is only 7.5% (i.e. 30% of chargeable income x tax rate of 25%). Notwithstanding the standard rate, some PS companies enjoy 100% tax exemption over a period of 5 or 10 years.

In the event that a PS company makes losses during the pioneer period, the unutilised losses and capital allowances may be carried forward to the post-pioneer period for an indefinite period of time for set off against future business income of the company.

The PS is available to companies engaged in promoted activities or producing promoted products. The Malaysian Investment Development Authority (MIDA) has identified a long list of activities and manufactured products as "promoted activities" and "promoted products". The list of promoted products and activities is under constant review and is updated from time to time to bring the list in line with Government's investment policies. Please visit MIDA's website at <http://www.mida.gov.my> for a full list of promoted products and activities.

Broadly, the 12 categories of PS in S. 5 of the Promotion of Investments Act 1986 (PIA 1986) are as follows:

No	Category	Exemption (% of Statutory income)	No. of Years
1	Normal PS for promoted products or activities (manufacturing and non-manufacturing, such as agricultural, hotel projects and small companies) [S. 5(1)]	70	5
2	National and strategic importance [S. 5(1A)]	100	10
3	PS in promoted area [S. 5(1B)]	100	5
4	Contract Research and Development (R&D) Company [S. 5(1C)]	100	5

No	Category	Exemption (% of Statutory income)	No. of Years
5	High technology company including new and emerging technologies and Industrial Linkage Programme [S. 5(1D)]	100	5
6	Strategic knowledge intensive activity [S. 5(1DA)]	100	5
7	Selected industries – machinery and equipment industry, specialised machinery and equipment industry, utilisation of biomass to produce value added products, generation of renewable energy [S. 5(1DB)]	100	10
8	Automotive component modules [S. 5(1DC)]	100	5
9	Company undertaking reinvestment in post-pioneer period [S. 5(1DD)]	70 or 100	5
10	Relocating from non-promoted area to promoted area [S. 5(1DE)]	100	5
11	Commercialisation of R&D findings [S. 5(1DF)]	100	10
12	Information and communication technology (ICT) or multimedia activities [S. 5(1DG)]	50	5

The 10-year tax relief period indicated above would be granted for an initial 5 years period and would be extended by another 5 years when the relevant conditions are fulfilled.

### Investment Tax Allowance (ITA)

The ITA incentive is an alternative incentive to PS. Both the ITA and PS incentives are mutually exclusive, i.e. a company can only enjoy either one of the incentives and not both. The ITA incentive is preferable over the PS incentive for projects which are capital intensive and which are not expected to generate large profits in a short time. Similar to PS, ITA is available to companies involved in promoted activities or promoted products.

ITA is an allowance (in addition to the capital allowance) on qualifying plant and equipment acquired by the company during the ITA period (i.e. tax relief period). The normal rate of allowance is 60% on the qualifying capital expenditure. ITA can be offset up to 70% of the statutory income of the company. Any unused allowances in a year can be carried forward to future years indefinitely. Based on the corporate tax rate of 25%, the effective tax of an ITA company is only 7.5% (i.e. 30% of the chargeable income × tax rate of 25%).

A 100% ITA may be utilised to reduce 100% of the statutory income of a company for certain promoted products or promoted activities.

Any unutilised ITA during the ITA period may be carried forward for an indefinite period for set off against the future business income in the post ITA period.

Broadly, the 16 categories of ITA in S. 26 of the PIA 1986 are as follows:

No	Category	Qualifying Capital Expenditure (%)	Exemption (% of Statutory income)	No. of Years
1	Normal ITA (manufacturing and non-manufacturing, such as agricultural, hotel projects and small company) [S. 26]	60	70	5
2	National and strategic importance [S. 26A]	100	100	5
3	ITA in promoted area [S. 26B]	100	100	5
4	Contract R&D Company [S. 26C]	100	70	10
5	R&D Company [S. 26D]	100	70	10
6	In-house research [S. 26E]	50	70	10

No	Category	Qualifying Capital Expenditure (%)	Exemption (% of Statutory income)	No. of Years
7	High technology company including new and emerging technologies and Industrial Linkage Programme [S. 26F]	60	100	5
8	Technical or vocational training company and private higher educational institutions [S. 26G]	100	70	10
9	Strategic knowledge intensive activity [S. 26H]	60	100	5
10	Selected industries – machinery and equipment industry, specialised machinery and equipment industry, utilisation of biomass to produce value added products, generation of renewable energy [S. 26I]	100	100	5
11	Automotive component modules [S. 26J]	60	100	5
12	Company undertaking reinvestment in post-pioneer period [S. 26K]	50, 60 or 100	70 or 100	5 or 10
13	Relocating from non-promoted area to promoted area [S. 26L]	100	100	5
14	Production of <i>halal</i> food product [S. 26M]	100	100	5
15	Conservation of energy for own consumption [S. 26N]	60	70	5
16	ICT or multimedia activities [S. 26O]	50	50	5

The 10-year tax relief period as stated above would be granted for an initial 5-year period which would be extendable by another 5 years when the relevant conditions are fulfilled.

### Reinvestment Allowance (RA)

RA, an incentive granted under Sch 7A of the Income Tax Act 1967, is available to manufacturing companies that reinvest their capital to embark on a project for either expansion of existing production capacity, modernisation or automation of the production facilities, or diversification into related products. RA is also available to companies engaged in agricultural projects (e.g. cultivation of rice, maize, fruits, vegetables, tubers and roots, livestock farming, spawning, breeding or culturing aquatic products, etc.).

The rate of RA is 60% on the qualifying capital expenditure (i.e. factory, plant and machinery) and is granted in addition to capital allowances. The RA is used to reduce up to 70% of statutory income. Any unused RA may be carried forward indefinitely. A company can claim RA up to 100% of its statutory income in a particular year of assessment if it could demonstrate that the level of process efficiency ratio exceeds the industrial average for the year.

The incentive period for RA is 15 years from the first year of claim by a company. Unlike PS or ITA, this incentive does not require prior approval from any of the authorities. RA incentive cannot be claimed in the same basis period if a company is also enjoying PS or ITA incentives.

Where an asset included in the qualifying capital expenditure is disposed of at any time within 5 years from the date of acquisition of that asset, RA given in respect of that asset shall be deemed to have not been given. Further, RA is not allowed for an asset purchased by a company from a related company within the same group.

The term “factory” is given a definition under Sch 7A, i.e. portion of the floor areas of a building or extension of a building used for the purposes of qualifying project to place or install plant or machinery or to store any raw materials, or goods or materials manufactured prior to sale. However, if the total storage area exceeds 10% of the total floor area of the factory, the portion relating to the storage space would not qualify for RA.



“Manufacturing” is defined under Sch 7A to mean:

- (a) conversion by manual or mechanical means of organic or inorganic materials into a new product by changing the size, shape, composition, nature or quality of such materials;
- (b) assembly of parts into a piece of machinery or products; or
- (c) mixing of materials by chemical reaction process including biochemical process that changes the structure of a molecule by the breaking of the intra molecular bonds or by altering the spatial arrangement of atoms in the molecule,

But it does not include:

- (a) the installation of machinery or equipment for the purpose of construction;
- (b) a simple packaging operation such as bottling, placing in boxes, bags and cases;
- (c) a simple fixing;
- (d) a simple mixing of any products;
- (e) a simple assembly of parts;
- (f) any activity to ensure the preservation of products in good condition during transportation and storage;
- (g) any activity to facilitate shipment and transportation;
- (h) any activity of packaging or presenting goods for sale; or
- (i) any activity that may be prescribed by the Minister, notwithstanding the above interpretation.

The Minister of Finance has prescribed the following activities to be excluded from the definition of “manufacturing”:

- (a) ice making;
- (b) cutting, sorting, cleaning, drying, grinding, mixing, grading or packaging herbs or spice, or any of its combination;
- (c) production of aggregates, asphaltic concrete, pre-mix cement, ready mixed concrete or bitumen, or any of its combination;
- (d) folding and shaping paper box, cardboard, plastic bag, envelopes or any other folding and shaping activity;
- (e) laminating;
- (f) quarrying;
- (g) mining or extraction of mineral;
- (h) processing of photograph, picture, slide or film, or any of its combination;
- (i) baking except where the activity is carried out in a factory;
- (j) distillation or filtration of water;
- (k) treatment of waste water and solid waste;
- (l) mixing or blending of petroleum product;
- (m) cleaning, processing, packing or freezing of product, or any of its combination;
- (n) painting, polishing or varnishing, or any of its combination;
- (o) coloring, stamping or printing of logo on materials or clothing, or any of its combination;
- (p) production of herb or traditional medicine, or any of its combination;
- (q) production of sawn timber, veneer or plywood including drying of the product, or any of its combination;
- (r) photo-statting;
- (s) recycling activity which involves sorting, cutting or packaging, or any of its combination; and
- (t) ship building activity.

In addition to Sch 7A of the Income Tax Act 1967, the Inland Revenue Board has also issued Public Ruling 2/2008 – Reinvestment Allowance which seeks to provide more details and clarifications on how the provisions in Sch 7A should be interpreted and applied.

## Summary

The details of the tax incentives for the various industry sectors can be found in the following sections of this chapter:

	<i>Sector</i>	<i>Reference</i>
1	Manufacturing	18.2
2	Trading	18.3
3	Agricultural	18.4
4	Tourism	18.5
5	Research and development	18.6
6	Education and healthcare	18.7
7	Communications, utilities, transportation and green technology	18.8
8	High technology and multimedia	18.9
9	Service	18.10
10	Waste Recycling	18.11
11	Real Estate Investment Trust	18.12
12	Islamic Financing	18.13
13	Biotechnology	18.14
14	All sectors	18.15
15	Property development sector	18.16

## 18.2 MANUFACTURING SECTOR

### Summary of Tax Reliefs

	<i>Eligibility</i>	<i>Tax Reliefs</i>
1.	<p><b>Pioneer Status (PS)</b></p> <p>Any company participating in a promoted activity or producing a promoted product</p> <p>Any company participating in a promoted activity or producing a promoted product which relocates its manufacturing activities to promoted areas</p> <p>Any company which ordinary shares are owned directly or indirectly by PETRONAS engaging in qualifying refinery activities on petroleum products in RAPID Complex</p>	<p>An exemption of 70% of statutory income for 5 years with the balance of 30% of the statutory income taxable at current corporate tax rate</p> <p>Extension (second round) of tax exemption of 100% of statutory income for a period of 5 years [for applications received by MIDA from 11 Sep 2004 (2005 Budget)]</p> <p>100% tax exemption on statutory income derived from qualifying activities in RAPID Complex for 15 years [Income Tax (Exemption) (No. 7) Order 2013]</p>
2.	<p><b>Investment Tax Allowance (ITA)</b></p> <p>Any company participating in a promoted activity or producing a promoted product</p>	<p>Tax exemption of up to 70% of statutory income for each year of assessment from ITA computed at 60% on qualifying capital expenditure incurred within 5 years from the date which the approval is to take effect</p>

	<i>Eligibility</i>	<i>Tax Reliefs</i>
	Any company participating in a promoted activity or producing a promoted product which relocates its manufacturing activities to promoted areas	Extension (second round) of tax exemption of 100% on the qualifying capital expenditure which can be used to set-off up to 100% of statutory income in each year of assessment for a period of 5 years (2005 Budget)
	Any company which ordinary shares are owned directly or indirectly by PETRONAS engaging in qualifying refinery activities on petroleum products in RAPID Complex	ITA of 100% on qualifying capital expenditure for a period of 10 years [Income Tax (Exemption) (No. 6) Order 2013]. Upon expiry of the above ITA, a second round of ITA of 100% is given on qualifying capital expenditure incurred for expanding, modernizing, automating or in diversifying an existing qualifying refinery activity for a period of 5 years [Income Tax (Exemption) (No. 8) Order 2013]
<b>3.</b>	<b>Reinvestment Allowance (RA)</b>	
	RA will only be given to a company which has been operating for not less than 36 months and incurs capital expenditure on a factory, plant or machinery used in Malaysia for the purposes of a qualifying project (i.e. expansion, modernisation or automation, or diversification) in respect of manufacturing of a product.	Tax exemption of up to 70% (100% if the process efficiency ratio is higher than industry average) of statutory income for each year of assessment from RA computed at 60% on qualifying capital expenditure incurred in the basis periods for 15 consecutive years of assessment commencing from the year the first RA is claimed
	Company that intends to surrender its PS for cancellation and undertake reinvestment before the expiry of its PS incentive	[Sch 7A, Income Tax Act 1967; Public Ruling No. 2/2008 – Reinvestment Allowance]  Can opt for RA [S. 9A of the Promotion of Investments Act 1986]
<b>4.</b>	<b>Promotion of exports</b>	
	Companies whose exported manufactured goods attain at least 30% value added	Tax exemption of statutory income (restricted to 70% in a year of assessment) equivalent to 10% of the value of increased exports of manufactured goods [Income Tax (Allowance for Increased Exports) Rules 1999]
	Companies whose exported manufactured goods attain at least 50% value added	Tax exemption of statutory income (restricted to 70% in a year of assessment) equivalent to 15% of the value of increased exports of manufactured goods [Income Tax (Allowance for Increased Exports) Rules 1999]
	Companies whose manufactured goods achieve a significant increase in exports (i.e. at least 50%)	Tax exemption of statutory income (restricted to 70% in a year of assessment) equivalent to 30% of the value of increased exports of manufactured goods [Income Tax (Exemption) (No. 17) Order 2005]
	Companies which succeeded in penetrating new export markets	Tax exemption of statutory income (restricted to 70% in a year of assessment) equivalent to 50% of the value of increased exports of manufactured goods [Income Tax (Exemption) (No. 17) Order 2005]

	<i>Eligibility</i>	<i>Tax Reliefs</i>
	Companies which have been awarded MITI's Export Excellence Award	Tax exemption of statutory income (restricted to 70% in a year of assessment) equivalent to 100% of the value of increased export value of manufactured goods in the year the award is received from the MITI [Income Tax (Exemption) (No. 17) Order 2005]
	Manufacturers of motor vehicles, automobile components or parts which export these manufactured goods provided the export sales of the products attained at least 30% value added	<p>Tax exemption of statutory income (restricted to 70% in a year of assessment) equivalent to:</p> <p>(a) 30% of the value of increased exports (attained at least 30% value added); or</p> <p>(b) 50% of the value of increased exports (attained at least 50% value added).</p> <p>The above incentive is available from Y/A 2010 to Y/A 2014 [Income Tax (Exemption) Order 2011]</p>
<b>5.</b>	<b>Acquisition of proprietary rights</b>	
	Companies (at least 70% owned by Malaysian citizens) which incur cost on acquisition of proprietary rights, i.e. patents, industrial design or trademarks which are granted or registered under the relevant written laws	<p>Deduction of an annual amount equal to 20% (for a period of 5 years) of cost incurred to acquire proprietary rights is given [Income Tax (Deduction for Cost of Acquisition of Proprietary Rights) Rules 2002]</p> <p>When the proprietary rights are transferred from the holding company, amount claimed will be restricted to the remaining portion unutilised by the holding company</p>
<b>6.</b>	<b>Promotion of Malaysian brand name goods</b>	
	Companies which are at least 70% Malaysian owned and who are the registered proprietor of the Malaysian brand name registered locally and overseas; and related companies that are being owned more than 50% by the registered proprietor of the Malaysian brand name which incur expenditure on advertising Malaysian brand name goods	Double deduction of advertising expenses incurred [Income Tax (Deduction for Advertising Expenditure on Malaysian Brand Name Goods) Rules 2002 and Income Tax (Deduction for Advertising Expenditure on Malaysian Brand Name Goods) (Amendment) Rules 2007]
<b>7.</b>	<b>Accelerated capital allowances</b>	
	Companies manufacturing promoted products upon expiry of RA	Accelerated capital allowance on capital expenditure to be utilised within 3 years (initial allowance 40%, annual allowance 20%) will be given upon expiry of the RA [Income Tax (Accelerated Capital Allowance) (Reinvestment in a Qualifying Project) Rules 2000]
	Companies which incur capital expenditure on purchase of moulds used in the production of Industrialised Building System (IBS) in the construction industry	Accelerated capital allowances on related equipment to be fully written off within a period of 3 years [Income Tax (Accelerated Capital Allowances) (Mould for the Production of Industrialised Building System Component) Rules 2006]

	<i>Eligibility</i>	<i>Tax Reliefs</i>
<b>8.</b>	<b>Freight charges</b> Manufacturers incurring freight charges for the shipment of their manufactured goods from Sabah or Sarawak to any port in Peninsular Malaysia	Double deduction of freight charges incurred [Income Tax (Deduction for Freight Charges from Sabah or Sarawak to Peninsular Malaysia) Rules 2000]
<b>9.</b>	<b>Pre-operating expenditure</b> Any company which ordinary shares are owned directly or indirectly by PETRONAS engaging in qualifying refinery activities on petroleum products in RAPID Complex	Single deduction on prescribed expenditure incurred prior to commencement of qualifying refinery activities [Income Tax (Deduction for Pre Commencement Expenses in Relation to Refinery and Petrochemical Integrated Development) Rules 2013]
<b>10.</b>	<b>Withholding tax</b> Any company which ordinary shares are owned directly or indirectly by PETRONAS engaging in qualifying refinery activities on petroleum products in RAPID Complex	Exemption from withholding tax on payments made for technical services, rental of moveable property, royalty, contract payment and other gains or profits derived by a non-resident from a qualifying refinery activity [Income Tax (Exemption) (No. 5) Order 2013]
<b>11.</b>	<b>Stamp duty</b> Any company which ordinary shares are owned directly or indirectly by PETRONAS engaging in qualifying refinery activities on petroleum products in RAPID Complex	Exemption from ad valorem stamp duty on all instruments executed between 10 Oct 2011 and 31 Dec 2021 in relation to qualifying activities carried out in RAPID Complex [Stamp Duty (Exemption) (No. 3) Order 2013]
<b>12.</b>	<b>Acquisition of foreign owned company</b> A locally owned manufacturing company which acquires at least 51% equity of a foreign owned company for the purposes of acquiring high technology for production and improvement of material, devices, products or processes in Malaysia.	Deduction equivalent to 20% of the acquisition cost incurred for 5 years (for applications received by MIDA from 3 Jul 2012 to 31 Dec 2016) [Income Tax (Deduction for Cost of Acquisition of Foreign Owned Company) Rules 2013]

### 18.3 TRADING SECTOR

	<i>Eligibility</i>	<i>Tax Reliefs</i>
<b>13.</b>	<b>Exemption of statutory income</b> Malaysian International Trading Company approved by the Malaysia External Trade Development Corporation (MATRADE) which satisfies the following criteria: (i) Achieve an annual sales turnover of more than RM10 million (ii) 60% of its equity owned by Malaysians	

	Eligibility	Tax Reliefs
	<p>(iii) Not more than 20% of annual sales is derived from trading of commodities; and</p> <p>(iv) Uses local services for banking, finance, insurance and uses local ports and airports</p>	<p>Tax exemption of 70% of the statutory income arising from increased export sales for 5 years on the value of increased exports</p> <p>[Income Tax (Exemption) (Amendment) Order 2003]</p>
14.	<p><b>Approved offshore trading company</b></p> <p>Offshore trading means buying from and selling to non-residents through a website in Malaysia of foreign goods for consumption outside Malaysia including goods brought into Malaysia for the purpose of redistribution outside Malaysia.</p>	<p>Chargeable income in respect of an offshore trading company is exempted from tax for a period of 5 consecutive Y/As commencing from Y/A in which the approval is granted (for applications received by Ministry of Finance from 20 Oct 2001) [Income Tax (Exemption) (No. 5) Order 2003]</p>
15.	<p><b>Industrial Building Allowance</b></p> <p>Companies which incur qualifying capital expenditure on construction or purchase of warehouse buildings for storage of goods for export or for storage of imported goods to be processed and re-exported</p>	<p>Industrial building allowance of 10% for each Y/A</p>

## 18.4 AGRICULTURAL SECTOR

	Eligibility	Tax Reliefs
16.	<p><b>Pioneer Status (PS)</b></p> <p>Any company participating in a promoted activity or producing a promoted product</p>	<p>Tax exemption of 70% or 100% of statutory income for 5 years (which may be extended to 10 years for selected activities or products)</p>
17.	<p><b>Investment Tax Allowance (ITA)</b></p> <p>Any company participating in a promoted activity or producing a promoted product</p> <p>Any company establishing forest plantation</p>	<p>Tax exemption of up to 70% of statutory income for each year of assessment from ITA computed at 60% on qualifying capital expenditure incurred within 5 years from the date which the approval is to take effect</p> <p>Tax exemption of up to 100% of statutory income for each year of assessment from ITA computed at 100% on qualifying capital expenditure incurred within 5 years from the date which the approval is to take effect</p>
18.	<p><b>Reinvestment Allowance (RA)</b></p> <p>RA is given to a company, an agro-based co-operative society, a farmers' association or a fishermen's association which has been operating for not less than 36 months and incurs capital expenditure on a qualifying agricultural project in Malaysia</p>	<p>Tax exemption of up to 100% of statutory income for each year of assessment from RA computed at 60% on qualifying capital expenditure incurred in the basis periods for 15 consecutive years of assessment commencing from the year the first RA is claimed</p>

	Eligibility	Tax Reliefs
	Companies producing promoted food products upon expiry of RA	Accelerated capital allowances on capital expenditure to be utilised within 3 years (initial 40%; annual 20%) will be given upon expiry of the RA [Income Tax (Accelerated Capital Allowance) (Reinvestment in a Qualifying Project) Rules 2000] subject to a letter from MIDA confirming the promoted product status
	Companies involved in the rearing of chickens and ducks which reinvest for the purpose of shifting from an open to a closed house system, or reinvest in the closed house system for expanding the existing business and verified by the Ministry of Agriculture and Agro-based Industry	The RA is at the rate of 60% on qualifying capital expenditure incurred and is restricted to 70% of statutory income for 15 consecutive years commencing from the year the first RA is claimed [Sch 7A, Para 8(d), Income Tax Act 1967 – Deleted w.e.f. Y/A 2013 (Finance Act 2013)]
	Company that intends to surrender its PS for cancellation and undertake reinvestment before the expiry of its PS incentive	Can opt for RA incentive (S. 9A of the PIA)
<b>19.</b>	<b>Promotion of exports</b>	
	Companies which export fresh and dried fruits, fresh and dried flowers, ornamental plants, ornamental fish, frozen raw prawn or shrimp, frozen cooked and peeled prawn and frozen raw cuttlefish and squid ("agricultural produce")	Tax exemption of statutory income equivalent to 10% of the value of increased exports. [Income Tax (Allowance for Increased Exports) Rules 1999; Income Tax (Allowance for Increased Exports) (Amendment) Rules 2003]
	Companies whose agricultural produce achieve a significant increase in exports (i.e. at least 50%)	Tax exemption of statutory income (restricted to 70% in a year of assessment) equivalent to 30% of the value of increased exports of agricultural produce [Income Tax (Exemption) (No. 17) Order 2005]
	Companies which succeed in penetrating new export markets	Tax exemption of statutory income (restricted to 70% in a year of assessment) equivalent to 50% of the value of increased exports of agricultural produce [Income Tax (Exemption) (No. 17) Order 2005]
	Companies which have been awarded the Export Excellence Award (given by MITI)	Tax exemption of statutory income (restricted to 70% in a year of assessment) equivalent to 100% of the value of increased exports of agricultural produce [Income Tax (Exemption) (No. 17) Order 2005]
<b>20.</b>	<b>Accelerated capital allowances</b>	
	Companies which incur capital expenditure on machinery and equipment (to be determined by the Minister of Finance) used in the agricultural sector excluding forest plantations	Accelerated capital allowances on the related machinery and equipment are to be allowed over a period of 2 years [Income Tax (Accelerated Capital Allowance) (Machinery and Equipment for Agriculture Sector) Rules 2005]

	Eligibility	Tax Reliefs
21.	<p><b>Group of companies participating in an approved forest plantation project which suffers losses on the first forest plantation project</b></p> <p>(a) <i>Surrendering company</i> – A company which suffered losses from undertaking a forest plantation project and has surrendered its adjusted loss (in full or in part) to one or more of its related companies ("claimant company"), on condition that the claimant company is at least 70% related to the surrendering company in respect of the shareholding</p> <p>(b) <i>Claimant company</i> – A company which belongs to a group of companies where one of the companies in the group has surrendered current year losses from undertaking a forest plantation project</p>	<p>The tax incentives available to the surrendering company and the claimant company are as follows:</p> <p>(a) <i>Surrendering company</i> – Subsequent to the surrendering of the tax losses, the surrendering company is given 100% tax exemption on its statutory income derived from the forest plantation project for a period of 10 years, commencing from the first year of assessment in which the company starts deriving statutory income from the project; and</p> <p>(b) <i>Claimant company</i> – Group relief on 100% of the current year losses of the surrendering company is available for tax deduction against the aggregate income of the claimant company</p> <p>[Income Tax (Exemption) (No. 11) Order 2009]</p>
22.	<p><b>Companies involved in food production activity</b></p> <p>Companies which invest in related companies engaged in approved food production projects.</p> <p>Conditions:</p> <p>(a) Investing company must invest at least 70% directly in the related company undertaking the food production project;</p> <p>(b) Approved food production projects mean projects of planting of kenaf, vegetables, fruits, herbs or spices; aquaculture; rearing of cows, buffaloes, goats or sheep; or deep sea fishing; and</p> <p>(c) Related company has obtained an approval to undertake a new approved food production project under the Income Tax (Exemption) (No. 3) Order 2011</p>	<p>Tax deduction of an amount equivalent to the value of investment, subject to the following conditions:</p> <p>(a) expenditure incurred by the related company shall be taken as the value of investment;</p> <p>(b) deduction given is subject to the approval by the Ministry of Agriculture and Agro-based Industry; and</p> <p>(c) the investment shall not be disposed of within 5 years (if this happens, the sales consideration shall be taxable when received).</p> <p>Further, the deduction shall cease to be made to the investor company in the basis period in which the related company commences its exemption period upon having its first statutory income derived from the project.</p> <p>The applications for the above incentive are to be made to the Ministry of Agriculture and Agro-based Industry from 1 Oct 2005 to 31 Dec 2015 [Income Tax (Deduction for Investment in an Approved Food Production Project) Rules 2011]</p>



	<i>Eligibility</i>	<i>Tax Reliefs</i>
	<p>"Qualified persons" undertaking production of approved food production project, either a new project or an expansion project</p> <p>Conditions:</p> <ul style="list-style-type: none"> <li>(a) "Qualified person" means a company incorporated under the Companies Act 1965, an agro-based co-operative society, an Area Farmers' Association, a Federal Farmers' Association, a State Farmers' Association, an Area Fishermen's Association, a Federal Fishermen's Association, a State Fishermen's Association and sole proprietorship, partnership or association solely engaged in agriculture or fishery;</li> <li>(b) Approved food production projects means projects of planting of kenaf, vegetables, fruits, herbs or spices; aquaculture; rearing of cows, buffaloes, goats or sheep; or deep sea fishing; and</li> <li>(c) The new or expansion project should commence within 1 year from the approval date of the incentive</li> </ul>	<p>Tax exemption of 100% of statutory income for a new project for 10 years of assessment and 5 years of assessment for an expansion project commencing from the first year the qualified person derives statutory income.</p> <p>Losses incurred before or during the tax exemption period are allowed to be carried forward to post exemption period.</p> <p>The applications for the above incentive is to be made to the Ministry of Agriculture and Agro-based Industry from 1 Oct 2005 to 31 Dec 2015 [Income Tax (Exemption) (No. 3) Order 2011]</p>

## 18.5 TOURISM SECTOR

	<i>Eligibility</i>	<i>Tax Reliefs</i>
<b>23.</b>	<p><b>Pioneer Status (PS)</b></p> <p>Any company involved in the following tourism projects:</p> <ul style="list-style-type: none"> <li>(a) construction of medium and low cost hotels of up to 3-star category as certified by the Ministry of Tourism</li> <li>(b) construction of holiday camps and recreational projects including summer camps</li> <li>(c) construction of convention centres with halls capable of accommodating at least 3,000 participants</li> </ul> <p>Companies in the hotel and tourism industry and investing in 4- and 5-star hotel in Sabah and Sarawak</p>	<p>An exemption of 70% of statutory income for 5 years with the balance of 30% of the statutory income taxable at current corporate tax rate</p> <p>An exemption of 100% of statutory income for 5 years (for applications received by MIDA from 30 Aug 2008 to 31 Dec 2013 – 2009 Budget). The dateline for submission is extended to 31 Dec 2016 (2014 Budget)</p>

	<i>Eligibility</i>	<i>Tax Reliefs</i>
	Companies in the hotel and tourism industry and investing in 4-star and 5-star hotels in Peninsular Malaysia	An exemption of 70% of statutory income for 5 years (for applications received by MIDA from 8 Oct 2011 to 31 Dec 2013 – 2012 Budget). The dateline for submission is extended to 31 Dec 2016 (2014 Budget)
	Companies in the hotel and tourism industry and investing in expansion, modernisation and renovation	Another round of PS Applicable to all hotels (registered with the Ministry of Tourism and subject to certain conditions) regardless of the star-rating of the hotels (2004 Budget)
<b>24.</b>	<b>Investment Tax Allowance (ITA)</b> Any company involved in the following tourism projects: (a) construction of medium and low cost hotels of up to 3-star category as certified by the Ministry of Tourism (b) construction of holiday camps and recreational projects including summer camps (c) construction of convention centres with halls capable of accommodating at least 3,000 participants Companies in the hotel and tourism industry and investing in 4- and 5-star hotels in Sabah and Sarawak	Tax exemption of up to 70% of statutory income for each year of assessment from ITA computed at 60% on qualifying capital expenditure incurred within 5 years from the date which the approval is to take effect  Tax exemption of 100% of statutory income for each year of assessment from ITA computed at 100% on qualifying capital expenditure incurred within 5 years from the date which the approval is to take effect (for applications received by MIDA from 30 Aug 2008 to 31 Dec 2013 – 2009 Budget). The dateline for submission is extended to 31 Dec 2016 (2014 Budget)
	Companies in the hotel and tourism industry and investing in 4-star and 5-star hotels in Peninsular Malaysia	Tax exemption of 70% of statutory income for each year of assessment from ITA computed at 60% on qualifying capital expenditure incurred within 5 years from the date which the approval is to take effect (for applications received by MIDA from 8 Oct 2011 to 31 Dec 2013 – 2012 Budget). The dateline for submission is extended to 31 Dec 2016 (2014 Budget)
	Companies in the hotel and tourism industry and investing in expansion, modernisation and renovation	Another round of ITA Applicable to all hotels (registered with the Ministry of Tourism and subject to certain conditions) regardless of the star-rating of the hotels (2004 Budget)
<b>25.</b>	<b>Industrial building allowance</b> Companies which incur qualifying capital expenditure on a hotel building including expenditure on extension and modernisation of existing hotel building (hotel must be registered with the Ministry of Tourism) Airport and motor racing circuit are treated as industrial buildings effective Y/A 2001	Initial allowance of 10% and annual allowance of 3% on both constructed or purchased buildings  10% annual allowance will be given on building for accommodation for non-managerial, non-administrative and non-clerical employees

	<i>Eligibility</i>	<i>Tax Reliefs</i>
26.	<b>Overseas promotion expenses</b>	Double deduction of overseas promotion expenses [Income Tax (Deduction for Overseas Expenses for Promotion of Tourism) Rules 1991; and Income Tax (Deduction for Overseas Expenses for Promotion of Tourism) (Amendment) Rules 2003]
27.	<b>Promotion of domestic tourism</b>  Tour operators organising tour packages to Malaysia which are participated by not less than 750 inbound tourists per year  Tour operators organising domestic tour packages within Malaysia which are participated by not less than 1,500 local tourists per year	Tax exemption on 100% of statutory income for a period of 3 years from Y/A 2013 to Y/A 2015 [Income Tax (Exemption) (No. 2) Order 2013]  Tax exemption on 100% of statutory income for a period of 3 years from Y/A 2013 to Y/A 2015 [Income Tax (Exemption) (No. 11) Order 2012]
28.	<b>Promotion of car or motor races</b> Any promoter of car or motorcycle races who organises races of international standard held in Malaysia	Tax exemption on 50% of statutory income of promoters [Income Tax (Exemption) (No. 54) Order 2000]
29.	<b>Income tax exemption</b> Companies providing chartering services of luxury yachts	Income tax exemption of 100% for a period of 5 years [(Income Tax (Exemption) (No. 23) Order 2002]
30.	<b>Exemption of excise duty</b> Car rental operators	Excise duty exemption on purchase of national car  50% excise duty exemption on purchase of locally assembled 4-wheel drive vehicle (2007 Budget)

## 18.6 RESEARCH AND DEVELOPMENT (R&D) SECTOR

	<i>Eligibility</i>	<i>Tax Reliefs</i>
31.	<b>Pioneer Status (PS)</b>  Any contract R&D company participating in an activity relating to R&D and provides R&D services in Malaysia only to companies other than related companies  Any subsidiary company that undertakes the commercialisation of resource-based R&D findings  Any subsidiary company that undertakes the commercialisation of non-resource based R&D findings for public research institute or public institute of higher learning in Malaysia.	Tax exemption of 100% of statutory income for 5 years  Tax exemption of 100% of statutory income for 10 years (2005 Budget).  Tax exemption on 100% of statutory income for a period of 10 years of assessment (for applications received by MIDA from 29 Sep 2012 to 31 Dec 2017) [Income Tax (Exemption) (No. 13) Order 2013]

	Eligibility	Tax Reliefs
<b>32.</b>	<b>Investment Tax Allowance (ITA)</b>  Any contract R&D company participating in an activity relating to R&D and provides R&D services in Malaysia only to companies other than related companies  Any R&D company participating in an activity relating to R&D and provides R&D services in Malaysia to its related company or to any other company  Any company participating in an activity relating to in-house R&D within the company in Malaysia for the purposes of its own business	  Tax exemption of up to 70% of statutory income for each year of assessment from ITA computed at 100% on qualifying capital expenditure incurred within 10 years from the date which the approval is to take effect  Tax exemption of up to 70% of statutory income for each year of assessment from ITA computed at 100% on qualifying capital expenditure incurred within 10 years from the date which the approval is to take effect  Tax exemption of up to 70% of statutory income for each year of assessment from ITA computed at 50% on research capital expenditure incurred within 10 years from the date from which approval is to take effect
<b>33.</b>	<b>Double deduction of expenses</b> Research expenditure approved by the Inland Revenue Board  Cash contribution/payment made to approved R&D companies/institutes for use of the services	  Double deduction of expenses incurred [S. 34A(1)]  Double deduction of expenses for donor or user of services (S. 34B)
<b>34.</b>	Pioneer company which incurs qualifying research expenditure for an approved project during the tax relief period	Double deduction on approved R&D expenditure incurred during pioneer period is allowed to be accumulated and claimed in post pioneer period [S. 34A(4A)]
<b>35.</b>	R&D companies granted either PS/ITA reinvested in R&D activities in post pioneer period	Second round of PS/ITA incentives (Economic Stimulus Package 2003)
<b>36.</b>	Companies resident in Malaysia that invest in a subsidiary (at least 70% equity) that undertakes the commercialisation of resource-based R&D findings.	The value of investment in subsidiary shall be given as a deduction in ascertaining the adjusted income of the company up to the year of assessment prior to the commencement of the commercialisation of the project, i.e. tax relief period of related company [Income Tax (Deduction for Investment in a Project of Commercialisation of Research and Development Findings) Rules 2005]
<b>37.</b>	Companies resident in Malaysia that invest in subsidiary (at least 70% equity) that undertakes the commercialisation of non-resource based R&D findings for public research institute or public institute of higher learning in Malaysia.	Tax deduction equivalent to the value of investment made in the subsidiary company that undertakes commercialisation of R&D findings provided the investment shall not be disposed of within 5 years from the date of investment (for applications received by MIDA from 29 Sep 2012 to 31 Dec 2017).

	<i>Eligibility</i>	<i>Tax Reliefs</i>
	The non-resource based products refer to electrical and electronics, medical devices, technical or functional textiles, machinery and equipment, metals, and transport equipment.	[Income Tax (Deduction for Investment in a Project of Commercialisation of Research and Development Findings) Rules 2013]
<b>38.</b>	Companies which incur qualifying expenditure on buildings used for approved research	Industrial building allowance of 10% (initial) and 3% (annual)

## 18.7 EDUCATION AND HEALTHCARE SECTOR

	<i>Eligibility</i>	<i>Tax Reliefs</i>
<b>39.</b>	<p><b>Investment Tax Allowance (ITA)</b></p> <p>Any technical or vocational training company which provides technical or vocational training in Malaysia</p> <p>Any private institutions of higher learning (IPTs) which provides courses in the field of science and existing IPTs in the field of science undertaking additional investment for upgrading of equipment or expanding capacity</p> <p>Qualifying science courses (to be reviewed from time to time):</p> <ul style="list-style-type: none"> <li>(i) Biotechnology</li> <li>(ii) Medical and health science</li> <li>(iii) Molecular biology</li> <li>(iv) Material sciences and technology</li> <li>(v) Food science and technology</li> </ul> <p>Operators of profit oriented international schools registered with the Ministry of Education</p> <p>Operators of profit oriented private schools registered with the Ministry of Education</p>	<p>Tax exemption of up to 70% of the statutory income for a year of assessment from ITA computed at 100% on qualifying capital expenditure incurred within 10 years from the date which the approval is to take effect</p> <p>Tax exemption of up to 70% of the statutory income for a year of assessment from ITA computed at 100% on qualifying capital expenditure incurred within 10 years from the date which the approval is to take effect (2006 Budget)</p> <p>Tax exemption of up to 70% of the statutory income for a year of assessment from ITA computed at 100% on qualifying capital expenditure incurred within a period of 5 years (for applications received by MIDA from 14 Jul 2010 to 31 Dec 2015) [Income Tax (Exemption) (No. 9) Order 2012]</p> <p>Tax exemption of up to 70% of the statutory income for a year of assessment from ITA computed at 100% on qualifying capital expenditure incurred within a period of 5 years (for applications received by MIDA from 8 Oct 2011 to 31 Dec 2015) [Income Tax (Exemption) (No. 7) Order 2012]</p>
<b>40.</b>	<p><b>Industrial building allowance</b></p> <p>Any person who owns buildings used for industrial, technical or vocational training approved by the Minister</p>	Annual allowance of 10% on qualifying expenditure incurred

	Eligibility	Tax Reliefs
	Any company which owns buildings used for a school or an educational institution approved by the Minister of Education or any relevant authority	Annual allowance of 10% on qualifying expenditure incurred
	Operators of new and existing private child care centres registered with the Department of Social Welfare which construct or purchase the buildings used as childcare centres	Annual allowance of 10% on qualifying expenditure incurred w.e.f. Y/A 2013 [Income Tax (Industrial Building Allowance) (Child Care Centre) Rules 2013]
	Operators of new and existing kindergartens registered with the Ministry of Education which construct or purchase the buildings used as kindergartens	Annual allowance of 10% on qualifying expenditure incurred w.e.f. Y/A 2013 [Income Tax (Industrial Building Allowance) (Kindergarten) Rules 2013]
<b>41.</b>	<b>Investment Allowance (IA)</b>	
	Any private hospital which incurs qualifying capital expenditure in providing special wards to lower income earners	Tax exemption from IA computed at 60% on qualifying capital expenditure (1998 Budget)
<b>42.</b>	<b>Promotion of exports</b>	
	Companies involved in the export of education services	Tax exemption of up to 70% of statutory income on 50% of the value of increased exports [Income Tax Exemption (No. 9) Order 2002]
	Companies incurring export promotion expenses	Double deduction for export promotional expenses [Income Tax (Deductions for Promotion of Export of Higher Education) Rules 2001 and Income Tax (Deductions for Promotion of Export of Higher Education) (Amendment) Rules 2003]
	Profit oriented private schools and international schools registered with the Ministry of Education incurring overseas promotional expenses	Double deduction of overseas promotional expenses [Income Tax (Deduction for Promotion of International or Private School) Rules 2012]
	Companies exporting private health care and private education services	Tax exemption on 70% of statutory income equivalent to 50% of the value of increased exports [Income Tax (Exemption) (No. 9) Order 2002]
	Companies involved in the export of private healthcare services to "foreign clients"	Tax exemption up to 70% of statutory income equivalent to 100% of the value of increased exports for private healthcare service providers offering services to "foreign clients" which are provided in Malaysia from Y/As 2010 to 2014 [Income Tax (Exemption) (No. 6) Order 2009]
	"Foreign clients" for the purposes of this incentive shall exclude: <ul style="list-style-type: none"> <li>(i) a non-Malaysian citizen that participates in Malaysia My Second Home Programme and his dependants;</li> <li>(ii) a non-Malaysian citizen holding a Malaysian student pass and his dependants;</li> </ul>	

	<i>Eligibility</i>	<i>Tax Reliefs</i>
	<p>(iii) a non-Malaysian citizen holding a Malaysian work permit and his dependants; or</p> <p>(iv) a non-resident Malaysian citizen living abroad and his dependants</p>	
<b>43.</b>	<p><b>Deduction of expenses</b></p> <p>IPTS which incur expenses on the development of new courses and compliance with regulatory requirements in introducing new courses</p>	The expenses on development of new courses and on regulatory compliance are allowed to be deductible over a period of 3 years [Income Tax (Deduction for Expenditure Incurred for the Development and Compliance of New Courses by Private Higher Education Institutions) Rules 2006]
<b>44.</b>	<p><b>Exemption of import duty, sales tax and excise duty</b></p> <p>IPTS undertaking vocational and technical training</p> <p>Profit oriented private schools and international schools registered with the Ministry of Education</p>	<p>Exemption on import duty, sales tax and excise duty on all educational equipment</p> <p>Exemption on import duty and sales tax on all educational equipment (for applications received by MIDA from 8 Oct 2011 onwards – 2012 Budget)</p>
<b>45.</b>	<p><b>Exemption of tax on royalty income</b></p> <p>Non-resident franchisors providing franchised education programmes approved by the Ministry of Education</p>	Tax exemption on royalty income [Income Tax (Exemption) (No. 16) Order 2002]
<b>46.</b>	<p><b>Exemption of income tax</b></p> <p>A qualifying person (i.e. a body of persons, a trust body or a company limited by guarantee) managing a non-profit oriented school registered under the Education Act 1996, approved by the Ministry of Education</p> <p>Operators of profit oriented private schools and international schools registered with the Ministry of Education</p>	<p>100% tax exemption on all income received by the qualifying person from the management of a non-profit oriented school [Income Tax (Exemption) (No. 5) Order 2008]</p> <p>70% tax exemption on statutory business income for a period of 5 years (for applications received by MIDA from 8 Oct 2011 to 31 Dec 2015) [Income Tax (Exemption) (No. 8) Order 2012]</p>
<b>47.</b>	<p><b>Exemption of income tax</b></p> <p>A Malaysian resident company undertaking a qualifying project i.e. a new private healthcare facilities or expansion, modernization or refurbishment of existing private healthcare facilities approved by the Ministry of Health and verified by the Malaysian Healthcare Travel Council</p>	Tax exemption of up to 100% of the statutory income computed at 100% of the amount of qualifying capital expenditure incurred within 5 years from the date of commencement determined by MIDA (for applications received by MIDA from 1 Jan 2010 to 31 Dec 2014) [Income Tax (Exemption) Order 2012]

	<i>Eligibility</i>	<i>Tax Reliefs</i>
<b>48.</b>	<b>Exemption of income tax</b> Operators of new and existing private child care centres registered with the Department of Social Welfare	Tax exemption of 100% of statutory income for a period of 5 years w.e.f. Y/A 2013 [Income Tax (Exemption) Order 2013]
<b>49.</b>	<b>Exemption of income tax</b> Operators of new and existing kindergartens registered with the Ministry of Education	Tax exemption of 100% of statutory income for 5 years w.e.f. Y/A 2013 [Income Tax (Exemption) (No. 3) Order 2013]

## 18.8 COMMUNICATIONS, UTILITIES AND TRANSPORTATION AND GREEN TECHNOLOGY SECTORS

	<i>Eligibility</i>	<i>Tax Reliefs</i>
<b>50.</b>	<b>Exemption of statutory income</b> Companies undertaking Approved Service Projects (ASPs) of national and strategic importance in the service sector in relation to transportation, communication, utilities or any other sub-sector approved by the Minister Companies undertaking ASPs in Sabah, Sarawak and the Eastern Corridor of Peninsular Malaysia Companies undertaking ASPs in other areas in Malaysia  Companies undertaking generation of energy using biomass, hydropower (not exceeding 10 megawatts) and solar power. A resident person carrying on the business of transporting passengers or cargoes by sea on a Malaysian ship or letting out on charter a Malaysian ship owned by him on a voyage or time charter basis  Resident companies issued with tradeable Certified Emission Reduction (CER) certificates for undertaking investment in reduction of greenhouse gas (GHG) emission from an activity of Clean Development Mechanism (CDM) project approved by the Ministry of Natural Resources and Environment Companies that use green technology services and system in their business	Exemption of income tax on 100% of statutory income for 10 years  Exemption of income tax on 85% of statutory income for 5 years  Exemption of income tax on 70% of statutory income for 5 years  Unabsorbed capital allowances and losses are not allowed to be carried forward to post exemption period Exemption of income tax of 100% of statutory income for 10 years for applications received by MIDA up to 31 Dec 2015 (2011 Budget) Exemption of statutory income [S. 54A, ITA 1967 effective up to Y/A 2011; Income Tax (Exemption) (No. 2) Order 2012, w.e.f. Y/A 2012 and 2013]  Exemption of income derived from trading of CER certificates from Y/A 2008 to 2012 [Income Tax (Exemption) (No. 8) Order 2008 and Income Tax (Exemption) (No. 2) Order 2010]  Tax exemption be given (2014 Budget)



	Eligibility	Tax Reliefs
<b>51.</b>	<b>Investment Allowance (IA)</b>  Companies undertaking ASPs in the service sector in relation to transportation, communications, utilities or any other sub-sector approved by the Minister  Providers of last mile broadband network facilities	 Tax exemption of up to 70% of the statutory income for a year of assessment from IA computed at 60% on qualifying capital expenditure incurred within 5 years from the date which the approval is to take effect  Tax exemption of up to 70% of the statutory income for a year of assessment from IA computed at 100% on qualifying capital expenditure incurred within 5 years for applications made to the Ministry of Finance from 8 Sep 2007 to 31 Dec 2012 (2011 Budget)
<b>52.</b>	<b>Industrial building allowance</b>  Companies undertaking ASPs incurring capital expenditure on construction or purchase of a building which is used for the purpose of the provision of services and modernisation of operations  Airports are treated as industrial buildings	 An initial allowance of 10% and an annual allowance of 3% on constructed and purchased buildings  10% annual allowance for building used as living accommodation for non-managerial, non-administrative and non-clerical employees
<b>53.</b>	<b>Exemption of import duty and sales tax</b>  (a) Import of prime movers and trailers by hauliers which are not produced locally  (b) Import of prime movers and trailers by hauliers produced locally (2001 Budget)  (c) Import of machinery and equipment for the generation of energy using biomass which are: (i) Not produced locally  (ii) Produced locally (2001 Budget)  (d) Import of broadband equipment and consumer access devices for the provision of broadband services which are not produced locally  (e) Franchise holders of imported hybrid and electric cars and motorcycles	 Exemption of import duty and sales tax  Exemption of sales tax only  Exemption of import duty and sales tax for applications received by MIDA until 31 Dec 2015 (2011 Budget) Exemption of sales tax only for applications received by MIDA until 31 Dec 2015 (2011 Budget) Exemption of import duty and sales tax for applications received by MIDA from 8 Sep 2007 to 31 Dec 2012 (2011 Budget)  Exemption of 100% import duty and 100% excise duty [applications received by the Minister of Finance from 30 Aug 2008 to 31 Dec 2013 (2012 Budget)]

	<i>Eligibility</i>	<i>Tax Reliefs</i>
	<p>(f) Import of solar photovoltaic system equipment (for usage by third parties) by importers including photovoltaic service providers approved by the Energy Commission.</p> <p>(g) Purchase of solar heating system equipment from local manufacturers.</p> <p>(h) Individual owners of budget taxis and hire cars</p>	<p>Exemption of import duty and sales tax for applications received by MIDA from 30 Aug 2008 to 31 Dec 2012 (2011 Budget)</p> <p>Exemption of sales tax for applications received by MIDA from 30 Aug 2008 to 31 Dec 2012 (2011 Budget)</p> <p>Exemption of sales tax on purchase of new locally manufactured cars used as budget taxis or hire cars from 8 Oct 2011 onwards (2012 Budget)</p> <p>Exemption of excise duty and sales tax on sale or change of ownership of budget taxis and hire cars after 7 years of registration from 8 Oct 2011 onwards (2012 Budget)</p>
<b>54.</b>	<p><b>Investment Tax Allowance (ITA)</b></p> <p>Companies undertaking generation of energy using biomass, hydropower (not exceeding 10 megawatts) and solar power</p> <p>Companies that acquire green technology equipment</p>	<p>Tax exemption of 100% of statutory income for a year of assessment computed at 100% on capital expenditure incurred within 5 years from the date on which approval is to take effect for applications received by MIDA up to 31 Dec 2015 (2011 Budget)</p> <p>Tax incentive in the form of Investment Tax Allowance be given (2014 Budget)</p>
<b>55.</b>	<p><b>Incentive for buildings awarded the Green Building Index (GBI) certificate by the Board of Architects Malaysia</b></p> <p><b>(a) Exemption of income</b></p> <p>Owners of buildings which incurred additional qualifying expenditure in relation to construction of a new building, alteration, renovation, extension or improvement of an existing building, or plant or machinery for the purposes of obtaining GBI certificates as certified by the Board of Architects Malaysia in respect of:</p> <ul style="list-style-type: none"> <li>– any building constructed, owned and used by the person for the purpose of his business; or</li> <li>– any building constructed under a privatization project and private financing initiatives on a build-lease-transfer basis, build-lease-maintain-transfer basis or other similar arrangement with the Government</li> </ul>	<p>Tax exemption of up to 100% of the statutory income computed at 100% of the amount of qualifying capital expenditure incurred (effective from Y/A 2009 for GBI certificates issued from 24 Oct 2009 to 31 Dec 2014) [Income Tax (Exemption) (No. 5) Order 2011]</p>

	<i>Eligibility</i>	<i>Tax Reliefs</i>
	<b>(b) Exemption of stamp duty</b> Buyers of buildings (including residential properties) awarded with GBI certificates bought from real property developers	Stamp duty exemption on the instruments of transfer of ownership of such buildings. The exemption is given only once to the first owner of the building and is calculated on the additional cost incurred to obtain the GBI certificate (effective for sales and purchase agreements executed from 24 Oct 2009 until 31 Dec 2014) [Stamp Duty (Exemption) Order 2009]

## 18.9 HIGH TECHNOLOGY AND MULTIMEDIA SECTOR

	<i>Eligibility</i>	<i>Tax Reliefs</i>
56.	<b>Pioneer Status (PS)</b> New or existing MSC status multimedia companies operating in Cybercities approved by the Multimedia Development Corporation (MDeC)	Tax exemption of 100% of statutory income for a period of 10 years. In the case of an existing company, tax exemption applies to the related additional statutory income
57.	<b>Investment Tax Allowance (ITA)</b> New or existing MSC status multimedia companies operating in Cybercities approved by the Multimedia Development Corporation (MDeC)  Multimedia faculties (providing courses in media, computer, information technology, telecommunications, communications and contents relating to data, voice, graphics and images) in institutions of higher learning operating outside the Cybercities	Tax exemption of up to 100% of statutory income for a year of assessment from ITA computed at 100% of qualifying capital expenditure incurred  Tax exemption of up to 100% of statutory income for a year of assessment from ITA computed at 100% of qualifying capital expenditure incurred (1998 Budget)
58.	<b>Industrial building allowance</b> New buildings to be occupied by MSC status companies in Cyberjaya are treated as industrial building	10% annual allowance on qualifying expenditure incurred by owners of the buildings [Income Tax (Industrial Building Allowance) (Approved Multimedia Super Corridor (MSC) Status Company) Rules 2006]

## 18.10 SERVICE SECTOR

	<i>Eligibility</i>	<i>Tax Reliefs</i>
<b>59.</b>	<p><b>Incentive for approved investments overseas</b></p> <p>Company must be of Malaysian origin, with at least 70% of its equity owned by Malaysians</p> <p>The Malaysian company holds at least 30% in the overseas company</p> <p>The Board of Directors reflects the equity structure of the overseas company</p> <p>The project is either undertaken to overcome market access problem and will utilise Malaysian raw materials or components or to supply inputs required by domestic industry in Malaysia or to contribute to "South-South Co-operation"</p>	<p>Income from the investment project overseas and remitted to Malaysia be abated by 70% (1994 Budget)</p> <p>Pre-operating expenses allowed as a deduction</p> <p>Note: The exemption on the income from the overseas investment above is now obsolete in view of the exemption on foreign sourced income available under Para 28, Sch 6 of ITA 1967.</p>
<b>60.</b>	<p><b>Exemption of statutory income</b></p> <p>Companies providing cold room and refrigerated truck facilities (i.e. cold chain facilities) and related services for perishable food products</p> <p>Existing companies which reinvest in cold chain facilities and services for perishable agricultural produce</p> <p>Companies providing energy conservation services</p> <p>Companies providing manufacturing related services in total chemical management system, integrated logistics, marketing support and utility services</p> <p>Companies investing in a new testing laboratory for testing medical devices</p>	<p>PS with tax exemption on 70% (100% for promoted areas) of statutory income for a period of 5 years [Promotion of Investments (Promoted Activities and Promoted Products) (Amendment) Order 2001]</p> <p>PS with tax exemption of 70% (100% for promoted areas) on increased statutory income arising from reinvestment for a period of 5 years (2004 Budget)</p> <p>Exemption of income tax on 100% (increased to 100% – 2008 Budget) of statutory income for 5 years (10 years – 2008 Budget) for applications received by MIDA until 31 Dec 2015 (2011 Budget)</p> <p>An exemption of 70% of statutory income for 5 years [Income Tax (Exemption) (No. 36) Order 2005]</p> <p>Tax exemption of 100% of statutory income for 5 years for applications received by MIDA from 8 Sep 2007 to 31 Dec 2012 (2008 Budget)</p>
<b>61.</b>	<p><b>Investment Tax Allowance (ITA)</b></p> <p>Companies providing cold room and refrigerated truck facilities (i.e. cold chain facilities) and related services for perishable food products</p>	<p>Tax exemption of up to 70% (100% for promoted areas) of statutory income for each year of assessment from ITA computed at 60% of qualifying capital expenditure incurred within 5 years from the date which the approval is to take effect</p>

	<i>Eligibility</i>	<i>Tax Reliefs</i>
	Companies providing energy conservation services	Tax exemption of up to 100% of the statutory income for a year of assessment from ITA computed at 100% of capital expenditure incurred within a period of 5 years  The application period is until 31 Dec 2015 (2011 Budget)
	Existing companies which reinvest in cold chain facilities and services for perishable agricultural produce	Tax exemption of up to 70% (100% for promoted areas) of statutory income for each year of assessment from ITA computed at 60% (100% for promoted areas) of additional qualifying capital expenditure incurred within 5 years from the date which the approval is to take effect (2004 Budget)
	Companies investing in a new laboratory for testing medical devices	Tax exemption of up to 100% of the statutory income for each year of assessment from ITA computed at 60% on qualifying capital expenditure incurred within 5 years from the date which approval is to take effect [applications received by MIDA from 8 Sep 2007 to 31 Dec 2012 (2008 Budget)]
	Companies upgrading an existing testing laboratory for testing medical devices	Tax exemption of up to 100% of the statutory income for each year of assessment from ITA computed at 60% on qualifying capital expenditure incurred within 5 years from the date which approval is to take effect [applications received by MIDA from 8 Sep 2007 to 31 Dec 2012 (2008 Budget)]
<b>62.</b>	<b>Promotion of exports</b>	
	Companies involved in the export of the following services: (i) Legal; (ii) Accounting; (iii) Architecture; (iv) Marketing; (v) Business consultancy; (vi) Office services; (vii) Construction management; (viii) Building management; (ix) Plantation management; (x) Private healthcare; (xi) Private education; (xii) Publishing services;	Tax exemption on 70% of statutory income equivalent to 50% of the value of increased exports [Income Tax (Exemption) (No. 9) Order 2002]

	Eligibility	Tax Reliefs
	<p>(xiii) ICT services;  (xiv) Engineering services;  (xv) Printing services; and  (xvi) Local franchise services</p> <p>Companies which have incurred expenses for promotion of export of services</p> <p>Companies which have been awarded the Export Excellence Award (Services) or the Brand Excellence Award (given by MITI)</p>	<p>Double deduction of expenses for promoting the export of services [Income Tax (Deduction for Promotion of Export of Services) Rules 2002; Income Tax (Deduction for Promotion of Export of Services) (Amendment) Rules 2003; Income Tax (Deduction for Promotion of Export of Services) (Amendment) Rules 2005 and Income Tax (Deduction for Promotion of Export of Services) (Amendment) (No. 2) Rules 2005; Income Tax (Deduction for Promotion of Exports of Professional Services) Rules 2003 and Income Tax (Deduction for Promotion of Export of Professional Services) (Amendment) Rules 2005]</p> <p>Tax exemption of 100% of statutory income on increased export value (2008 Budget)</p>
<b>63.</b>	<b>Exemption of import duty and sales tax</b>	
	<p>(a) Import of machinery used in projects providing energy conservation services which are not produced locally</p> <p>(b) Import of machinery used in projects providing energy conservation services which are produced locally</p> <p>(c) Import of equipment for projects on manufacturing related services</p> <p>(d) Importers (including authorised agents approved by the Energy Commission) of energy efficiency equipment (e.g. high efficiency motors and insulation materials)</p> <p>(e) Purchasers of locally manufactured energy efficient consumer goods (e.g. refrigerator, air conditioner, lightings, fan and television)</p>	<p>Exemption of import duty and sales tax for applications received by MIDA until 31 Dec 2010. The closing date is extended to 31 Dec 2015 (2011 Budget)</p> <p>Exemption of sales tax only for applications received by MIDA until 31 Dec 2010. The closing date is extended to 31 Dec 2015 (2011 Budget)</p> <p>Exemption of import duty and sales tax</p> <p>Exemption of import duty and sales tax for applications received by MIDA from 30 Aug 2008 until 31 Dec 2010 (2009 Budget). The closing date is extended to 31 Dec 2012 (2011 Budget)</p> <p>Exemption of sales tax for applications received by MIDA from 30 Aug 2008 until 31 Dec 2010. The closing date is extended to 31 Dec 2012 (2011 Budget)</p>
<b>64.</b>	<b>Deduction on investment in venture company</b>	
	A company or a resident individual (with a business source) which makes an investment in a venture company	The amount on investment shall be given as a deduction in ascertaining the adjusted income of the company or individual

	Eligibility	Tax Reliefs
	<p>Conditions:</p> <ul style="list-style-type: none"> <li>(a) The investment in the venture company is in the form of shares which at the time of acquisition are not listed on a stock exchange</li> <li>(b) The investment is made for financing or funding at seed-capital, start-up or early stage</li> <li>(c) The venture company is not a related company of the venture capital company at the point of initial investment</li> <li>(d) Where early stage financing is provided to a venture company which is involved in technology-based activities not listed under the MESDAQ Market, the investment must be made from the seed capital or start-up stage and the early stage financing is provided as: <ul style="list-style-type: none"> <li>(i) additional capital expenditure or additional working capital to increase production capacity, marketing or product development; or</li> <li>(ii) an interim financing for the purpose of being listed on the official list of a stock exchange</li> </ul> </li> <li>(e) The investment is made at least 2 years prior to the date of its disposal</li> </ul>	Income Tax (Deduction for Investment in a Venture Company) Rules 2005
<b>65.</b>	<p><b>Venture Capital Companies (VCCs)</b></p> <p>Exemption from tax</p> <ul style="list-style-type: none"> <li>(a) A VCC which has at least 50% of the funds invested in venture companies in the form of seed capital or at least 70% of the funds invested in venture companies in start-up or early stage financing The funds invested in the venture company have been defined to exclude cash, fixed deposits and interest earned</li> <li>(b) A VCC which has at least 30% of the funds invested in venture companies in the form of seed capital, start-up or early stage financing or its combination</li> </ul>	<p>Income tax exemption on statutory income from all sources, other than interest income arising from savings or fixed deposits and profits from <i>syariah</i>-based deposits for 10 years or the life span of the fund, whichever is the lesser [Income Tax (Exemption) (No. 11) Order 2005 and Income Tax (Exemption) (Amendment) (No.2) Order 2006]</p> <p>Income tax exemption on statutory income from all sources, other than interest income arising from savings or fixed deposits and profits from <i>syariah</i>-based deposits for 5 years or the life span of the fund, whichever is the lesser (applications received by the Securities Commission from 30 Aug 2008 to</p>

	Eligibility	Tax Reliefs
	<p>Conditions:</p> <p>(a) Venture capital company should not invest in a related company at the point of the first investment</p> <p>(b) The venture company is resident in Malaysia</p> <p>(c) The venture company utilises the financing at seed-capital, start-up or early stage for –</p> <p>(i) Activities or products promoted under the PIA 1986</p> <p>(ii) Technology-based activities listed on MESDAQ</p> <p>(iii) Industrial Research and Development Grant Scheme</p> <p>(iv) Multimedia Super Corridor Research and Development Grant Scheme</p> <p>(d) Where early stage financing is provided to a venture company which is involved in technology-based activities not listed under the MESDAQ Market, the investment must be made from the seed capital or start-up stage and the early stage financing provided as:</p> <p>(i) additional capital expenditure or additional working capital to increase production capacity, marketing or product development; or</p> <p>(ii) an interim financing for the purpose of being listed on the official list of a stock exchange</p>	<p>31 Dec 2013) [Income Tax (Exemption) (No. 11) Order 2005 and Income Tax (Exemption) (Amendment) Order 2009]</p> <p>Losses from the disposal of shares in a venture company within the exempt period can be carried forward to post-exempt period</p>
66.	<b>Venture Capital Management Companies (VCMC) registered with the Securities Commission and had obtained a certification from the Securities Commission</b>	Exemption from tax on statutory income from the share of profits from a venture capital company on any investment made by the venture capital company as stipulated in the agreement entered into between them [Income Tax (Exemption) (No. 12) Order 2005]
67.	<b>Operational Headquarters (OHQ)</b>  Conditions:  (a) Incorporated under the Malaysian Companies Act 1965	(a) Income tax exemption on statutory income from all income from the provision of qualifying services and a part of the income from the provision of services in



	<i>Eligibility</i>	<i>Tax Reliefs</i>
	<ul style="list-style-type: none"> <li>(b) Minimum paid up capital of RM0.5 million</li> <li>(c) Minimum total business spending of RM1.5 million per year</li> <li>(d) Carry out a minimum of 3 qualifying activities</li> <li>(e) Serve a minimum of 3 related companies outside Malaysia</li> <li>(f) Appoint a minimum of 3 senior professional or management personnel</li> <li>(g) A sizeable network of companies outside Malaysia which includes the parent company or its head office and related companies</li> <li>(h) A well-established network of companies with significant and substantial employment of qualified professionals, technical and supporting personnel</li> </ul>	<p>Malaysia (not exceeding 20%) for 10 years commencing from a year of assessment in which the date of approval of such OHQ falls in the basis period of that year of assessment. [Income Tax (Exemption) (No. 40) Order 2005]</p> <ul style="list-style-type: none"> <li>(b) Losses (current year as well as unabsorbed losses) in respect of the provision of qualifying services shall be disregarded from the source consisting of the provision of services in Malaysia and other businesses [Income Tax (Exemption) (No. 40) Order 2005]</li> <li>(c) Expatriates working in an OHQ are taxed only on that portion of their chargeable income attributable to the number of days that they are in the country [Income Tax (Exemption) (No. 60) Order 2003]</li> </ul>
<b>68.</b>	<p><b>International Procurement Centre (IPC)</b></p> <p><b>Conditions:</b></p> <p><b>A. Incentives</b></p> <ul style="list-style-type: none"> <li>(a) Make procurement from and sale to its related and unrelated companies within or outside Malaysia at market price</li> <li>(b) Minimum annual sales turnover of RM100 million with export sales of at least RM80 million (out of which direct export sales must be at least RM50 million) in respect of the qualifying activities</li> </ul> <p>Not to sell more than 20% of its products to local market [local sales include sale to free zones (free industrial zone or free commercial zone) or licensed manufacturing warehouse (LMW)].</p> <p><b>B. Condition</b></p> <ul style="list-style-type: none"> <li>(a) Minimum paid up capital of RM0.5 million</li> <li>(b) Minimum total operating expenditure of RM1.5 million per year</li> <li>(c) Minimum annual sales turnover of RM50 million by the third year</li> <li>(d) Incremental usage of Malaysian ports/airports</li> <li>(e) Drop shipment permitted up to 30% of annual sales turnover</li> </ul>	<p>Tax exemption on the following statutory income for 10 years:</p> <ul style="list-style-type: none"> <li>(a) all income from the qualifying activities in respect of its direct export sales;</li> <li>(b) a part of the income from the qualifying activities in relation to its drop shipment export sales; and</li> <li>(c) a part of the income from the qualifying activities in relation to its local sales</li> </ul> <p>Losses (current year as well as unabsorbed losses) in respect of the provision of qualifying activities shall be disregarded from the source consisting of other businesses (i.e. non-qualifying activities) [Income Tax (Exemption) (No. 42) Order 2005]</p> <p>Expatriates working in an IPC are taxed only on that portion of their chargeable income attributable to the number of days that they are in the country [Income Tax (Exemption) (No. 2) Order 2008]</p>

	<i>Eligibility</i>	<i>Tax Reliefs</i>
69.	<b>Regional Distribution Centre (RDC)</b> Same conditions as IPC except that the RDC is allowed to deal with its own brand of goods only and must be located in free zones (free industrial zones or free commercial zones) or licensed warehouses (public and private) or licensed manufacturing warehouses	Same tax incentives as IPC
70.	<b>Industrial Building Allowance</b> Old Folks Care Centre is treated as industrial building	10% annual allowance on qualifying expenditure incurred [Income Tax (Industrial Building Allowance) (Old Folks Care Centre) Rules 2003]
71.	<b>Training programs for nursing, allied healthcare, aircraft maintenance engineering and information technology and communication (ICT), electronics and life sciences</b>  <b>(a) Exemption of income</b> Non-resident persons who conduct approved training for the purposes of upgrading and developing the technical skills of Malaysian employees under the following training programs: <ul style="list-style-type: none"> <li>– Post graduate course in ICT, electronics or life sciences;</li> <li>– Post basic course in nursing or allied healthcare; or</li> <li>– Aircraft maintenance engineering course</li> </ul> <b>(b) Double deduction of expenses</b> Employers incurring expenses on training their employees in the post basic courses in nursing and allied health care, aircraft maintenance engineering courses, and post graduate courses in ICT, electronics and life sciences	Tax exemption on income received by the non-residents from the approved technical training programs. In this regard, S. 109B of the ITA 1967 is not applicable on such income of the non-residents [Income Tax (Exemption) (No. 3) Order 2009]  Double deduction of training expenses incurred effective from Y/A 2009 to Y/A 2012 [Income Tax (Deduction for Cost of Training for Employees) Rules 2009]
72.	<b>Corporate advisors for capital market</b> Fees received by corporate advisors for structuring and listing of a foreign corporation or the listing of a foreign investment product on a stock exchange in Malaysia.  The corporate advisor shall be a member of the due diligence working group established under the "Guidelines on Due Diligence Conduct for Corporate Proposal" issued by the Securities	Income tax exemption on advisory fees received for 5 years from Y/A 2009 to Y/A 2013 [Income Tax (Exemption) (No. 11) Order 2008]

	Eligibility	Tax Reliefs
	<p>Commission and also fall within one of the following categories:</p> <ul style="list-style-type: none"> <li>(a) a holder of a Capital Market Services License granted under S. 61 of the Capital Markets and Services Act 2007;</li> <li>(b) a registered person under paragraph 76(1)(a) of the said Act who carries on the regulated activity of "Advising on corporate finance" as specified in Part 1 of Sch 4 of the said Act; and</li> <li>(c) a specified person under Sch 3 of the said Act</li> </ul>	
73.	<p><b>Treasury Management Centre (TMC)</b></p> <p>TMC is a centre that provides the following qualifying services to a group of related companies within or outside Malaysia:</p> <ul style="list-style-type: none"> <li>(a) Cash management services, which include maintaining cash pooling arrangement through a centralised account with licensed onshore bank.</li> <li>(b) Current account management services, which include: <ul style="list-style-type: none"> <li>(i) Managing account payables and receivables; and</li> <li>(ii) Maintaining inter-company offsetting arrangement.</li> </ul> </li> <li>(c) Financing and debt management services, which include: <ul style="list-style-type: none"> <li>(i) Arranging for competitive financing from surplus funds within the group or from financial institutions in and outside Malaysia and through the issuance of bonds in Ringgit or foreign currency; and</li> <li>(ii) Providing or arranging for financial and non-financial guarantee for its group of companies.</li> </ul> </li> <li>(d) Investment services, which include investing funds within the group of companies in domestic money market and in foreign currency assets onshore and offshore.</li> <li>(e) Financial risk management services, which include hedging of: <ul style="list-style-type: none"> <li>(i) Exchange rate risk;</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>(a) Tax exemption of 70% on the statutory income for 5 years derived from all income from its related companies outside Malaysia and a part of the income from the provision of services in Malaysia (not exceeding 20%) w.e.f. Y/A 2012 in respect of the following types of income: <ul style="list-style-type: none"> <li>(i) All fees income and management income from the provision of qualifying services;</li> <li>(ii) Interest income received from lending to related companies;</li> <li>(iii) Interest income and gains received from the placement of funds with licensed onshore banks or short term investments (onshore and offshore) as a part of managing surplus funds within the group of companies;</li> <li>(iv) Foreign exchange gains from managing risks for the group of companies, e.g. exchange rate risk, interest rate risk and commodity risk; and</li> <li>(v) Guarantee fees.</li> </ul> <p>[Income Tax (Exemption) (No. 5) Order 2012]</p> </li> <li>(b) Exemption from withholding tax on interest payments on borrowings by the TMC to overseas banks and related companies, provided the funds raised are used for the conduct of qualifying TMC activities w.e.f. Y/A 2012;</li> </ul> <p>[Income Tax (Exemption) (No. 6) Order 2012]</p>

	Eligibility	Tax Reliefs
	<ul style="list-style-type: none"> <li>(ii) Interest rate risk;</li> <li>(iii) Market risk;</li> <li>(iv) Credit/counterparty risk;</li> <li>(v) Liquidity risk; and</li> <li>(vi) Commodity price risk.</li> <li>(f) Corporate and financial advisory services, which include: <ul style="list-style-type: none"> <li>(i) Economics or investment research and analysis;</li> <li>(ii) Treasury forecasting and financial trend analysis; and</li> <li>(iii) Credit administration and control.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>(c) Full exemption from stamp duty on all loan agreements and service agreements executed by TMC in Malaysia for qualifying TMC activities from 8 Oct 2011 to 31 Dec 2016; and [Stamp Duty (Exemption) (No. 2) Order 2012]</li> <li>(d) Expatriates working in a TMC are taxed only on the portion of their chargeable income attributable to the number of days they are in Malaysia w.e.f. Y/A 2012. [Income Tax (Exemption) (No. 3) Order 2012]</li> </ul> <p>The application must be received by MIDA from 8 Oct 2011 to 31 Dec 2016 (2012 Budget)</p>
74.	<b>Providers of industrial design services</b> Criteria: <ul style="list-style-type: none"> <li>(a) New service providers who employ at least 50% Malaysian designers; and</li> <li>(b) Existing industrial design service providers undertaking expansion and non-industrial design service providers carrying out the following industrial design activities: <ul style="list-style-type: none"> <li>(i) Upgrading the design facilities by increasing at least 50% of the capital investment; and</li> <li>(ii) Employ an additional 50% qualified Malaysian designers</li> </ul> </li> </ul>	Tax exemption of 70% of statutory income for 5 years (for applications received by MIDA from 8 Oct 2011 to 31 Dec 2016 – 2012 Budget)
75.	<b>Tun Razak Exchange (TRX) [f.k.a. Kuala Lumpur International Financial District (KLIFD)]</b>  TRX-status companies   TRX Marquee status companies	<p>Tax exemption of 100% for 10 years (2012 Budget)</p> <p>Exemption of stamp duty on loan and service agreements (2012 Budget)</p> <p>Industrial Building Allowance (annual allowance of 10%) is allowed on the construction or purchase cost of a commercial building located in TRX from Y/A 2014 up to 31 Dec 2020 used for the purpose of qualifying business [Income Tax (Industrial Building Allowance) (Tun Razak Exchange Marquee Status Company) Rules 2013]</p>

	Eligibility	Tax Reliefs
	Property developers in TRX	<p>Accelerated Capital Allowance (initial allowance of 20% and annual allowance of 40%) is allowed on prescribed renovation costs incurred on a building located in TRX from 1 Jan 2014 to 31 Dec 2020 [Income Tax (Accelerated Capital Allowance) (Tun Razak Exchange Marquee Status Company) Rules 2013]</p> <p>Single deduction on prescribed relocation costs to relocate the whole or part of business to TRX incurred from Y/A 2014 to 31 Dec 2020 [Income Tax (Deduction for Relocation Costs for Tun Razak Marquee Status Company) Rules 2013]</p> <p>Additional deduction equivalent to 50% of rental expenses incurred on a commercial building in TRX for a period of 10 years from the date of commencement of business [Income Tax (Deduction for Rental Payments) (Tun Razak Exchange Marquee Status Company) Rules 2013]</p> <p>Stamp duty exemption on service agreements with service providers executed between 1 Jan 2014 and 31 Dec 2022 [Stamp Duty (Exemption) Order 2013]</p> <p>Stamp duty exemption on instrument of transfer for the purchase of commercial property in TRX, including loan agreement thereto and lease agreement for the first lessee of the commercial property executed between 31 Jan 2013 and 31 Dec 2020 [Stamp Duty (Exemption) (No. 2) Order 2013]</p> <p>Tax exemption of 70% of statutory income derived from property development income and rental income derived from building constructed in TRX for 5 consecutive years commencing from the first year where statutory income is first derived [Income Tax (Exemption) (No. 4) Order 2013].</p>
76.	<b>Domestic Investment</b> Local small and medium service providers providing the following qualifying services and undertaking either a scheme of merger or scheme of acquisition from 3 July 2012 to 2 July 2015: <ul style="list-style-type: none"> <li>(a) Professional services:               <ul style="list-style-type: none"> <li>(i) Accounting and taxation</li> <li>(ii) Medical and dental specialists</li> <li>(iii) Architectural</li> <li>(iv) Engineering</li> </ul> </li> </ul>	<p>Exemption of a fraction of statutory income (based on a prescribed formula) derived from the business of qualifying services for a period of 5 years of assessment commencing from the date the merger or acquisition is completed.</p> <p>[Income Tax (Exemption) (No. 11) Order 2013 and Income Tax (Exemption) (No. 12) Order 2013]</p> <p>Stamp duty exemption on instrument of transfer, contract for sale or lease of properties, loan</p>

	<i>Eligibility</i>	<i>Tax Reliefs</i>
	(b) Courier services (c) Technical and vocational secondary education services (d) Skills training services	agreement and first tenancy agreement executed between 3 July 2012 and 2 July 2015.  [Stamp Duty (Exemption) (No. 11) Order 2013]
<b>77.</b>	<b>Acquisition of foreign owned company</b> A locally owned company providing selected services approved by the Minister which acquires at least 51% equity of a foreign owned company for the purposes of acquiring high technology for improvement of processing or quality of the selected services.	Deduction equivalent to 20% of the acquisition cost incurred for 5 years (for application received by MIDA from 3 Jul 2012 to 31 Dec 2016) [Income Tax (Deduction for Cost of Acquisition of Foreign Owned Company) Rules 2013]

## 18.11 WASTE RECYCLING SECTOR

	<i>Eligibility</i>	<i>Tax Reliefs</i>
<b>78.</b>	<b>Accelerated capital allowance</b> Companies undertaking waste recycling activities	Capital expenditure incurred for the purchase of waste recycling machinery and equipment to be fully utilised within a period of 3 years [Income Tax (Accelerated Capital Allowances) (Recycling of Wastes) Rules 2000]
<b>79.</b>	<b>Exemption of import duty and sales tax</b> (a) Import of machinery and equipment for waste recycling activities not produced locally (b) Purchase of machinery and equipment for waste recycling activities produced locally	Exemption of import duty and sales tax  Exemption of sales tax only

## 18.12 REAL ESTATE INVESTMENT SECTOR

	<i>Eligibility</i>	<i>Tax Reliefs</i>
<b>80.</b>	<b>Real Estate Investment Trusts (REITs) or Property Trust Fund (PTF) listed in Bursa Malaysia</b>	100% tax exemption is applicable on all income of REITs or PTF which distribute at least 90% of their total income to the investors (S. 61A)  However, if the 90% distribution condition is not satisfied, it will be subject to income tax at 25% (from YA 2009) while the investors are eligible to claim tax credit under S. 110

	<i>Eligibility</i>	<i>Tax Reliefs</i>
	Taxability of income received by: <ul style="list-style-type: none"> <li>• Resident individual unit holders</li> <li>• Non-resident individual unit holders</li> <li>• Foreign institutional investors</li> <li>• Local corporate investors</li> <li>• Foreign corporate investors</li> </ul>	Taxable at the respective rates [Concession rate of 10% from 1 Jan 2009 to 31 Dec 2016 (S. 6(i); Part X of Sch 1; S. 109D)]  Subject to withholding tax of 26% [Concession rate of 10% from 1 Jan 2009 to 31 Dec 2016 (S. 6(i); Part X of Sch 1; S. 109D)]  Subject to withholding tax of 26% [Concession rate of 10% from 1 Jan 2009 to 31 Dec 2016 (S. 6(i); Part X of Sch 1; S. 109D)]  Taxable at the corporate tax rates  Subject to withholding tax of 26% in Y/A 2008 and 25% from Y/A 2009 onwards (S. 6(i); Part X of Sch 1; S. 109D)
<b>81.</b>	<b>Exemption of real property gains tax and stamp duty</b> <ul style="list-style-type: none"> <li>• Gains derived from any disposal of real properties by individuals or companies to REITs</li> <li>• All instruments of transfer of real property to a REIT or a PTF approved by the Securities Commission (SC)</li> <li>• All instruments of deed of assignment executed between REITs or a PTF approved by the SC and the disposer relating to the purchase of real property</li> </ul>	Exemption of real property gains tax [Real Property Gains Tax (Exemption) (No. 4) Order 2003] Exemption of stamp duty [Stamp Duty (Exemption) (No.21) Order 2004]  Exemption of stamp duty [Stamp Duty (Exemption) (No. 27) Order 2005]
<b>82.</b>	<b>Deduction on establishment expenditure incurred</b>	Legal, valuation and consultancy fees incurred by a REIT or PTF for the purpose of establishing the unit trust prior to approval by the SC are allowable as deductions in the basis period for the year of assessment in which the unit trust business commenced [Income Tax (Deduction for Establishment Expenditure of Real Estate Investment Trust or Property Trust Fund) Rules 2006]
<b>83.</b>	<b>Disposal of buildings which qualify for Industrial Building Allowance by companies to REITs</b>	Disposal of buildings which qualify for Industrial Building Allowance (IBA) to REITs are not subject to balancing charge or balancing allowance. REITs are eligible to claim the balance of unclaimed IBA of the disposer of the building (Sch 3, Para 38A, 39 and 40)

## 18.13 ISLAMIC FINANCING SECTOR

	<i>Eligibility</i>	<i>Tax Reliefs</i>
84.	<b>Treatment on issuance of Islamic Securities</b>  Transactions in relation to financing through the issuance of Islamic securities such as leasing ( <i>Ijarah</i> ), sale and purchase ( <i>Bai</i> ), profit-sharing ( <i>Mudharabah</i> ) or partnership ( <i>Musyarakah</i> )	Tax treatment w.e.f. Y/A 2003: (a) the sale of asset by the party that needs financing to the Special Purpose Vehicle (SPV) and the resale of the asset to the said party will not be deemed as sales for the purpose of income tax  (b) the lease back of the same asset to the said party will not be deemed as sales under the Income Tax Leasing Regulations 1986  (c) the issuance of Islamic securities by the SPV will follow the same treatment as for the asset-backed securities  (d) financing transactions carried out by the SPV will be treated in the same manner as any person under the Income Tax Act 1967  (e) the said party continues to enjoy the tax incentives and allowances under the Income Tax Act 1967 and PIA 1986 provided that it is still in the business of the approved activity  (f) the said party that needs financing continues to enjoy tax exemptions under the Customs Act 1967, the Sales Tax Act 1972 and the Excise Act 1976, provided that the said party is still in the business of the approved activity  (g) the gains from disposal of any chargeable assets to the SPV pursuant to the issuance of Islamic securities are exempted from RPGT  (h) Stamp duty is exempted on instrument of transfer of asset by the party that needs financing to the SPV  (i) Deduction is given for 5 years on expenses incurred in the issuance of <i>Istina'</i> securities [S. 2 of the Income Tax Act 1967 and Income Tax Leasing Regulations 1986]



	Eligibility	Tax Reliefs
85.	<p><b>Tax exemption for the following Islamic Banking and <i>takaful</i> businesses transacted in international currencies</b></p> <p>(a) Income derived by Islamic banks and Islamic banking units licensed under the Islamic Banking Act 1983 from Islamic banking business conducted in international currencies including transactions with Malaysian residents; and</p> <p>(b) Income derived by <i>takaful</i> companies and <i>takaful</i> units licensed under Takaful Act 1984 from <i>Takaful</i> business conducted in international currencies including transactions with Malaysian residents</p>	<p>Tax exemption of 100% for 10 years from Y/A 2007 to Y/A 2016 [Income Tax (Exemption) (No.12) Order 2007]</p>
86.	<p><b>Tax exemption for the <i>Takaful</i> businesses</b></p> <p>Income derived by a <i>takaful</i> operator registered under the Takaful Act 1984 from its branch operations overseas or its investee company (defined to be a company in which at least 20% of its shares are being directly owned by the <i>takaful</i> operator) overseas</p>	<p>Tax exemption of 100% for 5 consecutive years for applications received by the Central Bank of Malaysia from 24 Oct 2009 to 31 Dec 2015. In addition, the branch or its investee company shall commence <i>takaful</i> business within 2 years from the date of approval issued by the Central Bank of Malaysia</p> <p>[Income Tax (Exemption) (No. 5) Order 2009]</p>
87.	<p><b>Tax exemption for companies managing foreign Islamic funds</b></p> <p>Local and foreign companies licensed by the Securities Commission under the Approved Fund Management Status to manage foreign investors' funds established under the <i>Syariah</i> principles.</p> <p>With effect from Y/A 2008, the above exemption will be extended to local investors' funds established under the <i>Syariah</i> principles</p>	<p>Full income tax exemption is given on management fees received for 10 years effective from Y/A 2007 to Y/A 2016 [Income Tax (Exemption) (No. 15) Order 2007]</p> <p>Full income tax exemption is given on management fees received effective from Y/A 2008 to Y/A 2016 [Income Tax (Exemption) (No. 6) Order 2008]</p>
88.	<p><b>Islamic stock broking company</b></p> <p>Islamic stock broking company which commences its business within a period of 2 years from the date of approval by the Securities Commission for applications received from 2 Sep 2006 until 31 Dec 2015 (2010 Budget)</p>	<p>Expenses incurred prior to the commencement of the Islamic stock broking business are allowed for a deduction [Income Tax (Deduction on Expenditure for Establishment of an Islamic Stock Broking Business) Rules 2007 and Income Tax (Deduction on Expenditure for Establishment of an Islamic Stock Broking Business) (Amendment) Rules 2009]</p>

	Eligibility	Tax Reliefs
89.	<b>Issuance of Islamic securities</b>  Expenses incurred on the issuance of Islamic securities based on principles of <i>mudharabah</i> , <i>musyarakah</i> , <i>ijarah</i> and <i>istisna</i>  Expenses incurred on the issuance of Islamic securities under the principles of <i>Murabahah</i> and <i>Bai' Bithaman Ajil</i> based on <i>tawarruq</i>  Expenses incurred on the issuance of Islamic securities based on <i>Wakalah</i> principle	Deduction of these expenses are allowed up to Y/A 2015 for Islamic securities approved by Securities Commission and Labuan Financial Services Authority (LFSA) [Income Tax (Deduction for Expenditure on Issuance of Islamic Securities) Rules 2007 and Income Tax (Deduction for Expenditure on Issuance of Islamic Securities) Rules 2009].  Deduction for 5 years w.e.f. Y/A 2011 until Y/A 2015 for Islamic securities approved by the Securities Commission or the LFSA [Income Tax (Deduction for Expenditure on Issuance of Islamic Securities Pursuant to Principles of <i>Murabahah</i> and <i>Bai' Bithaman Ajil</i> ) Rules 2011]  Deduction for 4 years w.e.f. Y/A 2012 until Y/A 2015 for Islamic securities approved by the Securities Commission or the LFSA [Income Tax (Deduction for Expenditure on Issuance of Islamic Securities) Rules 2011]
90.	<b>Review of tax treatment on Special Purpose Vehicle (SPV) for Islamic Financing</b>  Any company that establishes a SPV solely for the purpose of obtaining financing through the Islamic capital market approved by the Securities Commission  With effect from Y/A 2010, SPV includes a SPV established under the Offshore Companies Act 1990 which has elected to be taxed under the Income Tax Act 1967	(a) the SPV is not subject to income tax and not required to adhere to administrative procedures under the ITA 1967 [S. 60I]; and  (b) the company that establishes the SPV is given a deduction on the cost of issuance of the Islamic bonds incurred by the SPV. Income received by the SPV is deemed as income received by the company that establishes the SPV and will be subject to tax. [Income Tax (Deduction on the Cost of Issuance of the Islamic Securities) Rules 2007]
91.	<b>Exemption of stamp duty</b>	Instruments relating to the issuance of, offer for subscription or purchase of, or invitation to subscribe for or purchase Islamic securities approved by the Securities Commission and the transfer of such Islamic securities are exempted from stamp duty [Stamp Duty (Exemption) (No. 23) Order 2000]

	Eligibility	Tax Reliefs
		<p>Instruments executed in relation to transfer of assets to a third party where the transfer is funded by the issuance of Islamic securities to investors under the asset-based securities transactions are exempted from stamp duty [Stamp Duty (Exemption) (No. 12) Order 2001]</p> <p>Instruments relating to the sale and purchase of retail debenture and retail <i>sukuk</i> executed by individual investors from 1 Oct 2012 to 31 Dec 2015 are exempted from stamp duty [Stamp Duty (Exemption) (No. 4) Order 2013]</p>
92.	<b>Exemption of Real Property Gains Tax (RPGT)</b>	The disposal of any chargeable assets in relation to the issuance of private debt securities under Islamic principles are exempted from real property gains tax [Real Property Gains Tax (Exemption) (No. 3) Order 2003]
93.	<b>Tax exemption for non-resident experts in Islamic finance</b>  Non-resident experts verified by the Malaysia International Islamic Financial Centre (MIFC) Secretariat to participate in MIFC	Tax exemption is given on income received by non residents from the provision of their expertise in Islamic finance from 8 Sep 2007 to 31 Dec 2016 [Income Tax (Exemption) (No. 3) Order 2008]
94.	<b>Qualified institutions for Islamic capital markets</b> Qualified institutions undertaking the following activities relating to non-Ringgit <i>sukuk</i> which originated from Malaysia and issued or guaranteed by the Government or approved by the Securities Commission and Labuan Offshore Financial Services Authority: <ul style="list-style-type: none"> <li>(a) Activities related to the arranging, underwriting and distributing of the non-ringgit <i>sukuk</i>; and</li> <li>(b) Trading of the non-ringgit <i>sukuk</i></li> </ul>	<p>Income tax exemption on statutory income derived from arranging, underwriting and distribution of <i>sukuk</i> from Y/A 2009 to Y/A 2014 [Income Tax (Exemption) (No. 10) Order 2008 and Income Tax (Exemption) (No. 11) Order 2011]</p> <p>Income tax exemption on statutory income derived from dealing in <i>sukuk</i> from Y/A 2009 to Y/A 2014 [Income Tax (Exemption) (No. 9) Order 2008 and Income Tax (Exemption) (No. 10) Order 2011]</p>
95.	<b>Double deduction of expenses</b> Companies incurring expenses pertaining to the promotion of Malaysia as an international Islamic financial centre	Double deduction of eligible expenses for promotion of Malaysia as an international Islamic financial centre from Y/A 2008 to Y/A 2015 [Income Tax (Deduction for Promotion of Malaysia International

	Eligibility	Tax Reliefs
	<p>Companies incurring expenses pertaining to the issuance of <i>sukuk</i> primarily for agricultural sector (i.e. <i>Agro-Sukuk</i>) approved by the Securities Commission</p> <p>Companies incurring expenses for the issuance of retail debenture and retail <i>sukuk</i> approved by the Securities Commission</p>	<p>Islamic Financial Centre) Rules 2008 and Income Tax (Deduction for Promotion of Malaysia International Islamic Financial Centre) Rules 2009]</p> <p>Double deduction on expenses incurred for the issuance of <i>Agro-Sukuk</i> from Y/A 2013 to Y/A 2015 [Income Tax (Deduction for Expenditure on Issuance of <i>Agro Sukuk</i>) Rules 2013]</p> <p>(a) Double deduction on prescribed expenses incurred for the issuance of retail debenture from Y/A 2012 to Y/A 2015</p> <p>(b) Single deduction on prescribed expenses incurred for the issuance of retail <i>sukuk</i> from Y/A 2012 to Y/A 2015</p> <p>[Income Tax (Deduction for Expenditure on Issuance of Retail Debenture and Retail <i>Sukuk</i>) Rules 2013]</p>
96.	<p><b>Tax exemption on gains or profits received from the investment in Islamic securities</b></p> <p>Individuals, unit trusts or listed close-end funds which invest in Islamic securities, other than convertible loan stock, which are issued in accordance with the principles of <i>mudharabah</i>, <i>musyarakah</i>, <i>ijarah</i> and <i>istisna</i> or any other principle approved by the Shariah Advisory Council established by the Securities Commission under the Capital Markets and Services Act 2007</p> <p>Any person who invests in <i>sukuk wakala</i>, other than convertible loan stocks, issued in any currency by Wakala Global Sukuk Berhad in accordance with the principle of <i>Al-Wakala Bil Istismar</i></p>	<p>Tax exemption is given on gains or profits received from Y/A 2007 to Y/A 2009 [Income Tax (Exemption) (No. 2) Order 2011]</p> <p>Tax exemption is given on gains or profits received, in lieu of interest effective from Y/A 2011. In addition, the income is exempted from the withholding tax provisions under S. 109 Income Tax Act 1967 [Income Tax (Exemption) (No. 4) Order 2011]</p>

#### 18.14 BIOTECHNOLOGY SECTOR

	Eligibility	Tax Reliefs
97.	<p><b>Pioneer Status (PS)</b></p> <p>A company undertaking biotechnology activity which has been approved with bionexus status by the Malaysian Biotechnology Corporation Sdn Bhd</p>	<p>Tax exemption of 100% of statutory income for a period of 10 years commencing from the first year the company derives profit [Income Tax (Exemption) (No. 17) Order 2007]</p>

	Eligibility	Tax Reliefs
		Upon the expiry of the tax exemption period, a bionexus company is given a concessionary tax rate of 20% on income from qualifying activities for 10 years [Income Tax (Exemption) (No. 2) Order 2009]
98.	<b>Investment Tax Allowance (ITA)</b> A company undertaking biotechnology activity which has been approved with bionexus status by the Malaysian Biotechnology Corporation Sdn Bhd	Tax exemption of up to 100% of statutory income for a year of assessment from ITA computed at 100% on qualifying capital expenditure incurred within a period of 5 years [Income Tax (Exemption) (No. 18) Order 2007] Upon the expiry of the tax exemption period, a bionexus company is given a concessionary tax rate of 20% on income from qualifying activities for 10 years [Income Tax (Exemption) (No. 2) Order 2009]
99.	<b>Industrial building allowance</b> Building used solely for the purpose of biotechnology research activities	Industrial building allowance of 10% (annual) over a period of 10 years [Income Tax (Industrial Building Allowance) (Bionexus Status Company) Rules 2007]
100.	<b>Exemption of import duty and sales tax</b> Import of raw materials/components and machinery/equipment	Exemption of import duty and sales tax
101.	<b>Exemption of stamp duty and RPGT</b> A bionexus company undertaking merger and acquisition with a biotechnology company	Exemption of stamp duty and real property gains tax within a period of 5 years until 31 Dec 2011 (2007 Budget)
102.	<b>A company or an individual investing in a bionexus company</b>	Tax deduction equivalent to the total investment made in seed capital and early stage financing on the condition that the investor does not dispose of the investment within 5 years from the investment date [Income Tax (Deduction for Investment in a Bionexus Status Company) Rules 2007]
103.	<b>Research and development (R&amp;D) incentive</b> Companies that invest to acquire technology platform in bio-based industry Companies that invest in pilot plant for the purpose of pre-commercialisation in Malaysia	Deduction on cost of investment (2014 Budget) Exemption on import duty on R&D equipment (2014 Budget)

	<i>Eligibility</i>	<i>Tax Reliefs</i>
	Companies that incurred operational cost on human capital development in respect of their Centre of Excellence for R&D	Special incentive be given (2014 Budget)  Application must be submitted to BiotechCorp from 1 January 2014 to 31 December 2018 (2014 Budget)

### 18.15 ALL SECTORS

	<i>Eligibility</i>	<i>Tax Reliefs</i>
<b>104.</b>	<b>Accelerated Capital Allowances</b> Companies which incur capital expenditure on equipment (to be certified by the Ministry of Energy, Water and Communications) to ensure quality of power supply	Accelerated capital allowances on the related equipment are to be allowed over a period of 2 years [Income Tax (Accelerated Capital Allowances) (Power Quality Equipment) Rules 2005]
<b>105.</b>	<b>Group relief of adjusted loss</b> All locally incorporated companies resident in Malaysia which fulfill the following conditions (a) Both the claimant and the surrendering companies must each have a paid up of ordinary share capital of more than RM2.5 million (b) Both companies must have the same accounting period (c) Both companies must be related with at least 70% shareholding owned, whether through direct or indirect shareholding with respect to each other or commonly through another company resident and incorporated in Malaysia (d) The shareholding of 70% for companies must be on continuous basis during the preceding year and the relevant year (e) Losses from the acquisition of proprietary rights or foreign-owned companies are disregarded for group relief	Deduction of up to 70% of the adjusted loss from the surrendering company against the aggregate income of claimant company (S. 44A, Income Tax Act 1967)
<b>106.</b>	<b>Double deduction</b> Companies which have incurred expenses for implementing the structured internship programme approved by Talent Corporation Malaysia Berhad in collaboration with the Ministry of Higher Education	Double deduction of the expenditure incurred from Y/A 2012 to Y/A 2016 [Income Tax (Deduction for Expenditure Incurred for the Provision of an Approved Internship Programme) Rules 2012]

Eligibility	Tax Reliefs
<p>Companies which provide scholarships to students of higher educational institution and fulfilled the following criteria:</p> <ul style="list-style-type: none"> <li>(a) The scholarship agreement between the Malaysian company and the student is executed between 8 Oct 2011 and 31 Dec 2016;</li> <li>(b) The student must be a Malaysian citizen and resident in Malaysia who has no means of his own, and whose parents or guardians have total monthly income not exceeding RM5,000;</li> <li>(c) The local higher educational institution refers to any institution established under the Universities and University Colleges Act 1971, Universiti Teknologi MARA Act 1976 or the Private Higher Educational Institutions Act 1996.</li> </ul>	<p>Double deduction of scholarships awarded to the students from Y/A 2011 to Y/A 2016 [Income Tax (Deduction for the Sponsorship of Scholarship to Student of Higher Educational Institution) Rules 2012]</p>
<p>Companies which have incurred expenses in participating in career fairs abroad that are organised or endorsed by Talent Corporation Malaysia Berhad and approved by the Minister of Finance</p>	<p>Double deduction of the expenditure incurred from Y/A 2012 to Y/A 2016 [Income Tax (Deduction for Participation in an Approved Career Fair) Rules 2012]</p>
<p>Companies which have incurred expenses in participating in the Skim Latihan 1Malaysia training scheme for unemployed graduates approved by the Economic Planning Unit under the Prime Minister's Department</p>	<p>Double deduction of the expenditure incurred on the training scheme approved from 1 June 2012 to 31 December 2016 [Income Tax (Deduction for Training Costs under Skim Latihan 1Malaysia for Unemployed Graduates) Rules 2013]</p>
<p>Anchor companies which have incurred qualifying operating expenses to develop local vendor companies under the Vendor Development Programme (VDP) and fulfilled the following criteria:</p> <ul style="list-style-type: none"> <li>(a) A Memorandum of Understanding (MOU) is signed between the anchor company with the Ministry of International Trade and Industry (MITI);</li> <li>(b) Expenses must be certified by MITI ; and</li> </ul> <p>The qualifying operating expenses do not exceed RM300,000 in a year.</p>	<p>Double deduction of the following qualifying operating expenses incurred for 3 years of assessment:</p> <ul style="list-style-type: none"> <li>(a) cost of product development, R&amp;D, innovation and quality improvement;</li> <li>(b) cost of obtaining ISO/Kaizen/5S certifications, evaluation programme and business process reengineering for the purpose of increasing vendor capabilities; and</li> <li>(c) cost of vendor skills training, capacity building, lean management system and financial management system</li> </ul> <p>The MOU with MITI must be executed between 1 Jan 2014 to 31 Dec 2016 (2014 Budget)</p>

	Eligibility	Tax Reliefs
	<p>Companies which have incurred expenses relating to training of employees in the areas of accounting and information and communication technology (ICT) for undertaking implementation of Goods and Services Tax (GST) system</p> <p>Employers (i.e. SMEs, cooperatives, associates and organisations) which incurred additional costs in complying with the following minimum wages policy for local and foreign employees (except domestic workers):</p> <p>(a) RM900 per month for Peninsular Malaysia; or</p> <p>(b) RM800 per month for Sabah, Sarawak and Labuan.</p> <p>Employers which have incurred the following expenses in implementing flexible work arrangement (FWA) approved by Talent Corporation Malaysia Berhad:</p> <p>a) Cost of training of employees, supervisors and managers in:</p> <p>i) Optimizing a work-life balance;</p> <p>ii) Technology orientation;</p> <p>iii) Managing a flexible workforce; and</p> <p>iv) Helping managers embrace flexible work alternatives.</p> <p>b) Consultancy fees to design an appropriate FWA to be implemented by the employers</p>	<p>Double deduction of the expenditure incurred for Y/A 2014 and Y/A 2015 (2014 Budget)</p> <p>Double deduction on the additional wages incurred (i.e. differences between the original salary and the minimum wages) from 1 January 2014 to 31 December 2014 (2014 Budget)</p> <p>Double deduction of the qualifying expenditures for a period of 3 years of assessment (application for FWA status received by Talent Corporation Berhad from 1 January 2014 to 31 December 2016) [2014 Budget]</p>
107.	<p><b>Investment Tax Allowance (ITA)</b></p> <p>Companies which incur capital expenditure for conserving energy for own consumption</p>	<p>Tax exemption of up to 100% of the statutory income for each year of assessment from ITA computed at 100% of qualifying capital expenditure incurred within 5 years for applications received by MIDA from 8 Sep 2007 until 31 Dec 2015 (2011 Budget)</p>
108.	<p><b>Pre-package incentive on approved business</b> (w.e.f. Y/A 1998)</p> <p>Any resident company undertaking approved business approved by Minister of Finance under the pre-package incentive scheme</p>	<p>Tax exemption of 70% (or any rate as prescribed by Minister) of the statutory income arising from approved business [Income Tax (Exemption) (No. 11) Order 2006]</p>



	Eligibility	Tax Reliefs
		Statutory income exemption (restricted to 70% or any rate as prescribed by the Minister) equivalent to an allowance (computed at a rate determined by the Minister) based on qualifying capital expenditure incurred during the period as approved by the Minister. [Income Tax (Exemption) (No. 12) Order 2006]
109.	<p><b>Accelerated capital allowance for Information and Communication Technology (ICT) equipment</b></p> <p>Any person who is a resident in Malaysia and has incurred cost to purchase information and communication technology equipment used in his business (except for a person who has been granted any incentive under the PIA or reinvestment allowance under Sch 7A of the Income Tax Act 1967)</p>	<p>Accelerated capital allowance of 100% (i.e. initial allowance of 20% and annual allowance of 80%) is given on capital expenditure incurred on the ICT equipment (effective from Y/A 2009 to Y/A 2013) [Income Tax (Accelerated Capital Allowance) (Information and Communication Technology Equipment) Rules 2008]</p> <p>The accelerated capital allowance is extended for another 3 years from Y/A 2014 to Y/A 2016 (2014 Budget)</p>
110.	<p><b>Accelerated capital allowance for security and surveillance equipment</b></p> <p>An individual resident in Malaysia who incurred capital expenditure on security control equipment at any building of permanent structure used for his business</p> <p>A manufacturing company which incurred capital expenditure on security control equipment for its factory building</p> <p>A company which incurred capital expenditure to install Global Positioning System (GPS) for vehicle tracking in respect of a container lorry or cargo lorry</p> <p>A company which incurred capital expenditure on security control and surveillance equipment for installation in residential areas</p> <p>The ACA is not applicable to a person who has been granted any incentive under the PIA or reinvestment allowance under Sch 7A of the Income Tax Act 1967</p>	<p>Accelerated capital allowances (i.e. initial allowance of 20% and annual allowance of 80%) are to be claimed within 1 year (effective from Y/A 2009 to Y/A 2012) [Income Tax (Accelerated Capital Allowance) (Security Control Equipment and Monitor Equipment) Rules 2008]</p> <p>The accelerated capital allowance is extended for another 3 years from Y/A 2013 to Y/A 2015 [Income Tax (Accelerated Capital Allowance) (Security Control Equipment and Monitoring Equipment) Rules 2013]</p>

	<i>Eligibility</i>	<i>Tax Reliefs</i>
<b>111.</b>	<b>Deduction of expenditure</b> Small and medium enterprises (SMEs) which incurred qualifying expenditure (i.e. expenses on application fees for registration of a trademark, application for grant of a patent, certification fees, examination fees and service fees paid to authorized agents) on the registration of trademarks under the Trade Mark Act 1976 or patent under the Patents Act 1983 in Malaysia	Deduction is allowed on the qualifying expenditure incurred by the qualifying person effective from Y/A 2010 to Y/A 2014. [Income Tax (Deduction for Expenditure on Registration of Patent and Trade Mark) Rules 2009]

## 18.16 PROPERTY DEVELOPMENT SECTOR

	<i>Eligibility</i>	<i>Tax Reliefs</i>
<b>112.</b>	<b>Double deduction</b> Rescuing contractors or developer appointed by the Minister of Housing and Local Government or liquidator appointed by a court (collectively known as “qualifying person”) reviving abandoned housing projects certified by the Ministry of Housing and Local Government (MHLG).	Double deduction of the interest expenses (incurred for a period of 3 consecutive Y/As from the year in which the loans are approved) and expenses incurred in the course of acquiring loans (incurred from 1 Jan 2013 to 31 Dec 2015)  Special tax treatments for qualifying person: (a) Double deductions are only allowed in the Y/A the project is completed. (b) Development expenditure is claimed in the Y/A the project is completed. (c) Capital allowances on assets used for the purpose of the abandoned project shall be accumulated and claimed in the Y/A the project is completed. (d) Final account shall be prepared to ascertain the actual profit and loss upon completion of the project. (e) Any unabsorbed capital allowance is disregarded. [Income Tax (Deduction for Expenses in Relation to Interest and Incidental Cost in Acquiring Loan for Abandoned Projects) Rules 2013]
<b>113.</b>	<b>Exemption of stamp duty</b>  a) Rescuing contractors or developers reviving abandoned housing projects certified by the MHLG	Exemption of stamp duty on instrument of loan agreements to finance the revival of abandoned housing projects in respect of sales and purchase agreements executed from 1 Jan 2013 to 31 Dec 2015 [Stamp Duty (Exemption) (No. 6) Order 2013]

	<i>Eligibility</i>	<i>Tax Reliefs</i>
	b) Original house purchaser in the abandoned housing projects	<p>Exemption of stamp duty on instruments of transfer of land or houses for the revival of abandoned housing projects in respect of sales and purchase agreements executed from 1 Jan 2013 to 31 Dec 2015 [Stamp Duty (Exemption) (No. 6) Order 2013]</p> <p>Exemption of stamp duty on instrument of loan agreements for additional financing and instruments of transfer of houses in respect of sales and purchase agreements executed from 1 Jan 2013 to 31 Dec 2015 [Stamp Duty (Exemption) (No. 5) Order 2013]</p>
<b>114.</b>	<b>Exemption of interest income</b>	
	a) Banking and financial institutions which grant loans to rescuing contractors or developers to finance abandoned housing projects	Exemption of interest income from loans approved from 1 Jan 2013 to 31 Dec 2015 and applicable for 3 consecutive Y/As commencing from the first Y/A the interest income is accrued [Income Tax (Exemption) (No. 9) Order 2013]

# B19 INCENTIVES IN PROMOTED AREAS

## INCENTIVES IN PROMOTED AREAS

	Type of Incentive	Sector	Promoted Area	Legislation
1(a)	<p>Pioneer Status</p> <ul style="list-style-type: none"> <li>– Tax exemption on 85% of statutory income for 5 years (as compared to exemption of 70% for projects located in areas outside the promoted areas). This incentive has been extended for another 5 years until 31 Dec 2005 (2001 Budget). The exemption has been increased from 85% to 100% for applications received by MIDA from 13 Sep 2003 to 31 Dec 2005 (2004 Budget). The application period has been extended for another 5 years until 31 Dec 2010 (2006 Budget).</li> <li>– 2nd Round of exemption for existing companies which relocate their manufacturing activities to the promoted areas (2005 Budget).</li> </ul> <p><b>Or</b></p>	Manufacturing, Agriculture (including rearing of chickens and ducks w.e.f. 20 Oct 2001), Hotel and Tourism, and Manufacturing Related Services w.e.f. 20 Oct 2001	<p>Eastern Corridor of Peninsular Malaysia</p> <ul style="list-style-type: none"> <li>– State of Kelantan</li> <li>– State of Terengganu</li> <li>– State of Pahang</li> <li>– District of Mersing in the State of Johor</li> </ul> <p>States of Sabah and Sarawak Federal Territory of Labuan State of Perlis</p>	<p>Promotion of Investments (Promoted Areas) Order 1994 PU(A) 482/1994 and 80/1998 S. 21D of PIA 1986</p> <p>Promotion of Investments (Promoted Areas) (Amendment) Order 2006 PU(A) 430/2006</p>
1(b)	<p>Investment Tax Allowance (ITA)</p> <ul style="list-style-type: none"> <li>– Tax exemption of up to 85% of statutory income for each year of assessment from ITA computed at 80% on qualifying capital</li> </ul>	Manufacturing, Agriculture, Hotel and Tourism, and Manufacturing Related Services w.e.f. 20 Dec 2001	<p>Eastern Corridor of Peninsular Malaysia</p> <ul style="list-style-type: none"> <li>– State of Kelantan</li> <li>– State of Terengganu</li> <li>– State of Pahang</li> <li>– District of Mersing in the State of Johor</li> </ul>	<p>Promotion of Investments (Promoted Areas) Order 1994 PU(A) 482/1994 and 80/1998 S. 29C of PIA 1986</p>

<i>Type of Incentive</i>	<i>Sector</i>	<i>Promoted Area</i>	<i>Legislation</i>
<p>expenditure incurred (as compared to tax exemption on 70% of statutory income from ITA computed at 60% on qualifying capital expenditure incurred for projects located outside the promoted areas) within 5 years from the date which the approval is to take effect. This incentive has been extended for another 5 years until 31 Dec 2005 (2001 Budget). The rate of ITA has been increased from 80% to 100% of capital expenditure incurred and allowed to be set off against 100% of statutory income for applications received by MIDA from 13 Sep 2003 to 31 Dec 2005 (2004 Budget). The application period has been extended for another 5 years until 31 Dec 2010 (2006 Budget). (Prior to 1 Nov 1991, the ITA rate varied in accordance with the criteria met and the location of the promoted activities).</p> <p>– 2nd Round ITA for existing companies which relocate their manufacturing activities to the promoted areas (2005 Budget).</p> <p><b>And</b></p>		<p>States of Sabah and Sarawak</p> <p>Federal Territory of Labuan</p> <p>State of Perlis</p>	<p>Promotion of Investments (Promoted Areas) (Amended) Order 2006</p> <p>PU(A) 430/2006</p>

	<i>Type of Incentive</i>	<i>Sector</i>	<i>Promoted Area</i>	<i>Legislation</i>
1(c)	<p>Infrastructure Allowance (IA)</p> <p>– Tax exemption of up to 100% of statutory income (w.e.f. 13 Sep 2003) for each year of assessment on IA computed at 100% on capital expenditure incurred within 5 years for the provision of infrastructure. This incentive has been extended for another 5 years until 31 Dec 2005 (2001 Budget). The application period for IA has been extended for another 5 years until 31 Dec 2010 (2006 Budget).</p>	Manufacturing, Agriculture, Hotel and Tourism	<p>Eastern Corridor of Peninsular Malaysia</p> <p>– State of Kelantan</p> <p>– State of Terengganu</p> <p>– State of Pahang</p> <p>– District of Mersing in the State of Johor</p> <p>States of Sabah and Sarawak</p> <p>Federal Territory of Labuan</p> <p>State of Perlis</p>	<p>Promotion of Investments (Promoted Areas) Order 1994</p> <p>PU(A) 482/1994 and 80/1998</p> <p>S. 41B of PIA 1986</p> <p>Promotion of Investments (Promoted Areas) (Amendment) Order 2006</p> <p>PU(A) 430/2006</p>
2	<p>Reinvestment Allowance (RA)</p> <p>– Tax exemption of up to 100% of statutory income for each year of assessment from RA computed at 60% on qualifying capital expenditure incurred within 5 years. As per 2002 Budget, this incentive has been extended for a 15-year period. The rate of set off against statutory income has been restricted to 70% from 100% (2012 Budget).</p>	Manufacturing, Agriculture, Industrial Adjustment Programme	<p>Eastern Corridor of Peninsular Malaysia</p> <p>– State of Kelantan</p> <p>– State of Terengganu</p> <p>– Pahang</p> <p>– District of Mersing in the State of Johor</p> <p>States of Sabah and Sarawak</p> <p>Federal Territory of Labuan (w.e.f. Y/A 2003)</p> <p>State of Perlis</p>	<p>ITA 1967 (Act 53) Sch 7A</p> <p>Promotion of Investments (Promoted Areas) (Amendment) Order 2006</p> <p>PU(A) 430/2006</p>

	<i>Type of Incentive</i>	<i>Sector</i>	<i>Promoted Area</i>	<i>Legislation</i>
3(a)	Exemption of Statutory Income for Approved Service Projects – Tax exemption on 85% of statutory income for 5 years. <b>Or</b>	Approved Service Projects – transportation – communications – utilities – any other sub-sector as approved by Minister of Finance	Eastern Corridor of Peninsular Malaysia States of Sabah and Sarawak	Guidelines on Approved Service Projects
3(b)	Investment Allowance (IA) for Approved Service Projects – Tax exemption of up to 85% of statutory income for each year of assessment from IA computed at 80% on qualifying capital expenditure incurred within 5 years from the date which the approval is to take effect.	Approved Service Projects – transportation – communications – utilities – any other subsector as approved by Minister of Finance	Eastern Corridor of Peninsular Malaysia States of Sabah and Sarawak	Guidelines on Approved Service Projects [Sch 7B of ITA 1967 (Act 53) only provides for normal rate of 70% of statutory income]
4	Income tax exemption for Iskandar Development Region (IDR) status company – Tax exemption on 100% of statutory income from qualifying activities for 10 years provided the operations commence on or before the end of 2015. Income tax exemption for a developer undertaking development activities in IDR – Tax exemption for a developer on statutory income from disposal	– Creative industries and related services – Education services – Financial advisory and consulting services – Healthcare and related services – Logistics services – Tourism	Selected areas in Johor	Income Tax (Exemption) (No. 20) Order 2007 PU(A) 418/2007  Income Tax (Exemption) (No. 19) Order 2007 PU(A) 417/2007

<i>Type of Incentive</i>	<i>Sector</i>	<i>Promoted Area</i>	<i>Legislation</i>
<p>of any right in or over any land in an approved node commencing from the first year of assessment until Y/A 2015.</p> <ul style="list-style-type: none"> <li>– Tax exemption for a developer on statutory income from rental or disposal of building located in an approved node commencing from the first year of assessment until Y/A 2020.</li> <li>– Tax exemption for a development manager on statutory income from the provision of management, supervisory or marketing services until Y/A 2020.</li> </ul> <p>Preferential tax rate of 15% for knowledge workers in IDR effective Y/A 2010.</p>	Company granted IDR, BioNexus or MSC status		Income Tax (Determination of Knowledge Worker, Qualified Activity and Specified Region) Rules 2010 PU(A) 344/2010



# B20 LABUAN

## INTRODUCTION

The Labuan International Business and Financial Centre (Labuan IBFC) was established on 1 Oct 1990 as an international offshore financial centre (formerly known as Labuan International Offshore Financial Centre).

Approved Labuan trading activities include banking, insurance, trading, management, licensing, shipping operations or any other activity which are not Labuan non-trading activities. Labuan non-trading activities mean activities relating to the holding of investments in securities, stock, shares, loans, deposits or any other properties by a Labuan entity on its own behalf. Prior to 11 Feb 2010, Labuan activities did not include any shipping operations in or out of Malaysia other than charter of ships on a "bareboat" basis.

Labuan activities are required to be carried out with persons not resident in Malaysia, and in foreign currencies, although there are some exceptions for banks, insurance companies and Labuan entities carrying on the business of Labuan leasing or money-broking. Transactions in Malaysian Ringgit are permitted only for purposes of defraying administrative and statutory expenses, or for acquisition of shares or other securities in a Malaysian company by a Labuan entity.

As part of the national financial liberalisation package announced by the Prime Minister in Apr 2009, effective from 1 Jun 2009, a Labuan Company defined as a "Labuan Holding Company" (LHC) may apply to the Labuan Financial Services Authority (Labuan FSA) to open an operational and management office in Kuala Lumpur. A LHC that has been approved to co-locate must make an irrevocable election to be taxed under the Income Tax Act 1967 (ITA 1967).

In addition, the following entities are also allowed to have co-located offices in any part of Malaysia:

- (a) Labuan bank (effective from 19 Jan 2010);
- (b) Labuan insurance and *takaful* licensee (effective from 1 Mar 2011).

## TAXATION SYSTEM

### Labuan entities

Preferential tax treatment is given to Labuan entities incorporated or registered under the Labuan Companies Act 1990, Labuan trusts/Islamic trusts, Labuan foundation/Islamic foundation and Labuan limited/limited liability partnership undertaking Labuan business activities as follows.

1. A Labuan entity carrying on a Labuan trading activity for the basis period for a Y/A can enjoy the preferential tax rate of 3% of its audited net profits or elect to pay tax of RM20,000 for a Y/A.
2. Income derived from a Labuan non-trading activity for the basis period for a Y/A is exempt from tax for that year of assessment.
3. A Labuan entity may make an irrevocable election to tax its income from Labuan business activity under the ITA 1967, instead of the Labuan Business Activity Tax Act 1990 (LBATA 1990).

Non-Labuan business activities carried on by a Labuan entity are subject to normal Malaysian income tax at the rate of 25%

### Individuals

Individual residents in Labuan are subject to tax under the principal Act, the ITA 1967. Thus, income accruing in or derived from Malaysia is taxable. Foreign sourced income received in Malaysia by a resident individual is tax-exempt. The rate of tax ranges from 0% to 26% for resident individuals and a flat rate of 26% for non-resident individuals.

The following tax exemptions are available to certain individuals from Y/A 2011 to Y/A 2020:

<b>Taxpayers</b>	<b>Tax exemptions</b>
Non-citizen individuals employed in a managerial capacity with a Labuan entity in Labuan, co-located office or marketing office	50% of their income from such employment
Non-citizen individuals acting in their capacity as a director of a Labuan entity	Directors' fee received
Citizen of Malaysia who received housing allowance and Labuan Territory allowance from exercising an employment in Labuan with a Labuan entity	50% of gross housing allowance and Labuan Territory allowance received

### **Capital gains**

For a Labuan entity carrying on a Labuan trading activity, capital gains are reflected as part of the net profits and hence subject to 3% tax. However, if election is made, the liability is restricted to RM20,000. Capital gains arising from sale of shares in a Labuan company by the shareholders are not taxable assuming that the shareholders do not have a business presence in Malaysia and are not investment dealers.

### **Withholding taxes**

Royalties, interest, technical or management fees and other gains or profits under S. 4(f) of the ITA 1967 paid by a Labuan company to a non-resident person or another Labuan company are exempted from income tax and thus not subject to withholding tax. However, rental of moveable property paid to a non-resident person does not enjoy this exemption, with the exception of Labuan banks or Labuan companies carrying out leasing business.

Any interest paid by a Malaysian resident to Labuan banks in Labuan is not subject to withholding tax.

### **Indirect taxes**

There are no indirect taxes (such as sales taxes, service taxes and custom duties) since Labuan enjoys free port status.

### **Stamp duty**

The following instruments are exempted from stamp duty:

- (a) all instruments which are executed by a Labuan entity in connection with a Labuan business activity;
- (b) all Memorandum and Articles of Association, statute, charter, rules, by-laws, partnership agreement or other instrument, under or by which a Labuan entity is established and the scope of that entity's function, business, powers and duties are set out, whether contained in one or more documents; and
- (c) All instruments of transfer of shares in a Labuan entity.

### **Fund for Tax Refund**

The fund for tax refund on excess of tax paid shall be paid from the fund established under S. 111B of the ITA 1967.

## **OTHER INCENTIVES**

1. Dividends paid by a Labuan company in respect of income derived from a Labuan business activity and distributions made by a Labuan trust are not subject to tax in the hands of the recipients. In addition, if the recipient is a company incorporated under the Companies Act 1965 and resident in Malaysia, the recipient may pay tax exempt dividends to its shareholders.

2. Any person providing legal, accounting, financial or secretarial services in Labuan to a Labuan entity will be allowed an exemption of 65% of the statutory income derived from providing such services from Y/A 2011 to Y/A 2020.
3. Any *zakat* which is paid by a Labuan entity in the basis period for a Y/A will be granted a tax rebate, subject to a maximum of the tax charged, that is 3% of net profits, or RM20,000 upon election. Any excess of tax rebate over the tax charged will not be refunded to the Labuan entity or be made available as a credit to set-off against the tax liability for that Y/A or any subsequent Y/A.
4. Incentives under the Global Incentives for Trading (GIFT) programme are available to a Labuan International Commodity Trading Company (LITC) which uses Malaysia as its international trading base. A LITC is a Labuan company licensed by Labuan FSA to carry out the trading of physical and related derivative instruments of the following commodities with non-residents in any currency other than Ringgit:
  - petroleum and petroleum-related products including liquefied natural gas (LNG);
  - agriculture products;
  - refined raw materials;
  - chemicals; and
  - base minerals.

A LITC is taxed at 3% of audited net profits while a LITC set up purely as a LNG trading company is entitled to 100% income tax exemption on chargeable profit for the first 3 years of its operation provided the LITC is licensed before 31 Dec 2014. A LITC is allowed to establish its operational office anywhere in Malaysia so long as it maintains a registered office in Labuan.

## TAX TREATY ARRANGEMENTS

Labuan has no tax treaties with any contracting state and relies on Malaysia's treaty partners to recognise the Labuan legislation as part of the Malaysian tax regime. Currently, Labuan has been specifically excluded from Double Tax Agreements with Australia, Chile, Germany, Indonesia, Japan, Luxembourg, Netherlands, South Africa, Spain, Sweden, the Republic of Seychelles and the United Kingdom. While there is no mention of Labuan being excluded from the Double Tax Agreements of Switzerland and South Korea, there may be an unwritten practice of the Swiss Tax Authorities to exclude Labuan from access to treaty rates and the Ministry of Finance and Economy of South Korea has announced that they will deny investor access to the rates of the withholding tax rates under the treaty.

Section 22A of Labuan Business Activity Tax Act 1990 provides for disclosure of information in respect of double tax agreements or tax information exchange agreements to a duly authorised servant or agent of the Government with whom such arrangements have been made where such information is required to be disclosed under such arrangements and upon request from any tax authority from any Government of any territory outside Malaysia.

## LEGISLATION UPDATES ON ESTABLISHMENT OF LABUAN

Various administration fees/charges for entities in Labuan have been revised with effect from 1 April 2013. The following are the relevant subsidiary legislation that gives effect to the changes:

PU(A)	Orders	Effective From
75/2013	Labuan Foundations (Amendment) Regulations 2013	1 April 2013
76/2013	Labuan Companies (Amendment) Regulations 2013	1 April 2013
77/2013	Labuan Financial Services And Securities (Amendment) Regulations 2013	1 April 2013
78/2013	Labuan Limited Partnerships And Limited Liability Partnerships (Amendment) Regulations 2013	1 April 2013
79/2013	Labuan Trusts (Amendment) Regulations 2013	1 April 2013
80/2013	Labuan Islamic Financial Services And Securities (Amendment) Regulations 2013	1 April 2013

# B21 MSC MALAYSIA

## MSC MALAYSIA

### Introduction

MSC Malaysia (formerly Multimedia Super Corridor) was launched on 27 Jun 1998 and it encompasses an integrated environment that encourages innovation to reach new technology frontiers, promotes partnership with global IT players and provides opportunities for mutual enrichment and success.

### Key economic focus areas

The status of MSC Malaysia designated area has been divided into two distinct categories, namely MSC Malaysia Cybercity and MSC Malaysia Cybercentre.

MSC Malaysia Cybercity	MSC Malaysia Cybercentre
Self-contained intelligent city with world-class business and living environment offering the 10-point MSC Malaysia Bill of Guarantees (BoGs)	A building or complex with basic enabling environment offering partial BoGs.
Includes: Cyberjaya, Technology Park Malaysia, Universiti Putra Malaysia-Malaysia Technology Development Corporation (UPM-MTDC), Kuala Lumpur City Centre, Kuala Lumpur Tower, Penang Cybercity 1, and Kulim High Tech Park	Includes: Kuala Lumpur Sentral, Melaka International Trade Centre, Menara MSC Cyberport in Johor, Mid Valley City, G Tower, Bangsar South City, TM Cybercentre in Kuala Lumpur, Bandar Utama, i-City Shah Alam in Selangor, Meru Raya in Ipoh, and Spansion in Penang.

The 10-point MSC Malaysia BoGs are:

- World class physical and information infrastructure
- Unrestricted employment of knowledge workers
- Freedom of ownership
- Freedom of sourcing capital globally for MSC Malaysia infrastructure and borrowing funds
- Competitive financial incentives
- Regional leader in Intellectual Property protection and cyber laws
- No censoring of Internet
- Globally competitive telecommunication tariffs
- Tender key MSC Malaysia infrastructure contracts to leading companies willing to use MSC as their regional hub
- High powered implementation agency to act as an effective one-stop super shop.

Institutions of Higher Learning (IHLs) or faculties of IHLs, and incubators are not required to locate in an MSC Malaysia Cybercity or Cybercentre, but will be eligible for benefits conferred by some parts of the BoGs.

## Multimedia Development Corporation

The Multimedia Development Corporation (MDeC) was established to take charge of the development and implementation of MSC. It is a one-stop client centre that will expedite applications for visas and other licences and permits.

### Incentives

#### Financial incentives

MSC Malaysia status company (New companies) whose activities or products are of national and strategic importance	<ul style="list-style-type: none"> <li>Pioneer status with full income tax exemption for 5 years extendable to 10 years, or 100% investment tax allowance (ITA) on qualifying capital expenditure for 5 years to be utilised against statutory income for new companies engaged in highly capital-intensive activities or whose multimedia activities are treated as cost centres.</li> <li>No duties on importation of multimedia equipment.</li> <li>R&amp;D grants for local small and medium-sized majority Malaysian-owned companies.</li> <li>Effective 1 Oct 2002, non-resident companies are exempted from payment of Malaysian income tax on the following types of income received from an approved MSC Malaysia company (located in specified areas):               <ul style="list-style-type: none"> <li>(a) payment for technical advice or technical services;</li> <li>(b) licensing fees in relation to technology development; and</li> <li>(c) interest on loans for technology development.</li> </ul> </li> </ul> <p>MSC Malaysia companies located in Cyberjaya, Technology Park Malaysia – Phase 1, Universiti Putra Malaysia-Malaysia Technology Development Corporation Incubator 1, or Petronas Twin Towers are exempted from deducting the withholding tax under S. 109 and S. 109B of the Income Tax Act 1967 (Income Tax (Exemption) (No. 13) Order 2005).</p>
ICT companies relocating into Cybercities and Cybercentres	<p>Effective from 8 Sep 2007, ICT activities including computer software development relocating to Cybercities/Cybercentres are given:</p> <ul style="list-style-type: none"> <li>Pioneer status with full income tax exemption for a period of 10 years; or</li> <li>ITA of 100% on qualifying capital expenditure incurred for a period of 5 years to offset against 100% of statutory income.</li> </ul>
Existing companies operating in Malaysia	MSC Malaysia tax incentives will apply to the “value-added” income (i.e. the additional statutory income above the average income for the past 3 years), or to the value of new investment made in MSC Malaysia.
Owners of new buildings in Cyberjaya	From Y/A 2006, Industrial Building Allowance of 10% for owners of new buildings occupied by MSC Malaysia-status companies in Cyberjaya (including completed buildings yet to be occupied) for 10 years.

For further details on ITA incentives, please refer to Promotion of Investments (Determination of Assets under S. 29B in respect of MSC status companies) Order 2001.

## Eligibility for MSC Malaysia status

MSC Malaysia status company	<ul style="list-style-type: none"> <li>• A provider or a heavy user of multimedia products and services.</li> <li>• Employ substantial number of knowledge workers.</li> <li>• Provide technology transfer and/or knowledge to Malaysia, or contribute to the development of MSC Malaysia, or support Malaysia's k-economy initiatives.</li> <li>• Should not be engaged in non-qualifying activities such as manufacturing, trading and consultancy (i.e. general professional advice not tied to any new multimedia application developed in-house).</li> </ul> <p>Once granted MSC Malaysia status, additional conditions to be complied:</p> <ul style="list-style-type: none"> <li>• Establish a separate legal business entity for MSC Malaysia qualifying businesses and activities (either locally incorporated company or a branch of a foreign company).</li> <li>• Locate MSC Malaysia operations designated areas within six months from the date of approval.</li> <li>• Ensure that at least 15% of the total number of employees of MSC Malaysia company are knowledge workers.</li> <li>• Comply with MSC Malaysia environmental guidelines.</li> </ul>
Institutions of higher learning (IHLs)	<p>IHLs with faculties offering internationally recognised standard of higher education in multimedia, information technology, engineering (selected), sciences (selected) and other related fields that will contribute to the development of human resources for MSC Malaysia are also eligible. The following criteria must be satisfied:</p> <ul style="list-style-type: none"> <li>• Provide or be a heavy user of multimedia products and services.</li> <li>• Grant either diploma or degree courses in multimedia, information technology and related fields for a training period of two years and above.</li> <li>• Establish a multimedia or a qualified faculty conducting multimedia courses, programmes and related activities.</li> <li>• Employ a substantial number of knowledge workers.</li> <li>• Conduct and support R&amp;D activities.</li> <li>• Be registered as a separate legal entity.</li> <li>• Comply with Lembaga Akreditasi Negara guidelines.</li> </ul>
Incubators	<p>Incubators housing early stage growth companies are also eligible. The following criteria must be satisfied:</p> <ul style="list-style-type: none"> <li>• House early stage growth companies (i.e. seed-level / start-up companies) involved in the ICT/Multimedia (e.g. software, e-commerce, telecom), biotechnology and/or bio-informatics.</li> </ul>

	<ul style="list-style-type: none"> <li>• Provide basic facilities such as water and electricity, internet access (minimum bandwidth of 128kbps), share facilities (e.g. meeting room, reception, audio-visual systems), business advisory services (in-house or outsourced) and minimum 2,000 sq ft floor space.</li> <li>• Dedicated management team to provide business support services in nurturing incubatees besides managing the physical infrastructure. All newly formed incubators must register with the Companies Commission of Malaysia within 1 month of obtaining MSC Malaysia status.</li> <li>• Definition of “early stage growth companies”: <ul style="list-style-type: none"> <li>– Seed level-companies incorporated within the past 2 years and have ideas or concepts that require funds for proof of concept;</li> <li>– Start up-companies in the process of setting up or have been in business for a short time and require capital for commercialisation of their products/solutions. These companies may not be generating profits yet.</li> </ul> </li> </ul>
Shared services and outsourcing (SSO)	<p>Companies performing SSO activities must satisfy the following criteria:</p> <ul style="list-style-type: none"> <li>• More than 70% of the revenue must be from outside Malaysia.</li> <li>• Employ at least 85% knowledge workers.</li> <li>• With minimum of 100 employees by the third year of operation.</li> <li>• 70% of investment/operation to be in an MSC-designated area within 6 months of MSC Malaysia approval.</li> </ul>

MSC Malaysia status application is available online via: <http://wizard.mscomalaysia.my/wizard>



# B22 MAJOR CHANGES IN TAX PROVISIONS

	<i>Effective Date</i>
<b>Bonus restriction</b> No restriction on deduction of bonus paid to employees.	Y/A 2002 onwards
<b>Current year basis</b> Change in assessment of income tax from the preceding year basis to current year basis.	Y/A 2000 onwards
<b>Entertainment expenditure</b> 50% of expenses allowed and 100% for items as specified.  The definition of "entertainment" is amended to include expenses incurred by a person for the purpose of promoting his business with or without consideration.	Y/A 2004 onwards  Y/A 2014 onwards
<b>Export of professional services</b> Exemption of service tax on export of professional services.	25 Oct 1996 onwards
<b>Foreign source income</b> Foreign source income of resident companies exempted from income tax.  Foreign source income of a resident individual, trust body, cooperative or Hindu joint family exempted from income tax.	Y/A 1995 onwards  Y/A 2004 onwards
<b>IA for purchased industrial building</b> Initial allowance granted on purchased industrial building.	Y/A 2002 onwards
<b>Investment holding company</b> Expenses incurred by Investment Holding Companies restricted for deduction to a proportion of permitted expenses.	Y/A 1993 onwards
<b>Leave passage</b> Leave passage disallowed as business deduction.  Allowed as business deduction if provided as a yearly event within Malaysia.	Y/A 1989 onwards  Y/A 2007 onwards
<b>Life insurance and <i>takaful</i> business</b> Revision in basis of taxing life insurance and <i>takaful</i> business.  Revision in basis of taxing inward life re-insurance business.	Y/A 1995 onwards  Y/A 1998 onwards
<b>Overlapping basis periods</b> Change in basis of determining adjusted income in 2 overlapping basis periods so that the income in the overlapping periods will not be taxed twice.	Y/A 1999 onwards

	<i>Effective Date</i>
<b>Proprietary rights</b>	
Expenditure on acquisition of proprietary rights allowed for deduction.	Y/A 1997 onwards
<b>Real property company</b>	
Change in basis of determining deemed acquisition date and deemed acquisition price for shares in real property company.	17 Oct 1997 onwards
<b>Reinvestment allowance (RA)</b>	
Reinvestment allowance incentive extended to 15 years.	Y/A 1998–Y/A2008
Criteria and conditions for RA incentive have been amended and claim for RA is made more restrictive as follows: <ul style="list-style-type: none"> <li>(a) Limit on eligibility to claim RA for company that has been in operation from 12 months is extended to at least 36 months</li> <li>(b) Claw back RA for assets disposed of within 2 years from the date of purchase of the asset is extended to 5 years</li> <li>(c) Definition for “manufacturing” has been given a more specific and strict interpretation under Sch 7A of the Income Tax Act 1967 (ITA).</li> </ul>	Y/A 2009 onwards
Processing of a product does not qualify for RA.	
Disallow RA claim in respect of assets acquired from a related company where RA has been claimed on the same asset.	
RA incentive cannot be claimed in the same basis period if a company is also enjoying other incentives such as pioneer status, investment tax allowance, industrial adjustment allowance and investment tax credit.	Y/A 2011 onwards
The term “factory” is defined under Para 9 to Sch 7A of the ITA, as the portion of the floor areas of a building or extension of a building used for the purposes of a qualifying project to place or install plant or machinery or to store any raw materials, or goods or materials manufactured prior to sale. However, if the total storage area exceeds 10% of the total floor area of the factory, the portion relating to the storage space would not qualify for RA.	Y/A 2012 onwards
Companies with qualifying projects located in promoted areas comprising the states of Sabah, Sarawak, the Federal Territory of Labuan, Perlis, and the Eastern Corridor of Peninsular Malaysia are no longer entitled to claim the highest set-off rate of 100% against the statutory income for a year of assessment. Only companies which have achieved the level of productivity as prescribed by the Minister of Finance shall be allowed the maximum set-off rate of 100%.	
<b>Monthly tax deduction</b>	
Monthly Tax Deduction scheme for Peninsular Malaysia.	1 Jan 1995 onwards

	<i>Effective Date</i>
<b>Self assessment system</b>	
Change from Official Assessment System to Self Assessment System for:	
(a) Companies	Y/A 2001 onwards
(b) Businesses, partnerships and co-operatives	Y/A 2004 onwards
(c) Employees	Y/A 2004 onwards
(d) Upstream petroleum companies	Y/A 2010 onwards
<b>Tax Waiver</b> (first 12 months in basis period)	Y/A 2000 (preceding year basis)
<b>Training non-employees</b>	
Expenses incurred in providing practical training to residents who are not employees of a company are allowed a deduction.	Y/A 2002 onwards
<b>Websites</b>	
Cost of developing websites that are electronic commerce-enabled allowed annual deduction of 20% over 5 years.	Y/A 2002 onwards
<b>Withholding taxes</b>	
Exclusion of Offshore Services from withholding tax.	21 Sep 2002
Rates for S. 107A reduced to 10% and 3%.	21 Sep 2002
Exclusion of reimbursements relating to hotel accommodation in Malaysia from withholding tax.	1 Jan 2009
Introduction of a new withholding tax on "other gains or profits" of a non-resident under S. 4(f) of the ITA subject to withholding tax at a rate of 10%.	1 Jan 2009
<b>Service tax and sales tax</b>	
No service tax or sales tax on bad debts.	1 Jan 2003
Group Management services not subject to service tax.	1 Jan 2003
<b>Section 11 source</b>	
Abolition of S. 11 source income.	Y/A 2003
<b>Industrial building allowance (IBA)</b>	
Simplifying the computation of IBA for used buildings from residual value to current purchase price.	Y/A 2005
<b>Zakat</b>	
Tax deduction for <i>zakat</i> on business income paid by companies up to 1/40th of aggregate income.	Y/A 2005
<b>Interest-in-suspense</b>	
Tax treatment on interest-in-suspense.	Y/A 2001

	<i>Effective Date</i>
<b>REIT</b>	
Tax treatment for Real Estate Investment Trust.	Y/A 2005
<b>Group relief</b>	
50% of current year unabsorbed losses can be set-off against the income of another company within the same group, subject to certain conditions.	Y/A 2006
70% of current year unabsorbed losses can be set-off against the income of another company within the same group, subject to certain conditions.	Y/A 2009
<b>Treatment of unabsorbed losses and capital allowances</b>	
Unabsorbed losses and capital allowances of a dormant company will not be allowed to be carried forward in the event there is a change of its shareholding unless more than 50% of its paid-up capital is held by the same persons.	Y/A 2006
<b>Income of investment holding company</b>	
Income of public listed investment holding company will be treated as business income and the expenses will be given full deduction. However, unabsorbed losses and capital allowances will not be allowed to be carried forward.	Y/A 2006
<b>Initial tax estimate</b>	
Initial tax estimate can be at a level not less than 85% of the preceding year's tax estimate.	Y/A 2006
<b>Small value assets</b>	
Special allowance of 100% or capital allowance at standard rates is given to small value assets not exceeding RM1,000 each but not exceeding a total value of RM10,000 (The maximum limit of RM10,000 is not applicable to small and medium enterprises (SMEs) with effect from Y/A 2009).	Y/A 2006
<b>REIT</b>	
Consultancy, legal and valuation fees incurred qualify for a tax deduction.	Y/A 2006
<b>Deductibility of discount or premiums</b>	
Expenses incurred on discounts or premiums from the issuance of bonds qualify for deduction on an accrual basis.	Y/A 2006
<b>RPGT on residential properties</b>	
RPGT exemption on a residential property is given to both husband and wife on one residential property each.	1 Oct 2005 onwards
<b>Employee share option scheme</b>	
The value of the benefit for each share option is determined based on the difference between the market price on the date the share option is exercised or exercisable, whichever is the lower, and the discounted price offered by the employer. The benefit is liable to tax in the year the option is exercised.	Y/A 2006
<b>Deductibility of audit fees</b>	
Statutory audit fees incurred qualify for deduction.	YA 2006

	<i>Effective Date</i>
<b>Advance rulings</b> The taxpayer is allowed to request for an advance ruling to promote clarity and certainty in the interpretation and application of the law.	1 Jan 2007 onwards
<b>Penalty on withholding tax</b> 10% penalty on the amount of unpaid tax instead of the total payment.	2 Sep 2006 onwards
<b>RPGT on transfer of property into stocks</b>	2 Sep 2006 onwards
<b>Special tax treatment for property development and construction businesses</b>	Y/A 2006
<b>Deduction on donation for charitable activities</b> Limit on deduction given to companies on contributions for charity at 5% of the aggregate income.  Limit on deduction given to companies on contributions for charity, sports and projects of national interest is increased from 5% to 7% of the aggregate income.  Limit on deduction given to companies on contributions for charity, sports and projects of national interest is increased from 7% to 10% of the aggregate income.	Y/A 2001  Y/A 2007  Y/A 2009
<b>Tax treatment on payment for rental of ship</b> Rental payment of ships under voyage charter, time charter or bare boat charter to a non-resident by a resident Malaysian shipping company is exempted from withholding tax.	2 Sep 2006 onwards
<b>RPGT exemption</b> No RPGT on disposal of chargeable assets after 31 Mar 2007.	1 Apr 2007– 31 Dec 2009
<b>Promotion of Investments (Amendment) Act</b> Major changes have been made via the Promotion of Investments (Amendment) Act 2007.	Several commencement dates which take effect from Y/A 2001 onwards
<b>Single tier tax system</b> A single tier company income tax system is introduced. Under this single tier system, tax on a company's profits is a final tax and dividends distributed to shareholders will be exempted from tax.	Y/A 2008 onwards
<b>Election for Labuan incorporated companies to be taxed under the ITA</b> Labuan companies can make an irrevocable election to be taxed under the ITA.	Y/A 2008 onwards

	<i>Effective Date</i>
<b>Small and medium enterprise (SME)</b> Implications on re-definition of SME: (a) Preferential tax rate of 20% shall not apply to a company if its paid up capital is more than 50% owned (directly or indirectly) by a related company which has paid up capital exceeding RM2.5 million in respect of ordinary shares; and (b) SME company exempted from furnishing an estimate of tax payable for two years of assessment after the commencement of operations. The preferential tax rate for SME will be reduced from 20% to 19%.	Y/A 2009 onwards  Y/A 2010 onwards  Y/A 2016 onwards
<b>Service tax</b> Rate increased from 5% to 6% on all taxable services.	1 Jan 2011
<b>Withholding tax</b> Imposition of penalty under S. 113(2) of the ITA if payers fail to comply with withholding tax under S. 107A/109/109B and 109F of the ITA where a claim for deduction has been made.	1 Jan 2011 for Y/A 2011 onwards
<b>Tax treatment of bonds for companies</b> Where there is insufficient or an absence of gross income from a source consisting of discount/ premium, any unutilised discount expenses shall be allowed a deduction against the adjusted income of the company from any source consisting of a business.	Y/A 2011
<b>Executors</b> Time frame of 3 years to make assessment/additional assessment from the time the Director General is notified of the death of the individual by the executor.	27 Jan 2011
<b>Tax relief for contribution to an approved private retirement scheme</b> Tax relief of RM3,000 for contributions made to an approved private retirement scheme.	Y/A 2012 – Y/A 2021
<b>Franchise fees</b> Franchise fees incurred on local franchise brands are allowed a deduction.	Y/A 2012 onwards
<b>Exemption of shipping profits</b> The income derived from each Malaysian ship shall be treated as income from a separate and distinct business source.  The income tax exemption for shipping companies is reduced from 100% to 70% of statutory income and the balance of 30% of statutory income is deemed to be total income chargeable to tax.	Y/A 2012

	<i>Effective Date</i>
<b>Life insurance business</b> <p>The adjusted loss from a business of a life fund can only be set-off against the statutory income of the life fund in subsequent years of assessment until it is fully utilised.</p> <p>The adjusted loss from a non-life fund business is allowable to be set-off from the aggregate statutory income of a non-life fund business and any unabsorbed business loss cannot be used to set-off against the statutory income of the life fund in subsequent years of assessment.</p>	Y/A 2012 onwards
<b>Compensation for late refund of income tax</b> <p>Taxpayers who have submitted their tax returns within the stipulated time and are due for a tax refund are paid compensation of 2% per annum on the amount of tax refunded late by the Director General.</p>	With effect from 10 Feb 2012
<b>Interest income as non-business income</b> <p>Interest income will not be taxable under S. 4(a) unless the interest income is related to debenture, mortgage or other source which forms or has formed part of the stock in trade of a business of a person or the interest is receivable by a person from the business of lending money and that business is licensed under any written law.</p>	Y/A 2013 onwards
<b>Review of time bar for income tax assessment</b> <p>The time bar for the Director General to raise income tax assessment or additional assessment is reduced from 6 years to 5 years. This provision would not apply to cases related to fraud, willful default or negligence.</p>	1 Jan 2014
<b>Limited liability partnership (LLP)</b> <p>LLP is a taxable entity and has tax treatments and compliance requirements similar to a company.</p>	10 Feb 2012
<b>Business trust</b> <p>A company is defined to include a business trust. Hence, a business trust has tax treatments and compliance requirements similar to a company.</p>	28 Dec 2012
<b>Monthly tax deduction as final tax</b> <p>Individual taxpayers with employment income where Monthly Tax Deductions have been made are no longer required to submit tax returns if they are satisfied that their Monthly Tax Deduction is equal to the final tax payable. This provision would not apply to individual taxpayers with non-employment income or cases where the duration of employment under the same employer in a calendar year is less than 12 months.</p>	Y/A 2014 onwards
<b>Abolishment of sales tax and service tax</b> <p>To abolish Sales Tax and Service Tax when Goods and Services Tax is introduced.</p>	1 Apr 2015

	<i>Effective Date</i>
<b>Goods and Services Tax</b> Introduction of Goods and Services Tax at 6%.	1 Apr 2015
<b>Secretarial fee and tax filing fee</b> Secretarial fee and tax fee disallowed for claim of tax deduction.  Secretarial fee (of up to RM5,000 per year) and tax fee (of up to RM10,000 per year) be allowed tax deduction as part of the tax incentive package in line with GST implementation.	Y/A 2006 to Y/A 2014  Y/A 2015 onwards
<b>New tax rates for RPGT</b> Introduction of new RPGT tax rates for companies, individual citizens/ permanent residents and individual non-citizens.	1 Jan 2014
<b>Tax treatment for compulsory acquisition</b> Any amount receivable by a person from the disposal of its stock in trade as a result of compulsory acquisition or forced sale is treated as gross income of that person from a business.	Y/A 2014 onwards
<b>Determination of basis period for commencement of operation</b> The first basis period for a year of assessment on commencement of operation by a company, LLP, trust body or co-operative society shall be the accounting period.	Y/A 2014 onwards
<b>Tax treatment for interest income from related party loan</b> Interest income deemed obtainable on demand by lender in a related party loan transaction in the basis period where such interest is due to be paid and thus brought to tax.	Y/A 2014 onwards
<b>Tax treatment for deduction of interest expense</b> Interest expense shall be available for tax deduction in respect of money borrowed when such interest is due to be paid.	Y/A 2014 onwards
<b>Management expenses for <i>Takaful</i> general fund</b> Management expenses incurred by <i>Takaful</i> general business (resident and non-resident operator) qualify for deduction to be consistent with the treatment adopted by the conventional insurance business.	Y/A 2014 onwards
<b>Commision payable and discount allowed for <i>Takaful</i> shareholders fund</b> Commission payable and discount allowed incurred in respect of <i>Takaful</i> shareholders fund (resident and non-resident operator) qualify for deduction.	Y/A 2014 onwards
<b>Requirements for submission of corporate tax return</b> It is mandatory for companies to submit tax returns via e-filing and the said return must be based on audited financial statements prepared by professional accountants.	Y/A 2014 onwards



	<i>Effective Date</i>
<b>Special Provision Applicable to Loan or Advances to Director</b> Where a company gives any loan or advances from its internal funds to a director, it is deemed to have interest income from such loan or advances for the relevant periods.	Y/A 2014 onwards

# B23 ISKANDAR MALAYSIA (IM)

## Introduction

Iskandar Malaysia (IM) is a special economic zone in South Johor, covering 2,217 sq km of land area within the southernmost part of Johor between Senai Airport and the Ports of Tanjung Pelepas and Pasir Gudang. Since 2006, IM has progressed rapidly towards achieving the target of RM383 billion in investments over a 20-year period.

## Objectives

IM is positioned as an “international city” with a hope to decrease trade barriers and increase human mobility and international financing. IM’s CDP focuses on creating a good investment climate to attract both foreign and local investors with a view to sustainable development. It provides a framework for the comprehensive development of IM, as well as for planning and implementation. It indicates 5 main strategic pillars which are:

- international rim positioning;
- establishing hard and soft infrastructure enablers;
- investments in catalyst projects;
- establishing a strong institutional framework; and
- the creation of a strong regulatory authority and ensuring socio-economic equity and buy-in from the local population.

Five Flagship Zones have been proposed in the CDP as key focal points for development in IM which are Johor Bahru City Centre, Nusajaya, Western Gate Development (including the Port of Tanjung Pelepas), Eastern Gate Development (including the Pasir Gudang Port and Tanjung Langsat) and Senai-Skudai.

There are 5 existing industry clusters within IM which will be upgraded and developed continuously:

- (a) electrical and electronics;
- (b) petrochemicals and oleochemicals;
- (c) food and agro processing;
- (d) logistics and related services; and
- (e) tourism.

Apart from these existing clusters, IM also focuses on the development of new clusters which are:

- (i) Health services
- (ii) Education services
- (iii) Financial services
- (iv) Creative industries.

## The Iskandar Regional Development Authority (IRDA)

The IRDA was set up under the Iskandar Regional Development Authority Act 2007 with the objective to develop IM into a strong and sustainable metropolis of international standing. Its functions include establishing national policies, direction and strategies in relation to the development of IM.

The role of the IRDA is central to the development of IM, as it is intended to act as the co-ordinator between government agencies, to promote trade, investment and development within IM, and to handle all matters relating to the general administration of IM. Among other things, the IRDA would recommend and monitor

standards, guidelines and practices to be used by government bodies for IM, and would act as the agent in relation to applications for approvals. It is the body responsible to recommend incentives for tax, customs duties and other fiscal incentives.

### **Incentives in IM**

Apart from the existing incentives in Malaysia which are offered to various industries and approved activities under the Promotion of Investments Act 1986 and the Income Tax Act 1967, customised or special incentives have been modified for the purposes of IM. These incentives are over and above the existing set of incentives offered by the Malaysian Government.

In March 2007, the IRDA released the Incentive and Support Package (ISP) to encourage early investment with a view to kick start the development of IM. The development of IM will focus specially on the services sector in line with the Government's policy to increase focus on value-added and knowledge-intensive activities in the country. Commercial development initiatives for the development of IM include activities approved by the IRDA within the following targeted service sectors:

- (i) creative industries;
- (ii) education;
- (iii) financial advisory and consulting;
- (iv) healthcare;
- (v) logistics; and
- (vi) tourism.

In order to be eligible for the ISP, companies must be approved by the IRDA and carry out activities in the above targeted service sectors, and be situated in the designated zones, for customers within the zone and outside Malaysia. These companies will be given the IDR status and enjoy the following incentives:

- (a) freedom to source capital globally;
- (b) able to employ foreign employees freely within the approved zones, depending on the amount of space occupied in these zones;
- (c) exemption from corporate income tax for an IDR-status company at statutory income level for a period of 10 years from commencement of qualifying activities within the zone and outside Malaysia, provided these operations commence before the end of 2015. Unabsorbed losses are allowed to be carried forward to the post-tax exempt period with certain conditions [Income Tax (Exemption) (No. 20) Order 2007];
- (d) foreign knowledge workers living in IM and working in IDR-status companies will be entitled to import or purchase one car per person free of import duties or excise duties and sales taxes subject to conditions.
- (e) chargeable income of knowledge workers residing in IM in respect of qualifying activities who apply for and commence employment in a designated company in IM between 24 October 2009 and 31 December 2015 and working in qualifying activities be taxed at 15% indefinitely. Qualifying activities include green technology, biotechnology, educational services, healthcare services, creative industries, financial advisory and consultancy services, logistic services and tourism [Income Tax (Determination of Knowledge Worker, Qualified Activity and Specified Region) Rules 2010].
- (f) non-residents are exempt from tax on payment of technical fees and royalty by an IDR-status company within 10 years from the date of commencement of his qualifying activity in Malaysia [Income Tax (Exemption) (No. 21) Order 2007].

The following incentives are available for developers and development managers of designated areas within IM approved by the Minister of Finance:

*Developer*

- (a) income tax exemption on statutory income in respect of income derived from the disposal of rights over any land located in an approved area until Y/A 2015 and in respect of income from rental or disposal of a building located in an approved area until Y/A 2020. Unabsorbed losses are allowed to be carried forward to the post-tax exempt period with certain conditions [Income Tax (Exemption) (No. 19) Order 2007]; and
- (b) non-residents are exempt from tax on payment of royalties, interest and technical fees by a developer until 31 December 2015 [Income Tax (Exemption) (No. 21) Order 2007].

*Development managers*

- (a) income tax exemption on statutory income in respect of income derived from the provision of management, supervisory or marketing services to developers until Y/A 2020. Unabsorbed losses are allowed to be carried forward to the post-tax exempt period with certain conditions [Income Tax (Exemption) (No. 19) Order 2007]; and
- (b) non-residents are exempt from tax on payment of technical fees by a development manager until 31 December 2015 [Income Tax (Exemption) (No. 21) Order 2007].

Notwithstanding that these companies are free to employ foreign workers, IRDA also expects IDR-status companies to have Malaysians as a large majority of their workforce.

**Customised incentives**

There are also customised incentives available to those who meet prerequisite criteria set out by the Malaysian Investment Development Authority and/or the Ministry of Finance. These incentives are bilateral in nature (based on request and consultation) with no specific guidelines. These incentives are ultimately based on the projected net economic benefit enjoyed from the investment.

# B24 NORTHERN CORRIDOR ECONOMIC REGION (NCER)

## Introduction

The NCER is a Government-initiated development programme which is aimed at accelerating economic growth and elevating income levels in northern Peninsular Malaysia. The areas which form the NCER are Perlis, Kedah, Pulau Pinang and northern Perak (the districts of Hulu Perak, Kerian, Kuala Kangsar and Larut Matang – Selama). The NCER initiative as laid out in the NCER blueprint will be carried out from 2007 to 2025, covering 4 Malaysia Plans.

## Objectives

The objectives of the NCER initiative include:

- maximising the region's economic potential.
- closing the development and income gap between different regions in Malaysia.
- moving towards higher value-added and knowledge-based economic activities in order to increase per capita income.
- developing the region in targeted economic focus areas which emphasise local community involvement.

The 2 main themes of the NCER initiative are:

- increasing value-add from existing industries with emphasis on transforming and expanding the target economic focus areas (agriculture, manufacturing, tourism and logistics) in the region; and
- a commitment to growth with social equity where there will be programmes to accelerate growth in the target economic areas that emphasise local community involvement led by the private sector and driven by market imperatives.

## Key economic focus areas

The NCER has 4 targeted economic focus areas, namely agriculture, manufacturing, tourism and logistics. These are the region's existing industries which are to be further transformed and expanded under the NCER initiative.

<i>Focus area</i>	<i>Targeted outcome</i>
Agriculture	<ul style="list-style-type: none"><li>• To become Malaysia's modern food zone and increase the country's efficiency in food production.</li></ul>
Manufacturing	<ul style="list-style-type: none"><li>• To become a high-tech electronics hub and expand the current predominant assembly and test activities to higher value-add activities.</li><li>• To promote new industries — downstream agriculture, biotechnology, sustainable materials, and oil and gas.</li></ul>
Tourism	<ul style="list-style-type: none"><li>• To position the NCER as a premier destination for tourists seeking world-class resorts, spas and a destination for long-stay vacations.</li><li>• To become Asia's medical tourism hub which provides high-quality and affordable specialist medical procedures.</li></ul>
Logistics	<ul style="list-style-type: none"><li>• To become a major processing centre and entrepot port.</li><li>• To promote Penang Port as a regional transshipment centre.</li></ul>

## Northern Corridor Implementation Authority (NCIA)

The task of implementing the NCER initiative is entrusted to the NCIA, which will act as the facilitator between the Government and investors, and perform certain functions on behalf of government agencies.

The NCIA has been entrusted by the Government to manage a number of special-purpose funds which were created to provide financial assistance to entrepreneurs and companies (both new and existing) involved in the NCER.

### Incentives

#### *Financial incentives*

Financial incentives that are designed to encourage companies to undertake promoted activities in the NCER include soft loans, grants, venture capital funding, flexible land lease arrangements at the discretion of the state governments and fiscal incentives.

For the agricultural sector, there are 2 funding and incentive packages:

- (a) NCER Agro-preneur Incentive Package
  - to enable trained and experienced agronomists to set up modern farming SMEs.
- (b) NCER Commercial Agriculture Incentive Package
  - to encourage large corporations to undertake promoted agricultural activities.

For the manufacturing sector, the NCER Manufacturing Industries Incentive Package is available to promoted zones in manufacturing sub-sectors in the NCER. The incentive package aims to encourage investments in new areas such as biotechnology and agribusiness, and encourage existing industries such as the electrical and electronic (E&E) sector to move up the value chain.

#### *Fiscal incentives*

	<i>Incentives</i>
<b>Approved Agricultural Projects in NCER</b>	<ul style="list-style-type: none"><li>• 100% income tax exemption on statutory income for a period of 10 years, starting from the first year of profitability, or Investment Tax Allowance of 100% on qualifying capital expenditure for a period of 5 years</li><li>• Tax-exempt dividends can be declared from income that is tax exempted</li><li>• Import duty and sales tax exemption on raw materials, components and machinery as long as such goods are not locally produced</li><li>• Stamp duty exemptions on land acquisitions and mortgage transactions</li><li>• Investments in subsidiaries (approved companies) by individuals and holding companies are eligible for tax deduction</li></ul>

	<i>Incentives</i>
<b>Seeds Research and Development (Seeds R&amp;D) Centres in Perlis</b>	<p><b>Operator</b></p> <ul style="list-style-type: none"> <li>• 100% income tax exemption on statutory income for a period of 10 years, starting from the first year of profitability, or Investment Tax Allowance of 100% on qualifying capital expenditure for a period of 5 years</li> <li>• Tax-exempt dividends can be declared from income that is tax exempted</li> <li>• 20% tax rebate for the next 10 years after the expiry of the tax-exempt period</li> <li>• Double deduction on export promotion expenses</li> <li>• Tax deduction on cost incurred to obtain proprietary rights for 5 years which are 51% Malaysian owned</li> <li>• Industrial building allowance on buildings used for Seeds R&amp;D for 10 years</li> <li>• Stamp duty exemptions on land acquisitions and mortgage transactions</li> <li>• Import duty and sales tax exemption on raw materials, components and machinery</li> </ul> <p><b>Investor</b></p> <ul style="list-style-type: none"> <li>• Individuals / holding companies investing in an approved company are eligible for tax deduction equivalent to the total investment made in seed capital and early stage financing</li> </ul> <p><b>Non-related company</b></p> <ul style="list-style-type: none"> <li>• Double deduction on expenditure incurred for utilising R&amp;D services in Seeds R&amp;D centre</li> </ul>
<b>Operator of Premier Industrial Park in Kedah</b>	<ul style="list-style-type: none"> <li>• 100% income tax exemption on statutory income for a period of 10 years, starting from the first year of profitability, or Investment Tax Allowance of 100% on qualifying capital expenditure for a period of 5 years</li> <li>• Investment Tax Allowance and Industrial Building Allowance — eligible expenses expanded to include building cost, infrastructure cost and amenities</li> <li>• Double deductions on export promotion</li> <li>• Stamp duty exemptions on land acquisitions and mortgage transactions</li> </ul>

Similar to the agriculture and manufacturing sectors, a phased approach will be adopted in strengthening the tourism sector in the NCER, with the focus on Penang and Langkawi in the first phase and the mainland in the subsequent phases. Among the implementation programmes put in place are initiatives to ensure the consistent supply of quality medical and healthcare professionals as well as to encourage healthcare facilities to obtain accreditation.

The NCER Tourism Development Incentive Package would include fiscal incentives, the provision of key infrastructure and waivers from meeting certain Government requirements.

#### ***Non-financial incentives***

Among the planned non-financial incentives are:

- a waiver of the need to meet certain Government guidelines / requirements;
- to fast track the processing of licences and work permits for Malaysian doctors returning from overseas and foreign medical expertise; and
- assistance and incentives in obtaining international standards accreditation.

## Introduction

The East Coast Economic Region (ECER) covers the states of Kelantan, Terengganu and Pahang and the district of Mersing, Johor. The ECER Master Plan was developed to guide the development of this region over a 12-year period. The Master Plan aims to transform the region into a major international and local tourism destination, an exporter of resource-based and manufactured products, a vibrant trading centre, and a logistics and infrastructure hub. Measures will also be taken under the Master Plan to raise income levels and eradicate poverty by expanding employment prospects through the introduction of high-impact, catalytic projects to spur development in the region.

The East Coast Economic Region Development Council (ECERDC) is a statutory body established under the East Coast Economic Region Development Council Act 2008 (Act 688) which will drive the implementation projects and key programmes identified in the ECER Master Plan.

## Economic clusters

Five economic clusters have been identified as key focal points for development in the ECER, namely:

- (i) tourism
- (ii) oil, gas and petrochemical
- (iii) manufacturing
- (iv) agriculture
- (v) education

## Incentives

In addition to the existing general incentives already available to the industries under the 5 economic clusters, some special ECER incentives are also being made available. To qualify for the incentives, companies must commence operations before 31 Dec 2015.

Activity / cluster	<p align="center"><i>ECER Incentives Package</i></p> <p align="center"><i>(To qualify for these incentives, companies must commence operations before 31 Dec 2015)</i></p>
<p><b>1. TOURISM</b></p>	<p>To qualify as a tourism project, a company must have a minimum investment of RM5 million.</p> <p>Incentives are given to owner or owner operator of hotels and resorts, integrated resorts, theme parks, amusement and family entertainment centres, cultural centres, conference centres, exhibition centres, regional operation of hotels and leisure services.</p>
<p>(i) Tourism activities in designated locations</p>	<ul style="list-style-type: none"> <li>• Customised incentives based on merit of each case; or</li> <li>• Income tax exemption of 100% for 10 years commencing from the year company derives statutory income; or</li> <li>• Income tax exemption of 100% for 5 years for eco-tourism commencing from the year company derives statutory income; or</li> </ul>



Activity / cluster	<p align="center"><i>ECER Incentives Package</i></p> <p align="center"><i>(To qualify for these incentives, companies must commence operations before 31 Dec 2015)</i></p>
<p>(ii) Eco-tourism <i>(designated areas only)</i></p> <p>(iii) Hallmark events such as:</p> <ul style="list-style-type: none"> <li>• Taman Negara Eco Challenge, Pahang</li> <li>• Royal Pahang International Billfish Challenge, Pahang</li> <li>• Monsoon Cup, Terengganu</li> <li>• Sultan's Cup Endurance Challenge, Terengganu</li> </ul>	<ul style="list-style-type: none"> <li>• Income tax exemption equivalent to 100% of qualifying capital expenditure (Investment Tax Allowance) for 5 years</li> <li>• Stamp duty exemption on land acquired for development</li> <li>• Withholding tax exemption on royalty and technical fees for 10 years</li> </ul> <p><i>Application to be submitted to ECERDC</i></p> <ul style="list-style-type: none"> <li>• Import duty and sales tax exemption on machinery, equipment and consumables that are not produced locally and used directly in the activity</li> <li>• Refer to item (i) above</li> </ul> <p>Single deduction up to a maximum of RM1 million per year of assessment for sponsors of event approved by ECERDC</p> <p><i>Claim to be submitted to the Inland Revenue Board</i></p>
<p><b>2. PETROCHEMICAL</b></p> <p>Petrochemical and industrial park development projects in designated locations:</p> <p>(i) Kertih Integrated Petrochemical Complex (KIPC), Terengganu</p> <p>(ii) Kertih Polymer Park, Terengganu</p> <p>(iii) Gebeng Integrated Petrochemical Complex, Pahang</p>	<p><b>Companies developing infrastructure of industrial park:</b></p> <ul style="list-style-type: none"> <li>• Income tax exemption of 100% for 10 years commencing from the year company derives statutory income; or</li> <li>• Income tax exemption equivalent to 100% of qualifying capital expenditure (Investment Tax Allowance) for 5 years</li> <li>• Stamp duty exemption on instruments of acquisition or leasing of property relating to industrial park</li> </ul> <p><b>Companies undertaking promoted activities in the park:</b></p> <ul style="list-style-type: none"> <li>• Customised incentives based on merit of each case; or</li> <li>• Income tax exemption of 100% for 8 years commencing from the year company derives statutory income; or</li> </ul>



Activity / cluster	<p align="center"><i>ECER Incentives Package</i></p> <p align="center"><i>(To qualify for these incentives, companies must commence operations before 31 Dec 2015)</i></p>
<p>(iii) Special Economic Zone (SEZ) Free Zone</p> <p>Promoted projects and industrial park development projects in the SEZ Free Zones:</p> <ul style="list-style-type: none"> <li>• Kemaman Port Free Zone, Terengganu</li> <li>• Kuantan Port City Free Zone, Pahang</li> <li>• Kuantan Airport Free Zone, Pahang</li> <li>• Tanjung Agas Free Zone, Pahang</li> </ul>	<p><b>Companies developing infrastructure of industrial parks and undertaking promoted activities in the designated park:</b></p> <ul style="list-style-type: none"> <li>• Customised incentives based on merit of each case; or</li> <li>• Income tax exemption of 100% for 8 years commencing from the year company derives statutory income; or</li> <li>• Income tax exemption equivalent to 100% of qualifying capital expenditure (Investment Tax Allowance) for 5 years</li> </ul> <p><i>Application to be submitted to ECERDC</i></p> <ul style="list-style-type: none"> <li>• Companies undertaking activities in SEZ will also enjoy a set of non-fiscal incentives such as competitive utility tariffs, land premiums and accessibility to grants based on merit of each case</li> </ul>
<p><b>4. AGRICULTURE</b></p> <p>Investors investing or undertaking agriculture / agro-based projects in designated locations:</p> <p>(i) Crops (certain types of crops only)</p> <p>(ii) Livestock</p> <p>(iii) Fisheries (designated areas only)</p>	<p><b>Investors investing in the project:</b></p> <ul style="list-style-type: none"> <li>• A company investing in a subsidiary company that undertakes an agricultural / agro-based processing project is entitled to a deduction equivalent to the amount of investment made</li> <li>• A company or an individual investing in a subsidiary company that undertakes a project is entitled to a deduction equivalent to the amount invested in seed capital and early stage financing</li> </ul> <p>To qualify, the investing company or individual must own at least 70% shareholding in that subsidiary company.</p> <p><b>Company undertaking the project:</b></p> <ul style="list-style-type: none"> <li>• Customised incentives based on merit of each case; or</li> <li>• Income tax exemption of 100% for 10 years commencing from the year company derives statutory income; or</li> <li>• Income tax exemption equivalent to 100% of qualifying capital expenditure (Investment Tax Allowance) for 5 years</li> <li>• Stamp duty exemption on instruments of acquisition or leasing of property</li> </ul> <p><b>Company undertaking Collection, Processing, Packaging Centres (CPPC) and Collection and Marketing Centres (CMC):</b></p> <ul style="list-style-type: none"> <li>• Customised incentives based on merit of each case; or</li> <li>• Income tax exemption of 100% for 10 years commencing from the year company derives statutory income; or</li> <li>• Income tax exemption equivalent to 100% of qualifying capital expenditure (Investment Tax Allowance) for 5 years</li> <li>• Stamp duty exemption for land acquired for development</li> </ul>

Activity / cluster	<p align="center"><i>ECER Incentives Package</i></p> <p align="center"><i>(To qualify for these incentives, companies must commence operations before 31 Dec 2015)</i></p>
	<p><i>Application to be submitted to ECERDC</i></p> <ul style="list-style-type: none"> <li>• Import duty and sales tax exemption on raw materials, components, machinery, equipment, spare parts and consumables that are not produced locally and used directly in the activity</li> </ul>
<p><b>5. KNOWLEDGE, EDUCATION AND ICT DEVELOPMENT</b></p> <p>(i) Universities, colleges, skill training institutions, R&amp;D institutions, regional training centres in designated places</p> <p>(ii) ICT development</p>	<p><b>Investors and operators in educational and ICT development projects:</b></p> <ul style="list-style-type: none"> <li>• Customised incentives based on merit of each case; or</li> <li>• Income tax exemption of 100% for 10 years.</li> <li>• Withholding tax exemption on royalty and technical fees for 10 years</li> </ul> <p><i>Application to be submitted to ECERDC</i></p> <ul style="list-style-type: none"> <li>• Import duty and sales tax exemption on machinery and equipment that are not produced locally and used directly in the activity</li> </ul>
<p><b>6. CULTURE AND HERITAGE</b></p> <p>(i) <i>Batik</i></p> <p>(ii) <i>Songket</i></p> <p>(iii) Brassware</p> <p>(iv) Silverware</p> <p>(v) <i>Royal tenun</i></p> <p>(vi) Wood carving</p> <p>(vii) Kite making</p>	<p><b>Investors and operators in culture and heritage projects:</b></p> <ul style="list-style-type: none"> <li>• Income tax exemption of 100% for 10 years; or</li> <li>• Income tax exemption equivalent to 100% of qualifying capital expenditure (Investment Tax Allowance) for 5 years</li> </ul>

Source: ECERDC — Website

### State development focus

Each state in the ECER is distinctive on its own yet shares many common characteristics. The development approach adopted will capitalise on the existing economic activities, resource base and strengths of each state in the ECER. The following are the key economic project initiatives by states.

#### A. Kelantan

State positioning: trading and human capital development

- Education
- Tourism
- Agriculture

- Manufacturing
- Infrastructure and transport
- Environment

#### **B. Terengganu**

State positioning: tourism and education

- Tourism
- Oil, gas and petrochemical
- Manufacturing
- Agriculture
- Education
- Infrastructure and transport
- Environment

#### **C. Pahang**

State positioning: manufacturing and logistics

- Manufacturing
- Infrastructure and transport
- Tourism
- Agriculture
- Education

#### **D. District of Mersing, Johor**

District positioning: tourism

- Tourism

#### **Special Economic Zone**

The East Coast Economic Region Special Economic Zone (ECER SEZ) is a concentration of high-impact projects within an integrated development zone located at the nucleus of the ECER — the 25 km by 140 km strip that extends from Kertih in Terengganu, Chukai, Kuantan Port City, Kuantan, Gambang to Pekan, in Pahang.

It comprises new townships, international tourism sites, 4 ports, 2 airports and a knowledge innovation zone. In addition, 4 Free Zones would be created to encourage and promote chains between industry clusters that would give significant impact on the ECER economy, namely Kemaman Port-Free Zone, Kuantan Port City-Free Zone, Kuantan Airport-Free Zone and Tanjung Agas-Free Zone.

The 6 key economic drivers in the ECER SEZ include high-value manufacturing; agro-based industry; oil, gas and petrochemicals; tourism / real estate; knowledge / education and ICT; and logistics.

A special package comprising fiscal and non-fiscal incentives will be made available in the SEZ Focus Nodes, covering investments in manufacturing, petrochemicals, agro-based processing, tourism, knowledge, education and ICT. In addition, the following will also be made available as non-fiscal incentives such as unlimited number of expatriate knowledge workers for key management posts, incentives relating to the training of a skilled workforce for the local population, and the investment of knowledge-intensive activities as well as competitive utilities tariffs.

# B26 SINGLE TIER SYSTEM AND THE TRANSITIONAL PROVISIONS

## Single Tier System

Under the single tier system, income tax payable on the chargeable income of a company is a final tax in Malaysia. Any dividends distributed by the company will be exempt from tax in the hands of the shareholders. There is no further need to deduct tax when paying dividends. Dividends can be freely distributed without having to keep track of a dividend franking account. Expenses incurred in the production of the dividend income will not be deductible.

## Limited Transitional Imputation System (LTIS)

Companies with a credit balance in their dividend franking accounts at 31 December 2007 are allowed to utilise these credits to pay franked dividends to shareholders up to and including 31 December 2013. Any balance remaining in the dividend franking account after this date will be disregarded. However, a company may at any time make an irrevocable election to forego the right to distribute franked dividends by filing a Form R50.

In addition, the Inland Revenue Board (IRB) has confirmed that the single tier system may exist along side the imputation system up to 31 December 2013.

Companies can continue to pay out LTIS dividends until the dividend franking account is reduced to nil or the company exercises its irrevocable option. The amount in the dividend franking account will be reduced either by the payment of LTIS dividend or due to tax on prior years assessments being discharged, remitted or refunded.

Under the LTIS, only dividends that are paid in cash and in respect of ordinary shares are capable of being franked. An "ordinary share" is defined to mean a share other than one that carries a dividend right of a fixed amount or at a fixed percentage of the nominal value of the share, or a fixed percentage of the profits of the company.

When a dividend payment is made to an ordinary shareholder, an amount equal to the tax due on the dividend is drawn from the dividend franking account and imputed to the shareholder. Every company shall upon paying a LTIS dividend furnish the shareholder with a certificate stating the gross dividend, tax deducted or deemed deducted from the dividend and net dividend paid out.

Accordingly, as long as the company does not "overdraw" its dividend franking account, no payment will be due from the company to the government as a result of paying a dividend. However, if the company has insufficient balance in the dividend franking account, the company will be required to make an actual payment of the shortfall in tax credit to the IRB if it makes a distribution to its shareholders. This payment must be made by the last day of the 7th month from the date following the close of the accounting period. Failure to pay by this due date will result in a penalty of 10% being imposed on the amount unpaid to the IRB.

Where in relation to a year of assessment (Y/A) from Y/A 2008 to 2013 or 2014 (if applicable), a company fails to furnish the Director General a statement in the prescribed form, the Director General may compute the amount of tax credit shortfall and shall serve on the company a written requisition on the prescribed form calling upon the company to pay the tax credit shortfall and the penalty thereon upon service of the requisition.

It is proposed that in addition to the present conditions for shareholders to claim tax credits, the dividend received must be paid in cash.

Shareholders whose effective rate of tax is lower than the corporate income tax rate or those who are exempt, however, are entitled to a tax refund of the tax withheld.

Anti-abuse provisions have been introduced to prevent shareholders from taking advantage of the potential refund on excess tax paid. The provisions are as follows:

- Companies, whose dividend income is treated as a passive source, will have their statutory income from that source deemed as total income. As a result, the company will not be allowed to deduct current year business loss, losses surrendered under group relief scheme or donations from their dividend source. This provision appears to be a measure to prevent other companies being purchased purely for their dividend franking account balances.
- Resident or non-resident shareholders would not be entitled to a credit for the tax withheld at source from dividends if the shares in respect of which dividends were received, were held by the shareholder for less than 90 days. An exception to this rule is made for shares listed in the Bursa Malaysia.

Where a company is not entitled to deduct tax on a dividend and issues shareholders certificates which purport to show that an amount of tax has been deducted, then an amount equal to the tax deducted or deemed deducted shall be the amount due from the company to the Government. Further, as a penalty, this amount would be increased by 100% of the amount due to the Government. The IRB will serve on the company a written requisition, calling for the company to pay the amount due and the increase on the amount due.

### **Filing of prescribed forms**

Pursuant to S. 45 of the Finance Act 2007 a company has to furnish to the Director General a statement in the prescribed form within 30 days from the date a LTIS dividend is paid. In this regard, IRB has given a concession via its letter dated 18 January 2008 that for dividends paid during the period between 1 January 2008 to 31 December 2013, companies are exempted from filing a statement.

Companies will still have to continue to file their Form R, by the last day of the 7th month from the date following the close of the accounting period. Failure to comply with the filing of this form is an offence under S. 120(1)(f) of the Income Tax Act 1967, whereby any person upon conviction, be liable to a fine ranging from RM200 to RM2,000 or to imprisonment for a term not exceeding 6 months or both. However, companies which commence operations after 31 December 2007 are not required to submit Form R with effect from Y/A 2010 and subsequent years of assessment.

# B27 SARAWAK CORRIDOR OF RENEWABLE ENERGY (SCORE)

## Introduction

The Sarawak Corridor of Renewable Energy (SCORE) is an initiative launched in February 2008 to develop and transform Sarawak into a developed state. SCORE covers an area of 70,709 sq km from Tanjung Manis to Similajau.

## Objectives

The 5-prong development strategy of SCORE is to:

- Drive investments in priority industries to the three major growth nodes of Tanjung Manis, Mukah and Samalaju.
- Build a network of industrial class transportation and communication infrastructure within the Corridor.
- Accelerate the development of energy supply.
- Accelerate human capital growth within the Corridor.
- Develop the tourism industry, focusing on natural attractions of the Central Region.

## Key economic focus areas

Investments are focused on the following 5 major synergistic growth nodes:

- Tanjung Manis – Industrial Port City and Halal Hub
- Mukah – Smart City
- Samalaju – Heavy Industry Centre
- Baram – Tourism and resource-based industries
- Tunch – Tourism and resource-based industries

The secondary growth centres such as Semop, Balingian, Selangau, Samarakan, Bakun and Ng Merit will also be developed.

SCORE's top 10 priority industries are the aluminum, glass, steel, oil-based, palm oil, fishing & aquaculture, livestock, timber-based, marine, engineering and tourism industries.

## Regional Corridor Development Authority (RECODA)

RECODA is entrusted with the task of implementing the SCORE initiative. Its primary task is to bring about the success of SCORE by executing marketing and investment programmes, as well as ensuring the successful implementation of projects. RECODA's functions also include facilitating the growth and development of infrastructure and human resources in SCORE by mobilising the natural resources of Sarawak and providing investor support.



## **Incentives**

### ***Financial Incentives***

The existing incentives in Malaysia are available for various industries and approved activities under the Promotion of Investments Act 1986 and the Income Tax Act 1967. The incentives include:

- Pioneer status;
- Investment Tax Allowance on qualifying capital expenditure;
- Deductions for research and development; and
- Reinvestment allowance.

There are various sales tax and import duty exemptions as well.

Specific incentive packages customised to suit the special needs and requirements of SCORE investors are available on a case-to-case basis.

### ***Non-financial Incentives***

Investors in the top 10 priority industries will be eligible for industrial land at competitive lease rates and favourable payment terms such as minimal down payment and flexible payment terms. With abundant energy resources (i.e. hydropower, coal and natural gas), SCORE can offer its energy supply at more competitive rates compared to other regions. Furthermore, companies which are intensive users of energy will be eligible to negotiate for energy resources at lower than competitive rates.

# B28 SABAH DEVELOPMENT CORRIDOR (SDC)

## Introduction

The Sabah Development Corridor (SDC) was launched on 29 January 2008 and is aimed at accelerating the growth of Sabah's economy. Sabah with an area of 74,000 sq km, will see the SDC implemented through three sub-regions (i.e. Western, Central and Eastern) of Sabah. The Western sub-region is Sabah's industrial zone and major tourism portal while the Central sub-region comprises the state's agriculture and food production area. The Eastern sub-region is rich in natural resources and home to Sabah's oil palm plantations.

## Objectives

The three key guiding principles for the SDC are:

- Capturing higher value economic activities in the high-margin sectors such as tourism and logistics.
- Promoting balanced economic growth which encompasses natural resources, cultural heritage and biodiversity.
- Ensuring sustainable growth via environmental conservation to ensure the environment is conserved and protected for future generations.

## Key economic focus areas

There are 5 strategic development areas under the SDC initiative:

- Kinabalu Gold Coast Enclave;
- Brunei Bay Development Zone;
- Interior Food Valley;
- Sandakan-Kinabatangan-Beluran Bio-Triangle; and
- Agro-marine Belt.

The priority industries within the following key sectors identified for development are:

<i>Sector</i>	<i>Industries</i>
Agriculture	Fisheries and aquaculture, livestock, crops
Manufacturing	Oil & gas, oil palm, resourced-based industries
Logistics	Tourism, logistics and transportation

## Sabah Economic Development and Investment Authority (SEDIA)

SEDIA has been commissioned with the task of implementing the SDC initiative. Its role is to promote and accelerate the development of SDC into an investment destination for investors. SEDIA's functions include recommending, coordinating and funds disbursement in the implementation of projects of potential growth and opportunities.

## **Incentives**

The existing incentives in Malaysia are available for various industries and approved activities under the Promotion of Investments Act 1986 and the Income Tax Act 1967. The incentives given are in the form of:

- Pioneer status;
- Investment Tax Allowance on qualifying capital expenditure;
- Deductions for research and development; and
- Reinvestment allowance.

There are various sales tax and import duty exemptions.

Specific incentive packages customised to suit the special needs and requirements of SDC investors are available on a case-to-case basis.

# C1 INDIRECT TAXES

## SERVICE TAX

### Basis of taxation

Service tax is a consumption tax levied and charged on any taxable service provided by any taxable person. The Act applies throughout Malaysia excluding Langkawi, Labuan, Tioman and the Joint Development Areas (JDA).

For the purposes of the Act, the Free Zones shall be deemed to be outside Malaysia.

### Rate of tax

The rate of service tax is 6% of the price, charge or premium of the taxable service and this rate is applicable with effect from 1 Jan 2011. Prior to 1 Jan 2011, the rate of service tax was 5%.

The rate of service tax on the provision of credit card or charge card services effective from 1 Jan 2010 is as follows:

- (a) RM50 per year on the principal card; and
- (b) RM25 per year on the supplementary cards.

The service tax is chargeable on the date of the issuance of the card and every 12 months thereafter or part thereof after the issuance of the card or on the date of the renewal of the card and every 12 months thereafter or part thereof after the renewal of the card.

### Licensing

Any taxable person who carries on a business of providing a taxable service must apply for a license.

The Service Tax Act 1975 also provides for voluntary licensing whereby any person who is not required to be licensed can also apply for a service tax license if he:

1. Provides a taxable service; or
2. is intending to carry on a business of providing a taxable service.

"Person" includes an individual, a firm, a society, an association, a company and every other juridical person.

No fee is payable for the issuance of a license.

### Taxable person and taxable service

Taxable person is defined under the Service Tax Act 1975 as any person who is prescribed to be a taxable person and taxable service as any service which is prescribed to be a taxable service under the Second Schedule of the Service Tax Regulations 1975. Prior to 1 Jan 2000, the taxable person and taxable service were referred to as prescribed establishment and prescribed service. The details of prescribed establishments and prescribed services are available in the previous issues of the Budget Commentary and Ready Reckoner.

### Payment of service tax

Service tax is due when payment is received for taxable services rendered. If payment is not received within 12 calendar months from the date of issuance of invoice, the tax is due on the day immediately after the expiry of the 12-month period.

Any service tax that falls due during a taxable period, which is 2 calendar months, is payable to the Customs authorities within 28 days after the end of the taxable period.

## Penalty for late payment

Where any payment of service tax is not paid to the Customs authorities within the stipulated period, a mandatory penalty of 10% will be imposed on any unpaid amount. If the service tax, which is due and payable, remains unpaid for more than 30 days, the penalty will be increased by a further 10% for every succeeding 30 days or part thereof, subject to a maximum of 50%.

The list of taxable persons and taxable services are set out in the Second Schedule to the Service Tax Regulations 1975. An extract of the Second Schedule is set out below:

### SECOND SCHEDULE TO THE SERVICE TAX REGULATIONS 1975

1. The persons mentioned under the heading for Taxable Person in Groups A, B1, B2, C, D, E, E1, F, and G of this Schedule providing any taxable service under the heading for Taxable Service in each Group shall apply for a license provided that where 2 or more licenses are required, regulation 4(1A) shall apply.
2. The person mentioned under the heading for Taxable Person in any Group shall charge service tax on any service provided by him under the heading for Taxable Service in such Group.
3. Where a company in a group of companies provides any taxable service mentioned in items (j), (k), (l), (m), (n), (o) or (r) of Group G to any company within a group of companies, such service shall not be a taxable service.
4. For the purpose of Para (3), 2 or more companies are eligible to be treated as companies within a group of companies if one company controls each of the other companies.
5. For the purpose of Para (4), a company shall be taken to control another company if:
  - (a) The first mentioned company holds:
    - (i) directly,
    - (ii) indirectly through subsidiaries, or
    - (iii) together directly or indirectly from subsidiaries,more than 50% of the issued share capital of the second mentioned company; or
  - (b) The first mentioned company holds:
    - (i) directly,
    - (ii) indirectly through subsidiaries, or
    - (iii) together directly or indirectly from subsidiaries,from 20% to 50% of the issued share capital of the second mentioned company and the first mentioned company has exercisable power to appoint or remove all or a majority of directors in the board of directors in the second mentioned company.
6. For the purpose of Para (5), shares shall be treated as not held if the shares are held:
  - (a) through nominees;
  - (b) in a fiduciary capacity; or
  - (c) by virtue of provisions of debenture holding, trust deeds for securing debentures or money lending activities.
7. Where a company is controlled by virtue of Para 5(a) and Para 5(b) by 2 or more companies, such company (second mentioned company) shall be taken to be controlled by the first mentioned company which has the exercisable power to appoint or remove all or a majority of directors in the board of directors in the second mentioned company.

8. Where a company provides any services mentioned in Para (3) to another person outside the group of companies, the same service provided to any company outside or within the group of companies shall be a taxable service.
9. Service tax shall be charged on taxable service mentioned in Para (8) on the day the person providing such service is required to be licensed by virtue of S. 8 of the Act.

*Group A: Hotels*

<i>Taxable Person</i>	<i>Taxable Service</i>
1. Any person operating 1 or more hotels, any 1 hotel having more than 25 rooms excluding: <ol style="list-style-type: none"> <li>(i) hostels for pupils or students of educational institutions;</li> <li>(ii) hostels established and run or maintained by religious institutions or bodies.</li> </ol>	<ol style="list-style-type: none"> <li>(a) Provision of rooms for lodging or sleeping accommodation in a hotel having more than 25 rooms.</li> <li>(b) Provision or sale of food, drinks or tobacco products in a hotel having more than 25 rooms.</li> <li>(c) Provision of services in the form of "corkage", "towel charge" or "cover charge" in a hotel having more than 25 rooms.</li> <li>(d) Provision of premises for meetings or for promotion of cultural or fashion shows in a hotel having more than 25 rooms.</li> <li>(e) Provision of health services which are normally provided by health centres in a hotel having more than 25 rooms.</li> <li>(f) Provision of massage services excluding massage services provided in barber shops, hairdressing salons or beauty salons, in a hotel having more than 25 rooms.</li> <li>(g) Provision of parking spaces for motor vehicles where parking charges are imposed in a hotel having more than 25 rooms.</li> <li>(h) Provision of golf course, golf driving range or services related to golf or golf driving range, i.e. for:               <ol style="list-style-type: none"> <li>(i) green/season pass;</li> <li>(ii) caddy;</li> <li>(iii) rental of golf buggy/turfmate;</li> <li>(iv) rental of golf equipment;</li> <li>(v) guest;</li> <li>(vi) complimentary play;</li> <li>(vii) coaching;</li> <li>(viii) absence;</li> <li>(ix) competition entrance;</li> <li>(x) tournament;</li> <li>(xi) lighting for night golfing;</li> <li>(xii) night golfing;</li> <li>(xiii) practice range balls or driving range balls;</li> <li>(xiv) rental of golf shoes;</li> <li>(xv) subscription.</li> </ol> </li> </ol>

*Group B1: Restaurants located in a hotel having more than 25 rooms*

<i>Taxable Person</i>	<i>Taxable Service</i>
1. Any person operating a restaurant, bar, snack-bar, coffee house or any place which provides food, drinks or tobacco products, whether wholly eat-in or partly take-away, located in a hotel as mentioned under Group A of this Schedule.	<p>(a) Provision or sale of food, drinks or tobacco products in a restaurant, bar, snack-bar, coffee house or any place which provides food, drinks or tobacco products, whether wholly eat-in or partly take-away, located in a hotel as mentioned under Group A of this Schedule.</p> <p>(b) Provision of services in the form of “corkage”, “towel charge” or “cover charge” in a restaurant, bar, snack-bar, coffee house or any place which provides food, drinks or tobacco products, whether wholly eat-in or partly take-away, located in a hotel as mentioned under Group A of this Schedule.</p> <p>(c) Provision of parking spaces for motor vehicles where parking charges are imposed in a restaurant, bar, snack-bar, coffee house or any place which provides food, drinks or tobacco products, whether wholly eat-in or partly take-away, located in a hotel as mentioned under Group A of this Schedule.</p> <p>(d) Provision of premises for meetings or for promotion of cultural or fashion shows in a restaurant, bar, snack-bar, coffee-house or any place which provides food, drinks or tobacco products, whether wholly eat-in or partly take-away, located in a hotel as mentioned under Group A of this Schedule.</p>

*Group B2: Restaurants located in a hotel having 25 rooms or less*

<i>Taxable Person</i>	<i>Taxable Service</i>
1. Any person operating 1 or more restaurants, bars, snack-bars, coffee houses or places which provide food, drinks or tobacco products, whether wholly eat-in or partly take-away, having a total annual sales turnover, whether combined or singly, of more than RM300,000 of any 1 or more taxable services mentioned within this Group and located in a hotel having 25 rooms or less.	(a) Provision or sale of food, drinks or tobacco products in 1 or more restaurants, bars, snack-bars, coffee houses or places which provide food, drinks or tobacco products, whether wholly eat-in or partly take-away, having a total annual sales turnover, whether combined or singly, of more than RM300,000 of any 1 or more taxable services mentioned within this Group and located in a hotel having 25 rooms or less.

<i>Taxable Person</i>	<i>Taxable Service</i>
	<p>(b) Provision of services in the form of “corkage”, “towel charge” or “cover charge” in 1 or more restaurants, bars, snack-bars, coffee houses or places which provide food, drinks or tobacco products, whether wholly eat-in or partly take-away, having a total annual sales turnover, whether combined or singly, of more than RM300,000 of any 1 or more taxable services mentioned within this Group and located in a hotel having 25 rooms or less.</p> <p>(c) Provision of parking spaces for motor vehicles where parking charges are imposed in 1 or more restaurants, bars, snack-bars, coffee houses or places which provide food, drinks or tobacco products, whether wholly eat-in or partly take-away, having a total annual sales turnover, whether combined or singly, of more than RM300,000 of any 1 or more taxable services mentioned within this Group and located in a hotel having 25 rooms or less.</p> <p>(d) Provision of premises for meetings or for promotion of cultural or fashion shows in 1 or more restaurants, bars, snack-bars, coffee houses or places which provide food, drinks or tobacco products, whether wholly eat-in or partly take-away, having a total annual sales turnover, whether combined or singly, of more than RM300,000 of any 1 or more taxable services mentioned within this Group and located in a hotel having 25 rooms or less.</p>

*Group C: Restaurants located outside hotel*

<i>Taxable Person</i>	<i>Taxable Service</i>
1. Any person operating 1 or more restaurants, bars, snack-bars, coffee houses or places which provide food, drinks or tobacco products, whether wholly eat-in or partly take-away, having a total annual sales turnover, whether combined or singly, of more than RM3 million of any 1 or more taxable services mentioned within this Group and located outside a hotel excluding:	<p>(a) Provision or sale of food, drinks or tobacco products.</p> <p>(b) Provision of services in the form of “corkage”, “towel charge” or “cover charge”.</p> <p>(c) Provision of premises for meetings or for promotion of cultural or fashion shows.</p> <p>(d) Provision of parking spaces for motor vehicles where parking charges are imposed.</p>



<i>Taxable Person</i>	<i>Taxable Service</i>
<ul style="list-style-type: none"> <li>(i) a canteen located in an educational institution; or</li> <li>(ii) a canteen operated by a religious institution or body.</li> </ul> <p>Note: The increase in threshold from RM300,000 to RM3 million is applicable from 1 Jul 2008. Reference is made to Service Tax (Amendment) Regulations 2008 [PU(A) 216/2008].</p> <p>2. Any person operating 1 or more food courts and having a total annual sales turnover, whether combined or singly, of more than RM300,000 of any 1 or more taxable services mentioned within this Group.</p>	

*Group D: Night-clubs, dance halls, cabarets, health centres, massage parlours, public houses and beer houses*

<i>Taxable Person</i>	<i>Taxable Service</i>
<p>1. Any person operating any:</p> <ul style="list-style-type: none"> <li>(i) night-club;</li> <li>(ii) dance hall;</li> <li>(iii) cabaret;</li> <li>(iv) health-centre or massage parlour which is approved by the appropriate local authorities or which is lawfully registered, and where applicable, which is approved by the appropriate local authorities and lawfully registered;</li> <li>(v) place licensed under Para (a) or (b) of subsection (1) of S. 35 of the Excise Act 1976 and which is stated in the license in Para (1) or regulation 9 of the Excise (Sales of Intoxicating Liquors) Regulations 1977 as First, Second, or Third Class Public House or First or Second Class Beer House.</li> </ul>	<ul style="list-style-type: none"> <li>(a) Provision of dancing partners or social escorts.</li> <li>(b) Provision or sale of food, drinks or tobacco products.</li> <li>(c) Provision of services in the form of "corkage", "towel charge" or "cover charge".</li> <li>(d) Provision of health services which are normally provided by health centres.</li> <li>(e) Provision of massage services.</li> <li>(f) Provision of premises for meetings or for promotion of cultural or fashion shows.</li> <li>(g) Provision of parking spaces for motor vehicles where parking charges are imposed.</li> </ul>

Group E: Private clubs

<i>Taxable Person</i>	<i>Taxable Service</i>
1. Any person operating 1 or more private clubs and having a total annual sales turnover, whether combined or singly, of more than RM300,000 of any 1 or more taxable services mentioned within this Group.	<ul style="list-style-type: none"> <li>(a) Provision of sports or recreational services including the entitlement to use such services by club members for which membership subscription fees are charged other than golf.</li> <li>(b) Provision or sale of food, drinks or tobacco products.</li> <li>(c) Provision of services in the form of "corkage", "towel charge" or "cover charge".</li> <li>(d) Provision of health services which are normally provided by health centres.</li> <li>(e) Provision of massage services excluding massage services provided in barber shops, hairdressing salons or beauty salons.</li> <li>(f) Provision of premises for meetings or for promotion of cultural or fashion shows.</li> <li>(g) Provision of parking spaces for motor vehicles where parking charges are imposed.</li> <li>(h) Provision of rooms for lodging or sleeping accommodation.</li> <li>(i) Provision of golf course, golf driving range or services related to golf or golf driving range, i.e. for: <ul style="list-style-type: none"> <li>(i) green/season pass;</li> <li>(ii) caddy;</li> <li>(iii) rental of golf buggy/turfmate;</li> <li>(iv) rental of golf equipment;</li> <li>(v) guest;</li> <li>(vi) complimentary play;</li> <li>(vii) coaching;</li> <li>(viii) absence;</li> <li>(ix) competition entrance;</li> <li>(x) tournament;</li> <li>(xi) lighting for night golfing;</li> <li>(xii) night golfing;</li> <li>(xiii) practice range balls or driving range balls;</li> <li>(xiv) rental of golf shoes;</li> <li>(xv) subscription.</li> </ul> </li> </ul>

*Group E1: Golf course and golf driving range other than those in Groups A and E*

<i>Taxable Person</i>	<i>Taxable Service</i>
1. Any person (including any person who operates any private club having a total sales turnover of RM300,000 or less or any hotel having 25 or less rooms), other than the Taxable Person in Groups A and E, operating any: <ul style="list-style-type: none"> <li>(i) golf course;</li> <li>(ii) golf driving range.</li> </ul>	(a) Provision of golf course, golf driving range or services related to golf or golf driving range, i.e. for: <ul style="list-style-type: none"> <li>(i) green/season pass;</li> <li>(ii) caddy;</li> <li>(iii) rental of golf buggy/turfmate;</li> <li>(iv) rental of golf equipment;</li> <li>(v) guest;</li> <li>(vi) complimentary play;</li> <li>(vii) coaching;</li> <li>(viii) absence;</li> <li>(ix) competition entrance;</li> <li>(x) tournament;</li> <li>(xi) lighting for night golfing;</li> <li>(xii) night golfing;</li> <li>(xiii) practice range balls or driving range balls;</li> <li>(xiv) rental of golf shoes;</li> <li>(xv) subscription.</li> </ul>

*Group F: Private hospitals*

<i>Taxable Person</i>	<i>Taxable Service</i>
1. Any person operating 1 or more private hospitals licensed under the Private Hospitals Act 1971 and having a total annual sales turnover, whether combined or singly, of more than RM300,000 of any 1 or more taxable services mentioned within this Group.	(a) Provision of rooms for lodging or sleeping accommodation. (b) Provision or sale of food or drinks.

Taxable Person	Taxable Service
<p><b>Subheading I—</b></p> <ol style="list-style-type: none"> <li>Any person who is an Insurance Company registered under the relevant laws for the time being in force.</li> <li>Any person providing communication services who is registered under the Communications And Multimedia Act 1998 [Act 588] or licensed under the Communications and Multimedia (Licensing) Regulations 2000.</li> <li><i>[Deleted by PU(A) 90/2001].</i></li> <li>Any person who is given permission to act as an agent for transacting business relating to the import or export of any goods or luggage under S. 90 of the Customs Act 1967.</li> <li>Any person who is licensed under S. 65 or 65E of the Customs Act 1967 and who is also given permission to act as an agent for transacting business relating to the import or export of any goods or luggage that is stored in the licensed warehouse or inland clearance depot.</li> <li>Any person who is regulated by Bank Negara Malaysia and provides credit card or charge card services through the issuance of a credit card or a charge card.</li> </ol>	<ol style="list-style-type: none"> <li>Provision of all types of insurance policies to all business organisations excluding:             <ol style="list-style-type: none"> <li>provision of insurance policies to cover risks relating to the international transportation of goods:                 <ol style="list-style-type: none"> <li>from a place outside Malaysia to a place outside Malaysia;</li> <li>from a place within Malaysia to a place outside Malaysia; or</li> <li>from a place outside Malaysia to a place within Malaysia,</li> </ol> <p>and includes the provision of insurance policies to cover risks relating to transportation of goods within Malaysia that forms part of the transportation referred to in subparagraphs (B) and (C) where the coverage is provided by the same person;</p> </li> <li>provision of export credit insurance policies to local exporters, banks or investors to cover risks outside Malaysia relating to the export of goods, services or investments; or</li> <li>provision of insurance policies to cover risks outside Malaysia.</li> </ol> </li> <li>Provision of –             <ol style="list-style-type: none"> <li>telecommunication services in the form of telephone, facsimile, telemail, pager, cellular phone, telex, bandwidth service or value added services; and</li> <li>paid television broadcasting services</li> </ol> </li> <li><i>[Deleted by PU(A) 90/2001].</i></li> <li>Provision of services for clearing of goods from Customs control.</li> <li>Provision of parking spaces for motor vehicles where parking charges are imposed.</li> </ol>

<i>Taxable Person</i>	<i>Taxable Service</i>
	<p>(f) Provision of courier delivery services for documents or parcels not exceeding 30 kilograms each excluding provision of courier delivery services for documents or parcels:</p> <ul style="list-style-type: none"> <li>(i) from a place outside Malaysia to a place outside Malaysia;</li> <li>(ii) from a place within Malaysia to a place outside Malaysia; or</li> <li>(iii) from a place outside Malaysia to a place within Malaysia;</li> </ul> <p>and includes the provision of courier delivery services within Malaysia that forms parts of the service referred to in subparagraphs (ii) and (iii) where the service is provided by the same person.</p> <p>(g) Provision of general servicing, engine repairs and tuning, changing, adjusting and fixing of parts, wheel balancing, wheel alignment or body repairs including knocking, welding or repainting of motor vehicles.</p> <p>(h) Provision of guards or protection for the personal safety or security of another person or for the safety or security of the property or business of such other person excluding provision of such services to guard or protect person, property or business situated outside Malaysia.</p>
<p><b>Subheading II—</b></p> <p>1. [<i>Deleted by PU(A) 480/2000</i>].</p>	<p>(i) Provision of all types of employment services excluding:</p> <ul style="list-style-type: none"> <li>(i) provision of employment services in the form of secondment of employees or supplying employees to work for another person for a period of time; or</li> <li>(ii) provision of employment services for employment outside Malaysia.</li> </ul> <p>(j) Provision of accounting, auditing, book-keeping, consultancy or other professional services excluding provision of such services supplied in connection with business organisations situated outside Malaysia.</p>

<i>Taxable Person</i>	<i>Taxable Service</i>
2. Any person, government agency or semi-government agency who operates or provides 1 or more parking spaces for motor vehicles having a total annual sales turnover, whether combined or singly, of more than RM150,000 of any 1 or more taxable services mentioned within this Group.	(k) Provision of legal services including consultancy services on legal matters excluding provision of such services supplied in connection with goods or land situated outside Malaysia or where the subject matter relates to a country outside Malaysia.
3. Any person who provides courier services having a total annual sales turnover, whether combined or singly, of more than RM150,000 of any 1 or more taxable services mentioned within this Group.	(l) Provision of engineering, consultancy or other professional services excluding provision of such services supplied in connection with goods or land situated outside Malaysia.
4. Any person who operates 1 or more motor vehicles service or repair centres or both such centres having a total annual sales turnover, whether combined or singly, of more than RM150,000 of any 1 or more taxable services mentioned within this Group.	(m) Provision of architectural services including professional consultancy services excluding provision of such services supplied in connection with goods or land situated outside Malaysia.
5. Any person who is a Private Agency licensed under the Private Agencies Act 1971 having a total annual sales turnover, whether combined or singly, of more than RM150,000 of any 1 or more taxable services mentioned within this Group.	(n) Provision of all types of surveying services including valuation, appraisal, estate agency or professional consultancy services excluding provisions of such services supplied in connection with goods or land situated outside Malaysia.
6. Any person who provides employment services having a total annual sales turnover, whether combined or singly, of more than RM150,000 of any 1 or more taxable services mentioned within this Group.	(o) Provision of all types of consultancy services not specifically mentioned in these regulations excluding: <ul style="list-style-type: none"> <li>(i) provision of consultancy services relating to medical and surgical treatment provided by private clinics or specialist clinics; or</li> <li>(ii) provision of consultancy services supplied in connection with: <ul style="list-style-type: none"> <li>A. goods or land situated outside Malaysia; or</li> <li>B. other than matters relating to (A) outside Malaysia.</li> </ul> </li> </ul>

<i>Taxable Person</i>	<i>Taxable Service</i>
7. Any person who is a Public Accountant registered under the relevant laws for the time being in force.	<p>(p) <i>[Deleted by PU(A) 119/2007]</i>.</p> <p>(q) Provision of hire-and-drive car or hire-car services with or without chauffeur in Peninsular Malaysia licensed under the Land Public Transport Act 2010 and the Commercial Vehicles Licensing Board Act 1987 for Sabah and Sarawak excluding provision of hire-and-drive car as defined under the Tourism Vehicles Licensing Act 1999 as operated by tourism operators registered under the Tourism Industry Act 1992.</p> <p>(r) Provision of all types of management services including project management or project coordination excluding provision of such services supplied in connection with:</p> <ul style="list-style-type: none"> <li>(i) goods or land situated outside Malaysia; or</li> <li>(ii) other than matters relating goods or land situated outside Malaysia.</li> </ul> <p>(s) Provision of all advertising services excluding provision of such services for promotion outside Malaysia.</p> <p>(t) Provision of credit card or charge card services through the issuance of a principal credit card, principal charge card, supplementary credit card or supplementary charge card, whether or not annual subscription or fee is imposed excluding:</p> <ul style="list-style-type: none"> <li>(i) provision of charge card services where the charge card is issued by any petroleum company to the Government of Malaysia or any person for the procurement of products and services supplied for the use of or in connection with vehicles owned by the Government of Malaysia or such person; or</li> <li>(ii) provision of charge card services where the charge card is used as a payment instrument only within the premises of a workplace, an education institution or a golf or sports club by its workforce, students or members, as the case may be.</li> </ul>
8. Any person who is an Advocate and Solicitor registered under the relevant laws for the time being in force.	

<i>Taxable Person</i>	<i>Taxable Service</i>
<p>9. Any person who is a Professional Engineer registered under the relevant laws for the time being in force.</p> <p>10. Any person who is an Architect registered under the relevant laws for the time being in force.</p> <p>11. Any person who is a Licensed or Registered Surveyor including Registered Valuer, Appraiser or Estate Agent licensed or registered under the relevant laws for the time being in force.</p> <p>12. Any person who provides consultancy services excluding approved companies with status or definitions as research and development companies and contract research and development companies under S. 2 of the Promotion of Investment Act 1986 (Act 327) and approved research institute under S. 34B of Income Tax Act 1967 (Act 53).</p> <p>13. Any person who provides management services.</p> <p>14. Any person who provides paid television broadcasting services (proposed in 2011 Budget).</p>	<p>(u) Provision of paid television broadcasting services.</p>
<p><b>Subheading III—</b></p> <p>1. <i>[Deleted by PU(A) 119/2007].</i></p> <p>2. Any person who provides hire-and-drive car and hire-car services having a total annual sales turnover, whether combined or singly, of more than RM300,000 of any 1 or more taxable services mentioned within this Group.</p> <p>3. Any person, government agency or semi-government agency who provides advertising services having a total annual sales turnover, whether combined or singly, of more than RM300,000 of any 1 or more taxable services mentioned within this Group.</p>	



#### FOURTH SCHEDULE TO THE SERVICE TAX REGULATIONS 1975

Value added services in relation to the Second Schedule under the heading "Taxable Services" in Group G.

<i>Item</i>	<i>Services</i>
1.	Itemised billing/Hot Billing
2.	Speed dialing
3.	Last number redial
4.	International direct dialing
5.	Mobile data
6.	Mobile fax
7.	Absent subscriber
8.	Malaysia Direct
9.	Voicemail/Voice messaging/Talk mail
10.	Call divert
11.	Call park
12.	Call forwarding
13.	Call waiting/holding
14.	Mutiara Staff Plan
15.	Auto call back
16.	Reminder call/Reminder alarm
17.	Call conferencing/Multi-party conferencing
18.	Freephone (domestic and international)
19.	Call charges display
20.	Calling Line Identification Presentation (CLIP)/ Calling Line Identification Restriction (CLIR)
21.	Connecting Line Identification Presentation (CLOP)/ Connecting Line Identification Restriction (CLOR)
22.	International roaming
23.	Frame relay service
24.	Information based service/Financial based service/Information on demand (IOD)/ Teleinfo service/Mobile information service
25.	Common subscriber directory services
26.	Common interactive multimedia services
27.	Interactive voice response service
28.	Private information service
29.	600 number service/toll free
30.	Public electronic data interchange service
31.	Short message service
32.	Value added network data service

<i>Item</i>	<i>Services</i>
33.	Telecommunications personal service
34.	Video conferencing
35.	Call transfer
36.	Private telecommunications network
37.	Call barring
38.	Local 1-300
39.	Three Way Calling
40.	Time Hotline
41.	Financial Electronic Transaction

## EXTRACTS OF GUIDELINES ISSUED BY THE CUSTOMS DEPARTMENT

The following guidelines were issued prior to the amendment of the Service Tax Act 1975 to replace prescribed establishments and prescribed services with taxable persons and services respectively. The Royal Malaysian Customs Department has also posted their views on examples of what would be considered as taxable services under the respective Groups. Please refer to Customs website:

<http://www.customs.gov.my/documents/Bahagian%20CD/senarai%20perkhidmatan%20bercukai%20dan%20tidak%20bercukai%202013.pdf>

### Private hospitals

Taxable services in respect of private hospitals are:

- provision of rooms for lodging or sleeping accommodation; and
- provision or sale of food or drinks.

The costs of any medicaments sold or provided by the private hospital are not subject to service tax. Also excluded are appliances, prosthesis and implants, consumables and disposables, certain surgical supplies and laundry services.

### Motor vehicles service and repair centres

Motor vehicles include all motorised vehicles. Forklifts, tractors, excavators and cranes are included but motorcycles are excluded.

Service tax is chargeable only on workmanship or labour cost. The cost of replacement parts and spares, even though may be included in the service and repair invoice, should not be subject to service tax.

### Public accountants

A public accountant is defined under the Accountants Act 1967. Only those public accountants who are registered as such under the Act and are in practice need to be licensed for service tax. Employed public accountants and other classes of accountants registered or otherwise are excluded.

Prescribed services would normally include:

- accounting;
- auditing;
- book-keeping;
- company secretarial services;

- (v) computerisation services;
- (vi) insolvency services;
- (vii) mergers and acquisitions advisory;
- (viii) management consultancy; and
- (ix) taxation services.

The conducting of training courses and seminars are not taxable services and are not subject to service tax.

### **Professional engineers**

A professional engineer is defined under the Registration of Engineers Act 1967. Only those professional engineers who are registered as such under the Act and are in practice need to be licensed for service tax. Employed professional engineers and other classes of engineers registered or otherwise are excluded.

### **Architects**

An architect is defined under the Architects Act 1967. Only those architects registered as such under the Act and are in practice need to be licensed for service tax. Employed architects and others not classified as architects are excluded.

### **Licensed or registered surveyors including registered valuers and appraisers**

The surveyors mentioned below and are in practice need to be licensed for service tax purposes:

1. land surveyors;
2. quantity surveyors; and
3. general practice surveyors (Valuers and Appraisers), who are licensed or registered under the Licensed Land Surveyors Act 1958, Registration of Surveyors Act 1967 and the Valuers, Appraisers and Estate Agents Act (Amended 1987).

### **Forwarding agents**

Taxable services for forwarding agents given permission under the Customs Act 1967 would include the provision of services for clearing of goods from Customs control.

Services such as transport, warehousing, port services, etc, are not subject to service tax.

### **Insurance companies**

Service tax applies to all risks, which commence on or after 1 Jan 1992. If the policy is issued before 1 Jan 1992 but the risks commences on or after 1 Jan 1992, service tax is still applicable on the risk.

“Business organisations” means all organisations registered under the law to do business. As such, business organisations shall include organisations such as companies, firms, sole-proprietors, government and semi-government agencies registered under:

1. any Acts of Parliament;
2. Companies Act 1965;
3. Societies Act 1966;
4. Co-operative Societies Act 1976; and
5. Registration of Businesses Act 1956.

but excludes organisations not doing business. Therefore, business organisations would also cover associations, trust funds, statutory bodies, co-operatives, professions and even charitable organisations if they were to engage in any business.

Those organisations not doing business will have to put up a written declaration of their status to the insurer and declare that they do not derive any income from any business activities so that the insurer will not charge service tax on their insurance premiums.

Any further clarification, if necessary, may be referred to Persatuan Insurans Am Malaysia (PIAM) or Life Insurance Association of Malaysia (LIAM) or direct to the Customs Department.

Policies on private property including motor vehicles, which are the subject of hire purchase agreements and insured in the names of individuals, are not subject to service tax. Policies on private residential properties of individuals, which are the subject of mortgage/charge to financial institutions, are not subject to service tax.

The term individual and the term sole-proprietorship must not be confused. A sole-proprietorship is a business organisation.

In the case where a group policy is taken by a business organisation and the premiums are paid by the members of the scheme, i.e. the employees, such policies are not subject to service tax. Where in a group scheme in which the premiums are partly paid by the business organisation and partly paid by its employees, only the portion paid by the business organisation is subject to service tax. The business organisation is required to make a declaration to the insurer, upon inception of the policy, that the premiums are paid by the employees and should keep documentary proof that premiums were collected from the employees.

“Key-man” insurance policy affected by a business organisation on the life of its key employee is subject to service tax. However, if the policy is subsequently assigned to the “key-man” upon his leaving the company and subsequent premiums are paid by the assignee, i.e. the key-man, service tax is not applicable on the premiums paid by the key-man.

The charge to service tax will be on all gross premiums less any discounts, charged either monthly, quarterly or at other intervals contracted for between the insurer and the insured. No deduction is given for any reinsurance outwards (whether onshore or offshore) and commissions paid to agents.

Where policies are terminated, then when a refund is made to the policy holder, the amount of service tax that is attributable to the unexpired portion of the premium should be refunded to the insured.

Reinsurers will be held to be taxable person and be liable to service tax in respect of premiums earned from insurance policies to business organisations (other than premiums earned in respect of reinsurance policies underwritten by the reinsurer).

To encourage the underwriting of offshore policies by insurers in Malaysia any inward insurance or inward reinsurance premiums will not be subject to service tax.

Insurance policies issued to cover properties which are located overseas whether owned by Malaysians or otherwise are not subject to service tax as these are considered exported services.

### **Advertising services**

Taxable services would include the provision of displaying services, provided by television and radio networks, newspapers and magazines and advertising agencies, etc.

Generally the advertising industry consists of 3 groups of activities which are as follows:

- advertising agency;
- production house or printer; and
- media house.

The production house and the printer need not be licensed for service tax as they produce advertising materials only and do not provide advertising services. However, both the advertising agency and the media house need to be licensed for service tax as they provide advertising services.

### **Companies, firms, sole-proprietors providing consultancy services**

This appears to be a catch-all category. Any person includes an individual, a firm, a society, an association, a company and any other juridical person providing consultancy services will be liable to service tax not only in respect of consultancy services but also in respect of any other taxable service provided falling within Group G of the Second Schedule to the Service Tax Regulations 1975.

The word consultancy is not defined in the Service Tax Act 1975. The ordinary and general meaning of consultancy may therefore be relied upon. This means “the act of providing expert advice and notification of facts and information”. It can generally be accepted that such services would not include work of a routine and mundane nature and where no expert opinion is expressed.

In the case of the computer industry, the Persatuan Industri Komputer Malaysia (PIKOM) has clarified that for the computer industry, consultancy services include the following:

1. consultancy in the purchase of computers;
2. consultancy in implementing software development;
3. consultancy in selecting a systems integrator; and
4. other consultancy services, which involve the provision of independent, professional services and advice. This also includes advice on business strategy, on organisational set-up and on future directions.

The following services normally provided by Merchant Banks are regarded as Consultancy Services:

1. flotation on the Bursa Malaysia Main and Second Boards;
2. rights issue;
3. bonus issue;
4. general offers;
5. financial and corporate restructuring;
6. minority advice; and
7. feasibility and other studies.

Taxation services have been termed as Consultancy Services. This means that the provision of these services by any taxable person will be liable to service tax.

Services provided by insurance loss adjusters have been decided as consultancy and are subject to service tax.

### **Companies providing employment services**

The following company, firm, sole-proprietor providing employment services will be liable to service tax if its annual sales turnover is RM150,000 and above:

1. company registered for providing employment services to local or foreign workers but exclude the Manpower Department;
2. employment agency; and
3. company involved in “head hunting”, e.g. public relation company.

Taxable services include:

- services in finding jobs; and
- services in finding workers.

Charges subject to service tax are:

- registration fee;
- processing fee;
- commission;
- contract payment; and
- other charges in connection with the provision of employment services.

### **Provision of hire-and-drive-car and hire-car**

The Commercial Vehicles Licensing Board Act 1987 gives the following definitions:

“Hire-and-drive-car” means a motor vehicle let on hire for the purpose of being driven by the hirer or his nominee.

“Hire-car” means a motor vehicle having a seating capacity of not more than 6 persons or, in areas approved by the Board, twelve persons (in all cases including the driver) used for carrying persons on any journey in consideration of separate payments made by them.

Taxable services would include:

- daily/weekly rental (short term);
- monthly/yearly rental (long term);
- rental by contract (package);
- rental by government contract – SPANCO; and
- rental of motor vehicle for conference purposes.

Types of motor vehicles under hire-and-drive and hire-car:

- motorcar;
- 4-wheel drive; and
- van (exclude bus).

Charges subject to service tax are:

- payment for rental of motor vehicle – “time/mileage”;
- payment for driver’s service;
- payment for “drop-off”/“delivery”;
- payment for “child seat”; and
- other payments in connection with the provision of hire-and-drive car service.

### **Management services**

Management services come within the ambit of the Service Tax Act 1975 effective 1 January 1998. Management service is not defined in the Act or in the Regulations.

The Customs authorities have interpreted management services to be:

“Services rendered in respect of managing the operations of businesses and other activities (of another person, company, etc.)”

The Customs authorities issued a guideline setting out the types and scope of services regarded as management services falling within the ambit of service tax. It was indicated in the Guideline that the types of services regarded as management services falling within the ambit of service tax are unlimited.

In view of the current economic situation of the country and to encourage domestic investments and savings, the Customs authorities have administratively excluded the following financial services from the ambit of service tax:

- Purchases and sales of shares, warrants, bonds, etc.
- Savings in unit trusts, banks, trust funds.

The types and scope of services set out in the guidelines as management services are as follows:

Management Services include the following:

1. Corporate Affairs Management
  - coordination of group-wide strategic and business planning;
  - coordination of group-wide management policies;
  - monitoring of group-wide performance and coordination;
  - mergers and acquisitions;
  - privatisation proposal/studies; and
  - feasibility studies.
2. Human Resource Management
  - management/organisation studies;
  - compensation structures;
  - group key manpower planning and control;
  - recruitment of key/senior management staff;
  - training planning and administration; and
  - group manpower development and planning (at group planning centre).
3. Internal Audit
  - financial audit;
  - management audit;
  - EDP audit; and
  - special investigations.
4. Management Information Systems
  - group management information services;
  - support in EDP System development and implementation;
  - office automation;
  - outsourcing – contract to do all the work on information system; and
  - facilities management – managing of computer department/staff.
5. Productivity and Quality Improvements
  - productivity improvement and control programmes;
  - quality management;
  - customer services enhancement; and
  - operational system and control.

6. Administration/Secretarial  
(*Secretarial services cover services provided by company secretaries, accountants, lawyers, etc*)
  - accounting;
  - liaison with government/other agencies;
  - filing of statutory forms and returns;
  - maintain and update statutory records;
  - preparation of agenda, issue notice of statutory meeting and board resolutions; and
  - attending to share registration.
7. Sales and Marketing Management
  - formulation of marketing plans/strategies;
  - planning/co-ordination of promotion materials;
  - set up sales offices;
  - co-ordinate with lawyers on sale and purchase agreement; and
  - assist in billing as well as debt collection.
8. Property Management
  - high-rise building/condominiums;
  - business centre/shopping complexes;
  - stadium/sport/exhibition complexes; and
  - recreation/theme parks and gardens.
9. Financial Management
  - preparation and management of accounting systems and reports;
  - tax administration;
  - budgetary controls;
  - preparation of payments, banking documents and management of cash flow; and
  - monitoring utilisation of banking facilities.
10. Asset Management
 

<ul style="list-style-type: none"> <li>• acting as receivers and liquidators;</li> <li>• trustees; and</li> <li>• management of estate.</li> </ul>	}	<p>w.e.f. 1.1.2010, MOF has exempted "asset management" from service tax [CR(8.09)198-61Jld.9(SK.4)(11)]</p>
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Project Management Services include the following:

11. Preliminary Development Services
  - feasibility study/investigation and research;
  - recommendation/proposal; and
  - preparation of agreement.
12. Project Management Services
  - management facilities:
    - appointment of staff/consultants
    - secondment of staff;
  - project planning and control;



- project implementation and administration;
- coordination with relevant authorities – for approvals, certificates, etc;
- supervision; and
- regular report on work progress.

#### 13. Construction Management Services

- establish tendering procedures;
- call for submission of tender quotations;
- co-ordination with relevant authorities for inspection of sites, etc.;
- overall administration of progress and collection of contract works;
- monitor costing and site expenses; and
- control and supervision at site.

### Annual sales turnover

The annual sales turnover threshold (where applicable) in relation to any day of the month means the sales turnover made in the period of 12 months or part thereof immediately before that month. In the case of a service prescribed as a new taxable service, the threshold is determined with reference to the sales turnover of the 12 months preceding the month such service is prescribed as a taxable service. If the sales turnover for the preceding 12 months does not exceed the threshold figure of taxable services, application for the service tax license is not necessary until the threshold is reached.

Establishments which are not required to apply for the service tax license by reason of not having reached the threshold should monitor their sales turnover. The application for a service tax license should be made immediately when the sales turnover reaches the threshold for taxable services and not wait until the expiry of the 12-month period.

Once licensed, the taxable person will continue to be licensed unless he submits his license for cancellation. Should annual sales turnover of taxable services fall below the threshold after being licensed, an application in writing can be made for cancellation of the service tax license. If sales turnover of taxable services subsequently increases to the threshold figure, application for a service tax license should be made again.

**Note:** With effect from 1 Jan 2008, the thresholds for professional, consultancy and management services have been abolished. Thus, the service providers are required to be licensed from the commencement of business of providing taxable services.

### General issues

Retainer fees are subject to service tax.

Advance payments are also subject to service tax as invoices are issued.

Deposits are not subject to service tax as long as they remain as deposits. Should deposits be transformed into payments either wholly or in part, for the taxable services provided, invoices should be issued and service tax should be charged accordingly.

Certain taxable professional services (e.g. consultancy and management services) provided by a subsidiary company to another subsidiary company within a group of companies are not subject to service tax, effective from 1 Jan 2003 (subject to conditions).

Taxable services provided to the government are not exempted from service tax.

Taxable services provided to Foreign Embassies would require tax exemptions from the Minister of Finance.

### Refund of service tax

Where service tax or penalty has been overpaid or erroneously paid, the claim for refund should be made to Customs using the prescribed form within 1 year after the overpayment or erroneous payment was made.

However, Customs may reduce or disallow refund if it would unjustly enrich the claimant.

## SALES TAX

### Concept of taxation

Sales tax is a single stage tax imposed on taxable goods manufactured locally and/or imported. "Taxable goods" means goods of a class or kind not for the time being exempted from sales tax.

### Scope of tax

The Sales Tax Act 1972 and its related legislation apply throughout Malaysia excluding the Joint Development Areas (JDA). Free Zones and Licensed Manufacturing Warehouses are deemed to be places outside Malaysia and as such, do not fall within the ambit of the tax. Special provisions apply to Islands of Labuan, Langkawi and Tioman which generally exclude these places from the scope of sales tax.

### Basis of taxation

Sales tax is a consumption tax and under the system, the onus is on manufacturers of taxable goods to levy, charge and collect the tax from their customers.

For imported goods, sales tax is collected from the importer upon the release of taxable goods from Customs control.

### Rates of tax

Sales tax is an ad valorem tax and can be computed based on the value of taxable goods sold, used or disposed of, or imported. Specific sales tax rates are currently only imposed on certain classes of petroleum (generally, refined petroleum).

Broadly, sales tax is chargeable at the following rates:

<i>Class of Goods</i>	<i>Rate (%)</i>
Fruits, certain foodstuff, timber and building materials	5
Liquor and alcoholic drinks	5
Cigarettes and tobacco products	5
All other goods not specifically exempted	10

## Goods exempted

- All exports are exempted from sales tax
- Goods which are specifically exempted include:
  - Live animals, fish, seafood and certain essential food items including meat, milk, eggs, vegetables, fruits, bread, etc
  - Medical and educational equipment including sports equipment, books, etc
  - Photographic equipment and films
  - Motorcycles not exceeding 200 cc capacity, bicycles for adult use including parts and accessories
  - Machinery for textile industry, food preparation industry, paper and printing industry, construction industry, metal industry, etc
  - Primary commodities including cocoa, rubber and their related products
  - Naturally occurring mineral substances, chemicals, etc
  - Helicopters, aircraft, ships and other vessels.

## Licensing

Any person who manufactures taxable goods in the course of business is required to be licensed as a licensed manufacturer.

“Manufacture” means:

1. in relation to goods other than petroleum, the conversion by manual or mechanical means of organic or inorganic materials into a new product by changing the size, shape or nature of such materials and includes the assembly of parts into a piece of machinery or other products, but does not include the installation of machinery or equipment for the purpose of construction; and
2. in relation to petroleum, refining or compounding and includes the addition of any foreign substance.

## Exemption from licensing

A manufacturer of taxable goods whose total sales value did not exceed RM100,000 in the preceding year and is not expected to exceed RM100,000 during the next 12 months may apply for a certificate of exemption from licensing.

Certain manufacturing operations are also exempted from the licensing requirement. They include the following:

- Developing and printing of photographs and production of film slides.
- Engraving of articles with the name of the recipient, his sports record or other circumstances under which the article was donated or awarded.
- Incorporation of goods into buildings.
- Manufacture of ready-mixed concrete.
- Repacking of bulk goods into smaller packages by a person other than a licensed manufacturer.
- Repair of second-hand goods.
- Installation of air conditioners in motor vehicles.
- Manufacture of jewellery and goldsmith wares.

### **Tax free raw materials**

In order to uphold the single-stage concept, there are facilities for licensed manufacturers to obtain taxable raw materials/packing materials free of sales tax for use in the manufacture of taxable goods.

### **Drawback**

This is an incentive to promote export of domestically manufactured products by reducing the cost of production, thereby enhancing the competitiveness of such products in the global market.

Where sales tax is paid in respect of goods, which are subsequently re-exported, drawback of sales tax is allowed on:

- tax paid finished goods, either imported or purchased from licensed manufacturers; and
- tax paid raw materials/packing materials, which are used in the manufacture of finished goods for export.

Drawback is not allowed for petroleum.

### **Payment of sales tax**

Generally, sales tax shall be due at the time the taxable goods are sold, or disposed of otherwise than by sale by the taxable person. Any sales tax that falls due during any taxable period, which is 2 calendar months, shall be paid to the customs authorities within 28 days from the expiration of the taxable period.

In relation to the classes of petroleum that are subject to sales tax, there are special provisions regarding the time when sales tax is due and payable, as follows:

- Where taxable petroleum is manufactured in Malaysia:
  - the sales tax is due at the time the taxable petroleum is sold or disposed of otherwise than by sale; and
  - any sales tax that falls due during a taxable period, which is 1 calendar month, is payable within 10 days from the expiration of the taxable period.
- Where imported taxable petroleum is stored in licensed warehouses under S. 65 of the Customs Act 1967:
  - the sales tax is due at the time the taxable petroleum is released from the licensed warehouses for home consumption; and
  - any sales tax that falls due during a calendar month is payable within 10 days from the expiration of that month.

### **Refund of sales tax**

Where sales tax or penalty has been overpaid or erroneously paid, the claim for refund should be made to Customs using the prescribed form within 1 year after the overpayment or erroneous payment was made.

However, Customs may reduce or disallow refund if it would unjustly enrich the claimant.

## **IMPORT DUTIES**

### **Rates of duties**

Import duties are levied on goods that are subject to import duties and imported into the country.

Import duties are generally levied on an ad valorem basis but may also be imposed on a specific basis.

The ad valorem rates of import duties range from 0% to 60%. Raw materials, machinery, essential foodstuffs and pharmaceutical products are generally non-dutiable or subject to duties at lower rates.

Claim to pay duty at preferential rate can be made in respect of qualifying goods originating from country that has a free trade agreement with Malaysia. In addition, in- and out-quota tariff rate is applicable to certain goods subject to tariff rate quota.

### **Tariff rate quota**

Certain agricultural products, such as chicken, hen eggs, cabbages imported are subject to tariff rate quota (TRQ). Under TRQ, the tariff charged depends on the volume of imports. Imports within quota will be subject to the in-quota tariff rate, whilst imports in excess of quota will be subject to out-quota tariff rate, which is generally higher (sometimes much higher) than the in-quota tariff rate. The quota applicable is determined by the relevant agency, e.g. Department of Veterinary Services.

### **Preferential duty**

Qualifying goods originating from China, Japan, Korea, Pakistan, Australia, New Zealand, India, Chile and ASEAN countries (Brunei, Cambodia, Indonesia, Laos, Myanmar, Philippines, Singapore, Thailand and Vietnam) imported into Malaysia may enjoy preferential rates of duty under the relevant free trade agreements. The preferential rates can be significantly lower than the standard rates of duty. In order to qualify for the preferential rate of duty, evidence of qualification (usually a certificate of origin) issued by the relevant Government Agency or Ministry in the exporting country must be produced at the time of importation.

### **Classification of goods**

The rates of import duty or export duty on dutiable goods are dependent on the classification of the goods under the Customs Duties Order 2012.

Malaysia adopts a coding or classification system commonly referred to as the Harmonised System ("HS"), which was established under the International Convention on the Harmonised Commodity Description and Coding System.

The General Rules of Interpretation (GRI) of the HS is an integral part of the Customs Duties Order 2012. Classification of goods under the HS is applicable to goods imported from all countries other than ASEAN. Goods imported from ASEAN countries are classified under the ASEAN Harmonised Tariff Nomenclature ("AHTN") which although based on the HS, allows for certain variations.

Importers may apply for classification ruling from the respective State Customs office or Customs Headquarters in advance to avoid potential dispute with Customs during importation/exportation clearance.

### **Value of goods**

The customs value of imported goods is determined largely in accordance with the World Trade Organisation (WTO) principles of customs valuation.

### **Exemptions**

In general, manufacturers are eligible to apply for the following exemptions.

- Import duty exemption on raw materials and components used directly for the manufacture of goods for export and domestic markets not available locally; and
- Import duty and sales tax exemption on machinery and equipment which are used directly in the manufacturing process and are not available locally.

Exemption application must be submitted to the Malaysian Investment Development Authority (MIDA).

## Prohibition of imports

Quantitative import restrictions are seldom imposed except on a limited range of products for protection of local industries and reasons of security and environmental grounds. Non-automatic import permits/license issued by prescribed Authorities are required on selected goods (including motor vehicles, fish and fish products, certain chemicals and drugs, liquor and tobacco, radioactive materials, explosives and fireworks, etc.). Absolute prohibition applies to 13 categories of goods prescribed (including turtle eggs, Piranha fish, certain poisonous chemicals, etc.)

## LICENSED MANUFACTURING WAREHOUSE

Manufacturers who export 80% or more of their finished products are eligible to apply for licensed manufacturing warehouse (LMW) status. Qualifying raw materials, components and machinery used in the manufacturing process are exempted from import duties and sales tax subject to conditions imposed.

## FREE ZONE

A free zone is deemed to be a place outside Malaysia for customs purposes and is not subject to most customs formalities except certain Prohibition Orders on imports and exports. Goods can be brought into or provided in free zones without payment of customs duties, excise duties and sales tax, except those that are specifically excluded (e.g. forklifts, tyres, petroleum products, air-conditioning equipment, office furniture, construction/building materials).

## EXPORT DUTIES

### Basis of taxation

Export duties are generally imposed on the country's main commodities. The ad valorem rates of export duty range from 0% to 20%. Some of the commodities that attract export duty are crude petroleum oil (at 10%), rattan whole (at RM2.70 per kg) and crude palm oil (based on scaled rates on gazetted value).

### Value of goods

For the purpose of computing export duty, the value of the goods is the price which an exporter would receive for the goods calculated to the stage where such goods are released by customs at the place of export.

## EXCISE DUTIES

### Basis of taxation

Excise duties were previously imposed on a selected range of goods manufactured in Malaysia. With effect from 1 Jan 2004, the scope of excise duty has been expanded to also cover selected imported goods, including motor vehicles.

Goods which are subject to excise duty include:

- beer, stout and other intoxicating liquors (e.g. cider and perry, rice wine, mead, brandy, whisky, rum and tafia, gin);
- cigarettes containing tobacco;

- motor vehicles; and
- playing cards;
- mah-jong tiles.

### **Rates of duties**

The rates of excise duties vary for each “excisable” product, for example:

- RM0.22 per stick and 20% for cigarettes;
- 10 cents per litre and 15% for spirituous beverages with alcohol content exceeding 0.5% volume but not exceeding 1.14% volume;
- RM7.40 per litre and 15% for beer made from malt not exceeding 5.8% volume;
- RM4 per litre and 15% – RM30 per 100% volume per litre and 15% for rice wine, mead, and wines (from fruit juices other than juice of fresh grapes, or, from vegetable juices);
- 60%–105% for motorcars (depending on the engine capacity); and
- 10% for playing cards and either 5% or 10% for mah-jong tiles.

### **Value of goods**

For goods manufactured locally, the definition of “value” under the Excise Act 1976 for computation of excise duty payable purposes is: “...the price which a buyer would give for the goods on purchase in the open market at the time when duty is payable but will exclude any excise duty, costs, charges and expenses of transportation and storage immediately after removal from the place of manufacture”.

In the case of goods imported into Malaysia, the value on which excise duty is charged is the sum total of the value of such imported goods as determined under the Customs Act 1967 and the amount of customs duty, if any, payable on such imported goods.

### **Licensing**

Unless exempted from licensing, a manufacturer of tobacco, intoxicating liquor or goods subject to excise duties must have a license to manufacture such goods.

A warehouse license is required for storage of goods subject to excise duty. However, a license to manufacture tobacco, intoxicating liquor or goods subject to excise duty also permits the holder to store such goods.

### **Payment of duty**

As a general rule, duty is payable at the time the goods leave the place of manufacture or any other place under excise control. However, for motor vehicles, duty is payable at the time the vehicles are registered with the Road Transport Department, or, if not registered, within 4 years from the date of removal from the place of manufacture.

### **Exports**

No excise duty is payable on dutiable goods that are exported.

## **GOODS AND SERVICES TAX GUIDES**

The Royal Malaysian Customs (RMC) has released GST Guides (draft) on the GST Portal (<http://www.gst.customs.gov.my>) for public comment.

## **CUSTOMS RULINGS**

With effect from 1 Apr 2007, application for a Customs Ruling can be made with respect to classification of goods, determination of taxable services and taxable persons, the principles of determination of value of goods and services and other matters as prescribed by the Director General of the Royal Malaysian Customs Department under the Customs Act 1967, Sales Tax Act 1972, Service Tax Act 1975 and Excise Act 1976. Customs ruling issued is binding between Customs and the applicant for 3 years. The Director General of Customs may amend, modify or revoke a ruling if it contains an error, was based on an error of fact or law or if there is a change in the law, material facts / circumstances on which the ruling was based.

## **CUSTOMS APPEAL TRIBUNAL**

With effect from 1 Jun 2007, Customs Appeal Tribunal was established to decide on appeals against the decisions of the Director General of Customs pertaining to matters under the Customs Act 1967, Sales Tax Act 1972, Service Tax Act 1975 and Excise Act 1976. Appeal to the Tribunal must be made in the prescribed form within 30 days from the date of the written notification of the Director General's decision.



## C2 STAMP DUTY

### STAMP DUTY RATES

Stamp duty is chargeable on certain instruments or documents. The rate of duty varies according to the nature of the instruments / documents and transacted values. Exemption of stamp duty is given on certain instruments and documents. The following are rates of stamp duty for some more common instruments and documents.

#### Conveyance, assignment or transfer

	Value RM	Rate	Duty payable RM
(a) Properties			
On the first	100,000	RM1 per RM100 or part thereof	1,000
On the next	400,000	RM2 per RM100 or part thereof	8,000
	500,000		9,000
In excess of	500,000	RM3 per RM100 or part thereof	

	Rate
(b) Stock, shares or marketable securities	RM3 per RM1,000 or part thereof

#### Agreement or memorandum of agreement

Agreement or memorandum of agreement made under hand and not otherwise charged with any duty:

- Up to 31 Dec 2000 RM3
- From 1 Jan 2001 onwards RM10

#### Abolishment of adjudication fee

The adjudication fee is abolished with effect from 1 Jan 2009.

#### Charge or mortgage (including that under the *Syariah*), bond, covenant, debenture (not being a marketable security)

- (a) Being the principal security (except in certain instances) in respect of:
- Foreign currency loans or *Syariah* financing in foreign currency RM5 per RM1,000 or part thereof with total duty payable not exceeding RM500
  - Any other case (other than loans for small and medium enterprise) RM5 per RM1,000 or part thereof
  - Loan for the purposes of small and medium enterprise approved by the Minister of Finance
    - for an amount not exceeding RM250,000 of the aggregate loans or of the aggregate financing under the *Syariah* in a calendar year RM0.50 for every RM1,000 or fraction thereof

- for each additional RM1,000 not exceeding RM1,000,000 RM2.50 for every RM1,000 or fraction thereof
- for each additional RM1,000 or part thereof RM5.00

“Small and medium enterprise” is defined in S. 2 of the Stamp Act 1949 as follows:

- in relation to the manufacturing, manufacturing related services and agro-based industries sectors, an enterprise with full-time employees not exceeding 150 people or annual turnover not exceeding RM25 million; and
- in relation to the services, primary agriculture and information and communication technology sectors, an enterprise with full-time employees not exceeding 50 people or annual turnover not exceeding RM5 million.

- (b) Transfer, assignment or disposition of any charge or mortgage, bond, covenant or debenture (not being a marketable security) 2/5 of the duty which would be chargeable or a charge or mortgage for the amount transferred

**Memorandum of association of a company** RM100

**Share warrant or stock certificate to bearer** RM1 for every RM100 or fractional part of RM100 of the nominal value of the shares or stock specified in the warrant

**Lease or agreement for lease of any immovable property and for securing the payment for the provision of services or facilities or to other matters or things in connection with such lease**

	<i>When the lease is for a period</i>		
	<i>Less than 1 year</i>	<i>1 year to 3 years</i>	<i>More than 3 years</i>
(a) Without fine or premium when the average rent and other considerations calculated for a whole year:			
(i) does not exceed RM2,400	Nil	Nil	Nil
(ii) for every RM250 or part thereof in excess of RM2,400	RM1	RM2	RM4
(b) In consideration of a fine or premium and without rent	The same duty as for a conveyance for a sum equal to the amount of such consideration		
(c) In consideration of a fine or premium and reserving a rent or other considerations	The same duty as for a conveyance on sale in consideration of the fine or premium and a lease for the rent		

## Stamp duty on loan and service agreements

	Rate
(a) All loan and service* agreements (except education loans)	<i>Ad valorem</i> rate of RM5 for every RM1,000 or part thereof — effective 1 Jan 2009
(b) Education loan agreements	Fixed at RM10

\*Note: Stamp duty on service agreement instruments

Under the Stamp Duty (Remission) Order 2009, the Minister of Finance in exercising his powers under S. 80(2) of the Stamp Act 1949 has agreed that service agreement instruments executed from 15 Sep 2009 until 31 Dec 2010 will be subject to stamp duty of up to RM50 only and the excess duty will be remitted.

For service agreements executed on or after 1 Jan 2011, the Stamp Duty (Remission) (No. 4) Order 2010 provides the following:

		Stamp duty
All service agreements (one tier)		<i>Ad valorem</i> rate of 0.1%
Multi-tier service agreement:		
(a) Non-government contract (i.e. between private entity and service providers).	First level	<i>Ad valorem</i> rate of 0.1%
	Subsequent level(s)	RM50
(b) Government contract (i.e. between Federal / State Government of Malaysia and service providers).	First level	Exempted
	Second level	<i>Ad valorem</i> rate of 0.1%
	Subsequent level(s)	RM50

Information to be stated in the service agreement by sub-provider of service and subsequent sub-provider of service:

- the names of the parties and the date of execution of the original service agreement;
- the subject matter of the original agreement; and
- that said agreement has been duly stamped at the rate specified (i.e. 0.1%).

### Stamp duty on construction contract instruments

Service agreements include construction contract instruments. Since construction projects generally involve multiple tiers, multiple levels of stamp duty at *Ad valorem* rate would be levied on the same project. The Ministry of Finance has reviewed the situation and issued the following guidelines:

- For contracts awarded by the Government where the agreement is signed between the Government and the principal contractor, the contract is exempted from stamp duty. Stamp duty at *Ad valorem* rate will be levied on second level contracts (i.e. contracts between the principal contractor and the sub-contractors). Stamp duty for contracts at the third and subsequent levels will be fixed at RM50.00, and any stamp duty paid in excess will be remitted.

- (ii) For contracts awarded by any party other than the Government, stamp duty at *Ad valorem* rate will be levied on the contract between such party and principal contractor. Stamp duty for contracts at the second and subsequent levels will be fixed at RM50.00, and any stamp duty paid in excess will be remitted.
- (iii) For projects that are cancelled by the parties who had offered the contracts, and stamp duty for all such contracts had been paid, only the stamp duty at the *Ad valorem* rate will be refunded. Stamp duty at the fixed rate of RM50.00 will not be refunded.

The remission of stamp duty is effective from 15 Jul 2009.

### **Payment of stamp duty using private valuation — effective 1 Jan 2008**

Effective 1 Jan 2008, private valuation by a practicing valuer is accepted for the determination of an “initial duty” payable in order to expedite the transfer of real property prior to the official JPPH valuation being issued.

The payment for the initial duty must be made together with a bank guarantee valid for a period of not less than 6 months. The amount of the bank guarantee is computed based on the difference in stamp duties between the JPPH valuation and the private valuation, with the JPPH valuation being deemed to be 35% higher than the private valuation.

The amount of the bank guarantee is computed based on the following formula:

Bank guarantee amount = A – B

Where A is the duty chargeable on such instrument based on the value of immovable property, where the value is ascertained in accordance with the following formula:

$$Y \times 100/65$$

Where Y is the market value of such property as submitted by that person

B is the amount of stamp duty chargeable on such instrument based on the market value submitted by that person

If, based on the subsequent JPPH valuation, the proper stamp duty is higher than the initial duty paid, the Collector may, within 3 months after payment of the initial duty, issue an additional assessment for the additional duty payable.

Where the additional duty is not paid within 30 days of the service of the additional assessment, the Collector shall call upon the bank guarantee. If the bank guarantee amount is insufficient, the remaining duty unpaid shall be increased by 10%.

In addition, where the proper duty chargeable exceeds the sum of the initial duty plus the bank guarantee (“the amount”) by more than 30% of the proper amount of duty chargeable, the difference between the amount and 30% of the proper duty chargeable shall be increased by 10% of the difference.

An appeal against the additional assessment may be made within 30 days from the date of the additional assessment.

### Penalty for late stamping

An instrument which is not stamped within the period specified may be stamped on payment of the unpaid duty and a penalty of:

	<i>Rate</i>
(a) On or before 31 Dec 2000	RM25 or 4 times of the amount of the deficient duty, whichever is greater
(b) On or after 1 Jan 2001	RM25 or 50% of the amount of deficient duty, whichever is greater, if the instrument is stamped within 3 months after the specified time for stamping RM50 or 100% of the amount of the deficient duty, whichever is greater, if the instrument is stamped later than 3 months but not later than 6 months after the specified time for stamping RM100 or 200% of the amount of the deficient duty, whichever is greater, if the instrument is stamped after 6 months
(c) On or after 1 Jan 2003	RM25 or 5% of the amount of the deficient duty, whichever is greater, if the instrument is stamped within 3 months after the specified time for stamping RM50 or 10% of the amount of the deficient duty, whichever is greater, if the instrument is stamped later than 3 months but not later than 6 months after the specified time for stamping RM100 or 20% of the amount of the deficient duty, whichever is greater, if the instrument is stamped after 6 months

### Introduction of payment of stamp duty through electronic medium

Effective 1 Jan 2009, a "stamp certificate" will be issued by the stamp office upon payment under the new electronic medium, which is to be attached to an instrument to denote duty paid by electronic medium. The tax authorities have indicated that this is restricted for the time being to the stamping for transfers of property only. Prior registration with the stamp office to pay under the electronic medium is required.

Any person who misuses the stamp certificate shall be guilty of an offence and shall be liable on conviction to a fine not exceeding RM5,000.

### Introduction of stamping using digital franking machine

Instruments can be stamped using the digital franking machine as an additional mode to the postal franking machine.

### Power to compound for stamp duty

The power to compound for payment of stamp duty on unstamped cheques, unstamped contract notes, unstamped policies of insurance and rights subscription forms are given to any banker, dealer, insurer and Bursa Malaysia.

## REMISSION OF STAMP DUTY

### Financing instruments

1. Stamp duty on any instrument of:
  - (a) a term loan agreement executed between a borrower and a financial institution; or
  - (b) an Asset Sale Agreement for a term loan under the *Syariah* law executed between a customer and a financial institution, for the purpose of refinancing any existing term loan,is remitted to the extent of the duty that would be payable on the balance of the principal amount of the existing term loan.

Provided that the existing term loan was obtained for the purposes of a business, other than for working capital, and the instrument for the existing term loan had been duly stamped.
2. Stamp duty on any instrument for a loan executed between a customer and a financier under the *Syariah* law pursuant to the change of scheme for financing an existing loan from conventional to *Syariah* is remitted to the extent of the duty that would be payable on the balance of the principal amount of the existing loan provided that the instrument for the existing loan had been duly stamped.
3. Stamp duty on any instrument executed between a customer and a financier made under the principles of the *Syariah* law for the purpose of rescheduling or restructuring any existing Islamic financing facility is remitted to the extent of the duty that would be payable on the balance of the principal amount of the existing Islamic financing facility provided that the instrument for the existing Islamic financing facility had been duly stamped.
4. 20% of the stamp duty on principal or primary instruments of financing under the principles of the *Syariah* law and chargeable pursuant to subparagraph 22(1)(a) or subparagraph 27(a) of the First Schedule is remitted between 2 Sep 2006 to 31 Dec 2015 and subject to the condition that the instrument is approved by the Bank Negara Malaysia *Syariah* Advisory Council or the Securities Commission *Syariah* Advisory Council.
5. Any stamp duty payable in respect of any agreement, note, instrument and document, as the case may be, in relation to the issue of the Islamic Medium Term Note or the Guarantee shall be remitted in full — effective 10 Jul 2009.
6. Any loan agreement or loan instrument without security for any sum or sums of money repayable on demand or in single bullet repayment which is in excess of 0.1% is remitted.
7. 50% is remitted from the stamp duty chargeable on loan agreement relating to a purchase of only one unit of residential property not exceeding RM350,000 by a Malaysian citizen named in a sale and purchase agreement executed from 1 Jan 2011 to 31 Dec 2012 on the condition that the purchaser does not own any other residential property at the date of execution of the sale and purchase agreement and the application for remission shall be made only once. The abovementioned stamp duty exemption is extended to a sale and purchase agreement executed from 1 Jan 2013 to 31 Dec 2014 for the purchase of a property costing not more than RM400,000.

### Property instruments, share instruments and others

1. 50% of the stamp duty chargeable on any instrument of transfer of any immovable property operating as a voluntary disposition between parent and child is remitted.
2. Stamp duty in excess of RM200 payable upon instruments of contract notes relating to the sale of any shares, stocks or marketable securities in companies incorporated in Malaysia or elsewhere between a local broker and an authorised nominee on behalf of a foreign broker is remitted.

3. Stamp duty in excess of RM200 payable on all instruments of contract notes relating to the sale of any shares, stock or marketable securities which are listed on stock market of a stock exchange approved under subsection 8(2) of the Securities Industry Act 1983 (Act 280) is remitted.
4. Stamp duty on an instrument of deed of assignment executed between a contractor and subcontractor pursuant to *Dasar Pengagihan Kerja kepada Kontraktor Bumiputera Kelas E dan F* (i.e. a policy for distribution of contracts to E and F Class *Bumiputera* contractors) which is in excess of RM50 is remitted with effect from 1 May 2011.
5. 50% is remitted from the stamp duty chargeable on any instrument of transfer for purchase of only one unit of residential property not exceeding RM350,000 by a Malaysian citizen named in a sale and purchase agreement executed from 1 Jan 2011 to 31 Dec 2012 on the condition that the purchaser does not own any other residential property at the date of execution of the sale and purchase agreement and the application for remission shall be made only once. The abovementioned stamp duty exemption is extended to a sale and purchase agreement executed from 1 Jan 2013 to 31 Dec 2014 for the purchase of a property costing not more than RM400,000.

## EXEMPTION OF STAMP DUTY

### Property instruments, share instruments and others

1. Instruments in connection with the reconstruction or amalgamation of companies, provided prescribed conditions per S. 15 of the Stamp Act 1949 are satisfied.
2. Instruments in connection with the transfer of property or shares between associated companies, provided prescribed conditions per S. 15A of the Stamp Act 1949 are satisfied.
3. Instruments relating exclusively to immovable property situated out of Malaysia or relating exclusively to things done or to be done out of Malaysia.
4. Transfer of securities listed on Malaysian Exchange of Securities Dealings and Automated Quotation (MESDAQ) executed in favour of a borrower or lender and transfer of collateral in respect of a securities borrowing and lending transaction made under a Securities Borrowing and Lending Agreement.
5. Instruments which are executed by a Labuan company in connection with a Labuan business activity.
6. Memorandum and Articles of Association of a Labuan company.
7. Transfer of shares in a Labuan company.
8. Instruments executed by any foreign insurer licensed under S. 16 of the Insurance Act 1996 (Act 553) to transfer its property, business and liabilities in Malaysia to a public company incorporated under the Companies Act 1965 (Act 125) pursuant to paragraph 217(b) of the Insurance Act 1996.
9. Instruments of transfer of shares, stock and marketable securities in companies not listed or removed from the list on the Kuala Lumpur Stock Exchange executed in favour of the Malaysian Central Depository Sendirian Berhad; or  
Instruments of transfer of the beneficial interest of such shares, stock and marketable securities in companies not listed or removed from the list on the Kuala Lumpur Stock Exchange held for the account of the transferor by the Malaysian Central Depository Sendirian Berhad.
10. Specified instruments which are executed on or after 1 July 2002 in connection with the purchase of low cost houses.

11. All instruments executed pursuant to a scheme of transfer of the Islamic banking business and/or the Islamic financial business by a licensed institution to its related corporation licensed or to be licensed under the Islamic Banking Act 1983 approved by the Minister of Finance on the recommendation of the Central Bank of Malaysia pursuant to subsection 49(7) of the Banking and Financial Institutions Act 1989 — effective 1 Mar 2005.
12. All instruments where the stamp duty would ordinarily be payable pursuant to a scheme of merger to rationalise banking business and finance company business and which involves the merger of the whole or any part of the business and operations of a licensed bank and a licensed finance company.
13. Instruments in connection with the transfer of immovable property operating as a voluntary disposition between husband and wife — effective 8 Sep 2007.
14. Instruments executed from 24 Oct 2009 until 31 Dec 2014 pursuant to the transfer of ownership of buildings and residential properties awarded Green Building Index certificates, bought from real property developers.
15. Instruments of deed of assignment and instruments of transfer of real property to Real Estate Investment Trust or a Property Trust Fund approved by the Securities Commission.
16. All instruments executed by Labuan Corporation.
17. Loan agreements for the purchase of residential properties under the 1Malaysia housing programme (PR1MA) priced up to RM300,000 for sale and purchase agreements executed from 1 Jan 2012 until 31 Dec 2016.
18. All service agreements executed by Treasury Management Centre in Malaysia for qualifying activities of Treasury Management Centre (for applications received by Malaysian Investment Development Authority from 8 Oct 2011 until 31 Dec 2016).
19. All instruments of service agreements executed between a service provider and a Tun Razak Exchange Marquee status company from 1 Jan 2014 to 31 Dec 2022.
20. Any instrument of transfer for the purchase of commercial property, lease or agreement for lease of commercial property and loan agreement to finance the purchase of commercial property executed by a Tun Razak Exchange Marquee status company. This is for agreements executed from 31 Jan 2013 to 31 Dec 2020.
21. On the merger documents in respect of small Malaysian service providers in the professional services, courier services, technical and vocational secondary education services (generic and special needs) and skills training services sectors merging into larger entities. Professional services include accounting and taxation services, specialised medical and dental practices, architectural services and engineering services.  
  
The stamp duty exemption is subject to certain criteria being met for applications received by the Inland Revenue Board within 3 years from 3 Jul 2012. The exemption will be gazetted through a statutory order (MIDA's guidelines).
22. Business Trust established under the Capital Market and Services Act 2007 will be given stamp duty exemption on instruments of transfer of businesses, assets or real properties executed by a trustee-manager from 1 Jan 2013 to 31 Dec 2017. The exemption is provided on a one-off basis at the initial stage of the establishment of the Business Trust.
23. Stamp duty exemption for a rescuing contractor or a developer on the instrument of transfer of a revived residential property in the abandoned housing project in respect of sale and purchase agreements executed from 1 Jan 2013 to 31 Dec 2015.



24. Stamp duty exemption for an original house purchaser in an abandoned housing project on instruments of transfer of a revived residential property in respect of sale and purchase agreements executed from 1 Jan 2013 to 31 Dec 2015.
25. Any instruments payable by ASEAN Infrastructure Fund Limited with effect from 24 Apr 2012.
26. Any instruments (chargeable with *Ad valorem* duty) executed by a qualifying person (on or after 10 Oct 2011 but not later than 31 Dec 2021) in relation to a qualifying activity carried on in the RAPID Complex.
27. Instruments relating to the purchase and transfer of a flat under the Program Perumahan Rakyat Majlis Tindakan Ekonomi Negara and Perumahan Awam Dewan Bandaraya Kuala Lumpur executed on or after 1 Jan 2012 but not later than 31 Dec 2013 are exempted from stamp duty.

### Financing instruments

1. Specified instruments executed on or after 1 Jan 2001 for the purpose of a securitisation transaction.
2. Instruments of the Asset Sale Agreement or the Asset Purchase Agreement executed between a customer and a bank made under the principles of the *Syariah* Law for the purpose of renewing any Islamic overdraft financing facility, if the instruments for the Islamic overdraft financing facility had been duly stamped.
3. An *Al-Ijarah* Head Lease Agreement on immovable property executed between a customer and a financier pursuant to a scheme of *Al-Ijarah* Term Financing Facility.
4. The issue of, offer for subscription or purchase of, or invitation to subscribe for or purchase, debentures approved by the Securities Commission under S. 32 of the Securities Commission Act 1993 and the transfer of such debentures.
5. Instruments executed between *Bumiputera* entrepreneurs and financial institutions under the *Tabung Pemulihan dan Pembangunan Usahawan* (TPPU) programme managed by Syarikat ERF Sdn. Bhd.
6. Facility agreement executed between a company (as a borrower) and Bank Pembangunan dan Infrastruktur Malaysia Bhd. for the purpose of financing the development of federal project(s) approved by the Economic Planning Unit or Ministry of Finance under the deferred payment financing scheme.
7. All instruments executed by any person in relation to the issue of, offer for subscription or purchase of, or invitation to subscribe for or purchase the *Sukuk* Bank Negara Malaysia – *Ijarah* issue and the transfer of such securities.
8. All instruments executed by BNM Sukuk Berhad in relation to the *Sukuk* Bank Negara Malaysia – *Ijarah*.
9. Instruments of the *Bai Inah* Sale Agreement or the *Bai Inah* Purchase Agreement executed between a customer and a financial institution made under the principles of the *Syariah* law for the purpose of the issuance of credit cards.
10. Instruments executed between a customer and a financier in accordance with the principles of the *Syariah* law for the purpose of renewing any Islamic revolving financing facility if the instrument for the existing Islamic revolving financing facility had been duly stamped.
11. Loan instruments executed pursuant to a scheme under the Special Relief Guarantee Facility (SRGF) for a business affected by SARS (Severe Acute Respiratory Syndrome) outbreak.
12. Instruments relating to transactions involving Cagamas Berhad.
13. All loan instruments executed pursuant to a Micro Credit Scheme for an amount not exceeding RM50,000 between a borrower and Bank Simpanan Nasional and between a borrower and Bank Pertanian Malaysia — effective 1 Jun 2003.

14. The stamp duty on any instrument of an Asset Lease Agreement executed between a customer and a financier made under the principles of the *Syariah* for the purpose of rescheduling or restructuring any existing Islamic financing facility is remitted to the extent of the duty that would be payable on the balance of the principal amount of the existing Islamic financing facility — effective 13 Sep 2003.
15. All instruments of an Asset Sale Agreement or an Asset Lease Agreement executed between a customer and a financier made under the principles of the *Syariah* for the purpose of renewing any Islamic revolving financing facility are exempted from stamp duty if the instrument for the existing Islamic revolving financing facility had been duly stamped.
16. The stamp duty on any instrument of an Asset Lease Agreement for a term loan under the principles of the *Syariah* executed between a customer and a financier for the purpose of refinancing any existing term loan is remitted to the extent of the duty that would be payable on the balance of the principal amount of the existing term loan. This is provided that the existing term loan was obtained for the purposes of a business, other than for working capital, and the instrument for the existing term loan had been duly stamped — effective 13 Sep 2003.
17. All instruments relating to the purchase of property by any financier for the purpose of lease back under the principles of the *Syariah*, or any instrument by which the financier shall assume the contractual obligations of a customer under a principal sale and purchase agreement — effective 13 Sep 2003.
18. All additional instruments of financing executed pursuant to approved Islamic financial and capital market products which are not required to be executed for conventional products — effective 11 Sep 2004.
19. All loan instruments which are in force to secure a loan not exceeding RM10,000 made under the principles of conventional or Islamic banking granted or to be granted by Bank Pertanian Malaysia for the purpose of financing agriculture based projects — effective 11 Apr 1986.
20. Instruments executed pursuant to a scheme of financing which is in accordance with the principles of *Syariah* approved by the Central Bank, or the Securities Commission (with effect from 11 Sep 2004), or the Labuan Financial Services Authority (with effect from 1 Jan 2010), or the Malaysia Co-operative Societies Commission (upon the coming into operation of the Finance (No. 2) Act 2011).
21. All loan instruments up to RM50,000 executed from 1 Jan 2012 pursuant to a micro financing scheme approved by the National Small and Medium Enterprise Development Council. Such exemption is given on loans executed by micro enterprises and Small and Medium Enterprise with banking and financial institutions.  
Such exemption is also given on loans executed by professionals with Bank Simpanan Nasional pursuant to a Professional Service Fund from 1 Jan 2012.
22. All loan instruments executed by Treasury Management Centre in Malaysia for qualifying activities of Treasury Management Centre (for applications received by Malaysian Investment Development Authority from 8 Oct 2011 until 31 Dec 2016).
23. Loan agreements for the purchase of residential properties under the 1Malaysia housing programme (PR1MA) priced up to RM300,000 for sale and purchase agreements executed from 1 Jan 2012 until 31 Dec 2016.
24. Any instrument of loan agreement or financing under the *Syariah* chargeable under sub-item 27(a)(i) of the First Schedule to the Stamp Act 1949 executed on or after 15 Jun 2011 but not later than 31 Dec 2014 between a Small and Medium Enterprise and either Bank Perusahaan Kecil & Sederhana Malaysia Berhad, Bank Pembangunan Malaysia Berhad, or Export-Import Bank of Malaysia Berhad. The Small and Medium Enterprise must be approved for an incentive under the Green Lane Policy by the Secretariat for Green Lane Policy of the Ministry of Finance.

25. Stamp duty exemption on instruments relating to the sale and purchase of retail *sukuk* and retail debenture executed by individual investors from 1 Oct 2012 to 31 Dec 2015.
26. Stamp duty exemption for a rescuing contractor or a developer on instrument of loan agreements to finance the revival of the abandoned housing project in respect of sale and purchase agreements executed from 1 Jan 2013 to 31 Dec 2015.
27. Stamp duty exemption for original house purchaser in an abandoned housing project on instruments of loan agreements for financing in respect of sales and purchase agreements executed from 1 Jan 2013 to 31 Dec 2015.
28. All instruments relating to the restructuring or rescheduling of loan executed from 1 Jan 2013 to 31 Dec 2017 between a participant of the debt management programme which has been approved by the Credit Counselling and Debt Management Agency and a specified credit provider.
29. The following instruments relating to Islamic banking, *takaful* activities and Islamic capital market under a scheme to promote Malaysia International Islamic Financial Centre:
  - (a) instruments on transactions in currencies other than ringgit relating to Islamic banking or *takaful* activities executed from 1 Jan 2007 to 31 Dec 2016 between a qualifying person (i.e. International Currency Business Unit, international Islamic banks and international *takaful* operators) and:
    - (i) a resident customer; or
    - (ii) a non-resident customer
  - (b) instruments relating to the issuance of:
    - (i) Islamic bonds in ringgit approved by the Securities Commission from 1 Jan 2007 to 31 Dec 2016; or
    - (ii) Islamic bonds in foreign currencies approved by the Securities Commission from 1 Jan 2007 to 31 Dec 2016.
30. All instruments executed by BNM Kijang Berhad in relation to *Sukuk Kijang* (i.e. the Islamic securities of nominal value of up to USD250,000,000 issued or to be issued in accordance with the *Syariah* principle of *Ijarah* by BNM Kijang Berhad) and any person in relation to the issuance and transfer of *Sukuk Kijang* with effect from 25 Jul 2013.
31. Stamp duty exemption for loan agreements under the soft loan incentive scheme for Small and Medium Enterprises. This incentive would be extended until 31 Dec 2017 (Budget 2014).

# C3 REAL PROPERTY GAINS TAX RATES AND EXEMPTIONS

## C3.1

### REAL PROPERTY GAINS TAX RATES

Real Property Gains Tax (RPGT) is charged on gains arising from the disposal of real property, which is defined as any land situated in Malaysia and any interest, option or other right in or over such land. RPGT is also charged on the disposal of shares in a real property company (RPC). A RPC is a controlled company holding real property or shares in another RPC of which the defined value is not less than 75% of the value of the company's total tangible assets.

With effect from 1 Jan 2012, a tax rate of 10% was imposed for a holding period of up to 2 years, 5% for a holding period exceeding 2 years until 5 years and 0% for a holding period exceeding 5 years. With effect from 1 Jan 2013, a tax rate of 15% was imposed for a holding period of up to 2 years, 10% for a holding period exceeding 2 years until 5 years and 0% for a holding period exceeding 5 years.

With effect from 1 Jan 2014, the uniform RPGT rates applicable for individuals and companies will no longer apply. For companies and individuals who are Malaysian citizens and permanent residents, a tax rate of 30% will be imposed for a holding period of up to 3 years, 20% for a holding period exceeding 3 years and up to 4 years and 15% for a holding period exceeding 4 years and up to 5 years. RPGT of 5% will be imposed for a holding period exceeding 5 years for companies while individuals who are Malaysian citizens or permanent residents will not suffer RPGT if the holding period exceeds 5 years. Individuals who are not Malaysian citizens will be subject to RPGT at the rate of 30% for a holding period up to 5 years and 5% for a holding period exceeding 5 years.

The following are the rates of RPGT for the following 3 categories:

#### A. Disposal by a company

	Rates of RPGT (%)				
	01.04.07– 31.12.09 (Exemption period)	w.e.f. 01.01.10	w.e.f. 01.01.12	w.e.f. 01.01.13	w.e.f. 01.01.14
	%	%	%	%	%
<b>Date of disposal</b>					
Disposal within 2 years after date of acquisition	Nil	5	10	15	30
Disposal in the 3rd year after date of acquisition	Nil	5	5	10	30
Disposal in the 4th year after date of acquisition	Nil	5	5	10	20
Disposal in the 5th year after date of acquisition	Nil	5	5	10	15
Disposal in the 6th year after date of acquisition or thereafter	Nil	Nil	Nil	Nil	5

**B. Disposal by an individual who is a Malaysian citizen or permanent resident**

	Rates of RPGT (%)				
	01.04.07– 31.12.09 (Exemption period)	w.e.f. 01.01.10	w.e.f. 01.01.12	w.e.f. 01.01.13	w.e.f. 01.01.14
	%	%	%	%	%
<b>Date of disposal</b>					
Disposal within 2 years after date of acquisition	Nil	5	10	15	30
Disposal in the 3rd year after date of acquisition	Nil	5	5	10	30
Disposal in the 4th year after date of acquisition	Nil	5	5	10	20
Disposal in the 5th year after date of acquisition	Nil	5	5	10	15
Disposal in the 6th year after date of acquisition or thereafter	Nil	Nil	Nil	Nil	Nil

**C. Disposal by an individual who is not a citizen or permanent resident**

Date of disposal	Rate of RPGT (%)
From 17 Oct 1997 to 31 Mar 2007:	
Disposal within 5 years after the date of acquisition	30
Disposal in the 6th year after the date of acquisition or thereafter	5
From 1 Apr 2007 to 31 Dec 2009	Nil
<b>From 1 Jan 2010</b>	
Disposal within 5 years from the date of acquisition	5
Disposal in the 6th year after the date of acquisition or thereafter	Nil
<b>From 1 Jan 2012</b>	
Disposal within 2 years from the date of acquisition	10
Disposal after 2 years but within 5 years from the date of acquisition	5
Disposal after 5 years from the date of acquisition	Nil
<b>From 1 Jan 2013</b>	
Disposal within 2 years from the date of acquisition	15
Disposal after 2 years but within 5 years from the date of acquisition	10
Disposal after 5 years from the date of acquisition	Nil
<b>From 1 Jan 2014</b>	
Disposal within 5 years from the date of acquisition	30
Disposal after 5 years from the date of acquisition	5

The IRB issued a RPGT guideline dated 18 Jun 2013 to deal with the tax treatment for disposals made from 1 Jan 2012 to 31 Dec 2012 and from 1 Jan 2013. In addition, the guideline covers the facilities of e-filing as well as e-lodgment of the RPGT Form.

### C3.2

## EXEMPTIONS OF REAL PROPERTY GAINS TAX

RPGT exemptions are available in the following circumstances:

Exemptions under the RPGT Act 1976:

1. An individual will be given an exemption equal to RM10,000 or 10% of the chargeable gain, whichever is greater. Prior to 1 Jan 2010, the exemption was equal to RM5,000 or 10% of the chargeable gain, whichever was greater.
2. An individual who is a Malaysian citizen or a permanent resident will be given a once-in-a-lifetime exemption on any chargeable gain arising from the disposal of his/her private residence if he/she elects in writing for the exemption to apply to that private residence.
3. Transactions in which the disposal price is deemed equal to acquisition price (i.e. "No gain no loss" transactions) — per Para 3 Sch 2 of the RPGT Act 1976:
  - (a) Devolution of a deceased person's assets to his trustee or legatee.
  - (b) Transfer between spouses.
  - (c) Transfer of assets owned by an individual, his wife or by an individual jointly with his wife or with a connected person to a company controlled by the individual, his wife or by an individual jointly with his wife or with a connected person, for a consideration consisting substantially (more than 75%) of shares in that company.
  - (d) Transfer between an individual and a nominee who has no vested interest in the assets.
  - (e) Transfer by way of security in or over an asset.
  - (f) Gifts to the Government, local authority or charity exempt from income tax.
  - (g) Disposal due to compulsory acquisition.
  - (h) Disposal of chargeable assets pursuant to an approved financing scheme which is in accordance with *Syariah* principles, where such disposal will not be required for conventional financing schemes.
4. Gifts — per Sch 2 Para 12 of the RPGT Act 1976:

Gifts between husband and wife, parent and child or grandparent and grandchild are deemed to be "No gain no loss" transactions.
5. Transfers between companies — per Para 17 Sch 2 of the RPGT Act 1976:
  - (a) Transfers within the same group to bring about greater efficiency and for a consideration consisting substantially of shares in the transferee company.
  - (b) Transfers between companies for the purposes of reorganisation, reconstruction or amalgamation where the transferee company is being restructured to comply with the Government's policy on capital participation in industry.
  - (c) Assets distributed by a liquidator under a scheme of reorganisation, reconstruction or amalgamation where the transferee company is being restructured to comply with the Government's policy on capital participation in industry.

Exemptions via Gazette Orders which are currently available include:

1. Disposal of chargeable assets:
  - (a) to or in favour of a special purpose vehicle; or
  - (b) in connection with the repurchase of the chargeable assets, to or in favour of the person from whom those assets were acquired, for the purpose of a securitisation transaction.
2. Disposal of chargeable assets in relation to the *Sukuk* issued by the Malaysian Global Sukuk Incorporated.
3. Disposal of chargeable assets in relation to the *Sukuk* Bank Negara Malaysia – *Ijarah* issued or to be issued by BNM Sukuk Berhad.
4. Disposal of chargeable assets to Real Estate Investment Trusts and Property Trust Funds.
5. Disposal of chargeable assets in relation to the issuance of private debt securities under Islamic principles.
6. Disposal of chargeable assets including shares in a real property company from 1 Jan 2013 to 31 Dec 2017 to a trustee-manager on behalf of a business trust established under the Capital Market and Services Act 2007 in relation to the initial offering of the business trust.
7. Disposal of chargeable assets after 24 Apr 2012 by the ASEAN Infrastructure Fund Limited.
8. Disposal of chargeable assets in relation to *Sukuk Kijang* (i.e. the Islamic securities of nominal value of up to USD250,000,000 issued or to be issued in accordance with the *Syariah* principle of *Ijarah* by BNM Kijang Berhad) with effect from 25 Jul 2013.

# C4 EXCHANGE CONTROL

The information provided below acts as a quick reference guide outlining the more common transactions allowed by Bank Negara Malaysia based on section 214 of the Financial Services Act 2013 and Section 225 of the Islamic Financial Services Act 2013 which came into effect from 30 June 2013. The Exchange Control of Malaysia Notices based on section 39 of the Exchange Control Act 1953 have been revoked with effect from 30 June 2013.

## REMITTANCES ABROAD

A resident is freely permitted:

1. to make the following payments in Ringgit to a non-resident:
  - (a) the settlement of a Ringgit asset including any income and profit due from the Ringgit asset;
  - (b) the settlement of domestic and international trade in goods and services;
  - (c) income earned or expense incurred, in Malaysia;
  - (d) the settlement of a commodity murabahah transaction between a resident and non-resident participant undertaken through a resident commodity trading service provider;
  - (e) the settlement of reinsurance for domestic insurance business or retakaful for domestic takaful business between a resident and a person licensed to undertake Labuan insurance or takaful business;
  - (f) the settlement of a non-financial guarantee denominated in Ringgit issued by a person licensed to undertake Labuan banking business in favour of a resident; or
  - (g) for any purpose between immediate family members.

Note: Payment in Ringgit by the resident to a non-resident must be made into an external account of the non-resident or an external account of a non-resident financial institution.

2. to pay any amount in foreign currency to a non-resident for any purpose (other than derivatives), including the settlement of import of goods and services and payments to resident and non-resident immediate family members. Investments abroad would be subject to rules on investments in foreign currency assets which include:
  - the ability to invest any amount abroad if funded from own foreign currency funds maintained onshore or offshore or if funded by proceeds from listing of shares onshore and offshore;
  - the ability to invest any amount abroad up to:
    - (a) any amount for a resident with no domestic credit facilities;
    - (b) RM50 million per annum equivalent for entities with domestic credit facilities. Resident entities are however permitted to undertake direct investment abroad<sup>1</sup> without limit if borrowings are obtained from licensed onshore banks;

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<sup>1</sup> Direct investments abroad means:

- (a) investment resulting in at least 10% equity ownership or control of a non-resident entity;
- (b) inter-company lending to non-resident entity within its group of entities; or
- (c) capital expenditure in unincorporated entities or projects by agreement where no establishment is created, where a resident investor:
  - (i) contributes capital of at least 10% of project cost;
  - (ii) is entitled to at least 10% of profits from the unincorporated entity or project; or
  - (iii) has management control of the unincorporated entity or project.



- (c) RM1 million per annum equivalent for individuals, sole proprietors and general partnerships with domestic credit facilities;
  - (d) any amount of investment in foreign currency assets onshore<sup>2</sup>.
3. to buy and sell foreign currency against another foreign currency with licensed onshore banks for any purpose. Buying and selling of Ringgit against foreign currency from a licensed onshore bank (other than an international Islamic bank) is allowed on spot or forward basis for current account transactions or financial account transactions<sup>3</sup> based on firm commitment or anticipatory basis;
  4. to pay any amount in foreign currency to a resident company for the settlement of domestic trade in goods and services provided the foreign currency funds are sourced from the resident payer's (with export earnings) foreign currency accounts; or
  5. to pay to non-residents for foreign currency-denominated derivatives (other than exchange rate derivatives) offered on specified exchanges stipulated under the Capital Markets and Services Act 2007 through a resident futures broker.

Prior permission of the Controller of Foreign Exchange (Controller) is required:

1. for payments to Israel;
2. for a resident and non-resident traveller to import and export Ringgit notes exceeding USD10,000 equivalent.

## PURCHASE OF IMMOVABLE PROPERTIES BY NON-RESIDENTS

Residents may extend any amount of Ringgit credit facilities to a non-resident to the purchase or construction of residential or commercial property in Malaysia, excluding financing for purchase of land only. All purchases are subject to the guidelines issued by the Foreign Investment Committee (FIC), the latest being effective from 1 January 2011.

## BORROWINGS IN FOREIGN CURRENCY

Borrowing in foreign currency by a resident entity is allowed, including through issuance of foreign currency debt securities to another resident:

- (i) from licensed onshore banks;
- (ii) its resident or non-resident entities within its group of entities or direct shareholder<sup>4</sup>;
- (iii) up to RM100 million equivalent in aggregate from other non-residents;
- (iv) a non-resident financial institution (up to RM100 million equivalent in aggregate).

<sup>2</sup> Investment in foreign currency asset onshore means making of any payment in Malaysia for:

- purchase of foreign currency-denominated security / Islamic security or financial instrument / Islamic financial instrument offered in Malaysia by a resident as approved by Bank Negara Malaysia
- placement into foreign currency account with a licensed onshore bank other than placement for investment abroad

<sup>3</sup> Current account transaction means payment of or receipt arising from trading of goods and services, fees, commission, royalties or income including wages, salaries, dividends, profits or interest whilst financial account transaction refers to a transaction other than a current account transaction.

<sup>4</sup> "Group of entities" means a resident entity's:

- (a) ultimate holding company;
- (b) parent or head office;
- (c) branch;
- (d) subsidiary where the resident entity owns more than 50% of shares in the subsidiary;
- (e) associate company where the resident entity owns between 10% and 50% share in the associate company; and
- (f) sister company where the resident entity and its sister company have common shareholder.

However, where the non-resident special purpose vehicle is set up solely to obtain borrowings from any person which is not part of the resident entity's group of entities, the prevailing aggregate limit of RM100 million equivalent from non-residents continues to apply.

A resident individual, sole proprietor or general partnership may also obtain foreign currency up to an equivalent of RM10 million in aggregate from licensed onshore banks or a non-resident. Notwithstanding this, any amount of foreign currency may be borrowed from his immediate family member.

A resident is free to refinance outstanding approved foreign currency borrowing, including principal and accrued interest.

Foreign currency borrowings obtained by residents are allowed to be converted (i.e. swapped) to another foreign currency debt obligation with a licensed onshore bank or a non-resident provided the conditions for borrowing by residents are complied with. Conversion of a foreign currency borrowings obtained by residents to Ringgit can only be effected through a licensed onshore bank.

## **BORROWINGS IN RINGGIT**

Borrowing in Ringgit by a resident entity is allowed, including through the issuance of tradable Ringgit private debt securities or Islamic private debt securities:

- (i) from its non-resident entity within its group of entities or its direct shareholder to finance activities in the real sector in Malaysia (no restriction). Activities in the real sector include activities relating to the production or consumption of goods or services other than in the financial sector, purchase of securities or financial instruments. Real sector activities also includes the construction or purchase of residential or commercial property excluding purchase of land only; and
- (ii) from other non-resident for use in Malaysia (up to RM1 million in aggregate).

However, where the non-resident special purpose vehicle is set up solely to obtain borrowings from any person which is not part of the resident entity's group of entities, the prevailing aggregate limit of RM1 million on Ringgit borrowings from non-residents continues to apply.

Borrowing in Ringgit, by a resident individual, sole proprietor or general partnership is allowed up to RM1 million in aggregate from any non-resident other than a non-resident financial institution for use in Malaysia. Notwithstanding this, Ringgit may be borrowed from his non-resident immediate family member or his non-resident employer in Malaysia (subject to employment terms).

Ringgit borrowings obtained by residents are allowed to be converted (i.e. swapped) to foreign currency debt obligation with a licensed onshore bank, provided that it is in compliance with the rules on foreign currency borrowings obtained by residents.

In addition, the licensed onshore banks are also allowed to use its appointed overseas offices to facilitate the settlement of any Ringgit assets of their non-resident clients, subject to conditions.

## **FOREIGN CURRENCY ACCOUNTS**

Generally, residents are free to open foreign currency accounts (FCA) with licensed onshore banks or non-resident financial institutions. A resident individual is allowed to maintain for any purpose, individual or joint FCAs with another resident individual and also with a non-resident individual who is an immediate family member.

Ringgit can be converted for credit into FCAs up to:

1. any amount for resident with no domestic credit facilities;
2. RM1 million in a calendar year for a resident individual with domestic credit facilities;

3. RM50 million in a calendar year (within its group of entities with parent-subsidiary relationship<sup>5</sup>) for a resident entity with domestic credit facilities;
4. the full amount of proceeds from the listing of shares through an Initial Public Offering on the Main Market of Bursa Malaysia;
5. any amount for purposes of education and employment abroad.

A resident management company, trust company, legal firm, custodian or stockbroking company or any similar entity is allowed to open FCAs to maintain funds for a non-resident or another resident on a segregated basis.

A non-resident is allowed to open and maintain a FCA with a licensed onshore bank individually or jointly with another non-resident or a resident individual who is his immediate family member.

## **NON-RESIDENT'S ACCOUNTS**

An External Account is a Ringgit account opened with any financial institution in Malaysia belonging to a non-resident or by a resident who operates the account in trust for or on behalf of a non-resident.

A non-resident may open and maintain an External Account with any onshore financial institution. There is no restriction on the amount of Ringgit funds to be retained in the External Account.

Ringgit funds in an External Account can be used for payment to residents for purchase of Ringgit assets or services provided in Malaysia. Funds in the External Account can be converted into foreign currency with the licensed onshore banks and repatriated at any time.

## **EXPORTS FROM MALAYSIA**

Only exporters with annual gross exports exceeding RM50 million need to submit quarterly reports to the Central Bank of Malaysia.

## **ISSUANCE OF SECURITIES**

Residents are allowed to issue any securities provided the issuance of debt securities to non-residents are subject to the prevailing rules on borrowing from non-residents.

Non-residents are allowed to issue foreign currency securities in Malaysia.

## **ENTITIES IN LABUAN**

With effect from 30 June 2013, all Labuan entities are automatically declared as non-residents. As such, all foreign exchange rules in relation to a non-resident will apply to a Labuan entity.

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<sup>5</sup> Parent-subsidiary relationship means direct or indirect relationship where a resident entity is:

- a holding entity or ultimate holding entity of another resident entity
- a subsidiary of another resident entity; or
- a subsidiary of a non-resident entity, where the ultimate holding entity is a resident entity

## SPECIAL STATUS COMPANIES

Approved operational headquarters (OHQ)	Allowed to borrow in foreign currency from any non-resident for own use to carry out OHQ qualifying services
Treasury management company (TMC)	<p>Allowed to:</p> <ul style="list-style-type: none"> <li>• Borrow in foreign currency from any non-resident</li> <li>• Lend in foreign currency to its group of entities</li> <li>• Centralise foreign currency funds on behalf of its group of entities in accounts maintained with licensed onshore banks</li> <li>• Pay and receive in foreign currency with its group of entities and other resident suppliers for purchase of goods and services sourced overseas used for the group's operations</li> <li>• Hedge with licensed onshore banks on behalf of its group of entities</li> <li>• Offset export proceed receivables with a non-resident for own account or on behalf of its group of entities</li> </ul>
Other special status companies	<p>Allowed to:</p> <ul style="list-style-type: none"> <li>• Pay and receive in foreign currency with residents</li> <li>• Borrow in foreign currency from any non-resident</li> <li>• Undertake to investment abroad</li> <li>• Receive and retain export proceeds outside Malaysia</li> </ul>