

MALAYSIA: BUDGET 2017 HIGHLIGHTS

(Including updates on significant tax amendments proposed in the Finance Bill 2016)

OCTOBER 2016



EXECUTIVE SUMMARY

The 2017 Budget, tabled in Parliament on 21 October 2016 by Prime Minister and Minister of Finance YAB Datuk Seri Najib Tun Razak, entitled "Ensuring Unity and Economic Growth, Inclusive Prudent Spending, Wellbeing of the Rakyat", is based around the principles of national integration and stability.

The 2017 Budget introduces a slew of measures geared towards alleviating the burden of the Rakyat and stimulating the Malaysian economy in the face of challenging economic times.

The 2017 Budget which allocates RM260.8 billion, an increase of 3.4% from the 2016 Budget Recalibration, consist of Operating Expenditure of RM214.8 billion and Development Expenditure of RM46 billion. The Government revenue collection in 2017 is expected to expand by 3% to RM219.7 billion. Based on the forecast of revenue and expenditure, the fiscal deficit in 2017 is expected to reduce to 3.0% of GDP from 3.1% of GDP in 2016.

Efforts to stimulate the Malaysian economy include new infrastructure projects such as the new East Coast Rail Line (ECRL) project, construction of roads and bridges, new schools and improvement of the water supply network.

The 2017 Budget also aims to intensify its income tax and GST collections with a new Collection Intelligence Arrangement which combines the efforts of the Inland Revenue Board, the Royal Malaysian Customs Department and the Companies Commission of Malaysia.

The new scheme for encouraging business growth by reducing the income tax rate by 1-4% for increases in chargeable income is a step in the right direction. The reduction of the SME income tax rate on the first RM500,000 by 1% is also a welcomed change. These income tax rate reductions are a positive move to stimulate SMEs and new businesses.

The Government has also introduced legislation to penalise non-compliant companies obliged to file a country-by-country report under the subject of transfer pricing as recommended under the Organisation for Economic Cooperation and Development's Base Erosion and Profit Shifting (BEPS) project. This shows the Malaysian Government's intention to begin adopting selected BEPS recommendations and increase cooperation with foreign jurisdictions.

Vision 2020 for Malaysia will be succeeded by "TN50", a 2050 National Transformation project aimed at marking yet another milestone in the development of the nation.

KEY CHANGES

- ▶ CORPORATE TAX
- ▶ PERSONAL TAX
- ▶ GOODS AND SERVICES TAX
- ▶ REAL PROPERTY GAINS TAX
- ▶ STAMP DUTY
- ▶ INCENTIVES

Outlined below are some of the key tax changes.

| BUDGET HIGHLIGHTS | | COMMENTS | | | | | | | | | | | | | | | | | | |
|--|--|---|----------------------------------|--|----------------|-----|----|-----------|---|----|-------------|---|----|-------------|---|----|-----------------|---|----|--|
| CORPORATE TAX | | | | | | | | | | | | | | | | | | | | |
| <p>Review of corporate income tax rate on the increase in chargeable income</p> | <p>Currently a company, a limited liability partnership, a trust body and an executor of an estate of a deceased individual who was domiciled outside Malaysia at the time of his death are subject to income tax at the rate of 24%.</p> <p>It is proposed that a reduction in the income tax rate based on the percentage of increase in chargeable income as compared to the immediate preceding year of assessment to be given as follows:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">Percentage of increase in chargeable income (%)</th> <th style="text-align: center;">Reduction in income tax rate (%)</th> <th style="text-align: center;">Income tax rate after reduction (%) - Note</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">Less than 5.00</td> <td style="text-align: center;">nil</td> <td style="text-align: center;">24</td> </tr> <tr> <td style="text-align: center;">5.00-9.99</td> <td style="text-align: center;">1</td> <td style="text-align: center;">23</td> </tr> <tr> <td style="text-align: center;">10.00-14.99</td> <td style="text-align: center;">2</td> <td style="text-align: center;">22</td> </tr> <tr> <td style="text-align: center;">15.00-19.99</td> <td style="text-align: center;">3</td> <td style="text-align: center;">21</td> </tr> <tr> <td style="text-align: center;">20.00 and above</td> <td style="text-align: center;">4</td> <td style="text-align: center;">20</td> </tr> </tbody> </table> <p>Note: Based on the example in the Budget Speech, the above reduced income tax rate is only applicable to the incremental chargeable income.</p> <p>(Effective from YA 2017 to YA 2018)</p> | Percentage of increase in chargeable income (%) | Reduction in income tax rate (%) | Income tax rate after reduction (%) - Note | Less than 5.00 | nil | 24 | 5.00-9.99 | 1 | 23 | 10.00-14.99 | 2 | 22 | 15.00-19.99 | 3 | 21 | 20.00 and above | 4 | 20 | <p>This proposal is aimed at reducing the effective tax rate for businesses striving to increase their revenue and chargeable income in the current challenging economic situation.</p> <p>This proposal is likely to be enacted by way of issuance of an Exemption Order.</p> |
| Percentage of increase in chargeable income (%) | Reduction in income tax rate (%) | Income tax rate after reduction (%) - Note | | | | | | | | | | | | | | | | | | |
| Less than 5.00 | nil | 24 | | | | | | | | | | | | | | | | | | |
| 5.00-9.99 | 1 | 23 | | | | | | | | | | | | | | | | | | |
| 10.00-14.99 | 2 | 22 | | | | | | | | | | | | | | | | | | |
| 15.00-19.99 | 3 | 21 | | | | | | | | | | | | | | | | | | |
| 20.00 and above | 4 | 20 | | | | | | | | | | | | | | | | | | |
| <p>Review of corporate income tax rate for Small and Medium Enterprises (SMEs) and Limited Liability Partnerships (LLPs)</p> | <p>The income tax rate for SMEs and LLPs on chargeable income of up to RM500,000 is to be reduced from 19% to 18%.</p> <p>The above is applicable to:</p> <p>1. Conditions for a SME company A resident company incorporated in Malaysia with a paid-up capital in respect of ordinary shares of up to RM2.5 million at the beginning of the basis period for a year of assessment and not more than:</p> <ol style="list-style-type: none"> 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. <p>"Related company" is defined as a company which has paid-up capital in respect of ordinary shares of more than RM 2.5 million at the beginning of the basis period for a year of assessment.</p> <p>2. Conditions for a Limited Liability Partnership (LLP) A LLP resident in Malaysia with total contribution of capital (whether in cash or in kind) of up to RM2.5 million at the beginning of the basis period for a year of assessment and not more than:</p> <ol style="list-style-type: none"> a. 50% of the capital contribution (whether in cash or in kind) of the LLP is directly or indirectly contributed by a company; b. 50% of the paid-up capital in respect of ordinary shares of the company is directly or indirectly owned by the LLP; or c. 50% of the capital contribution (whether in cash or in kind) of the LLP and 50% of the paid-up capital in respect of ordinary shares of the company is directly or indirectly owned by another company. <p>"Company", other than another company referred in item 2(c) above, is defined as a company which has paid-up capital in respect of ordinary shares of more than RM2.5 million at the beginning of the basis period for a year of assessment.</p> <p>(Effective from YA 2017)</p> | <p>This proposal aims to assist SMEs and LLPs to be more competitive in the current challenging economic environment.</p> | | | | | | | | | | | | | | | | | | |

| BUDGET HIGHLIGHTS | | COMMENTS |
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| Derivation of special classes of income under Section 4A of the Income Tax Act 1967 | <p>Currently, special classes of income of a non-resident attributable to services which are performed outside Malaysia are not deemed to be derived from Malaysia and hence, not subject to withholding tax.</p> <p>With the proposed amendment, special classes of income of a non-resident attributable to services shall be deemed to be derived from Malaysia irrespective of where the services are performed.</p> <p><i>(Effective upon coming into operation of the Finance Act)</i></p> | With special classes of income of a non-resident attributable to services deemed to be derived from Malaysia irrespective of where the services are performed, steps should be taken to ensure that the withholding tax obligations are met in order to avoid adverse tax consequences. |
| Changes in definition of royalty | <p>The definition of royalty has been extended to include sums paid as consideration for, or derived from:</p> <ol style="list-style-type: none"> i. The use of, or the right to use any software; ii. The reception of, or the right to receive, visual images or sounds, or both, transmitted to the public by satellite or cable, fibre optic or similar technology; iii. The use of, or the right to use, visual images or sounds, or both, in connection with television broadcasting or radio broadcasting, transmitted by satellite or cable, fibre optic or similar technology; and iv. The use of, or right to use, some or all of the part of the radiofrequency spectrum specified in a relevant licence. <p>The definition of royalty has also been extended to include payments for total or partial forbearance in respect of the items included in the definition of royalty.</p> <p><i>(Effective upon coming into operation of the Finance Act)</i></p> | This proposal aims to widen the definition of royalty. Payments made to non-residents which fall under this new definition would have withholding tax implications. |
| Exclusion of interest paid to companies in the same group from tax exemption | <p>Currently, tax exemption is given to the following:</p> <ol style="list-style-type: none"> 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 sukuk or debenture issued in Ringgit Malaysia (other than convertible loan stock), approved or authorised by or lodged with the Securities Commission; and ii. interest paid or credited to any person in respect of sukuk originating from Malaysia (other than convertible loan stock) issued in any currency other than Ringgit and approved or authorised by or lodged with the Securities Commission or approved by the Labuan Financial Services Authority. <p>It is proposed that the interest paid or credited to a company in the same group be excluded from the tax exemption in items (i) and (ii) above.</p> <p>It is also proposed that the interest paid or credited to a financial institution in Malaysia be excluded from the tax exemption in item (ii) above.</p> <p><i>(Effective from YA 2017)</i></p> | This proposal seeks to limit the scope of the tax exemption. |

| BUDGET HIGHLIGHTS | | COMMENTS |
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| Tax exemption on interest derived by a unit trust | <p>Currently, interest income derived by a unit trust from a bank or financial institution licensed under the Banking and Financial Institutions Act 1989 (now Financial Services Act 2013) or the Islamic Banking Act 1983 (now Islamic Financial Services Act 2013) or any development financial institution regulated under the Development Financial Institutions Act 2002 is exempted from tax.</p> <p>It is proposed that in the case of a unit trust which is a money market fund, the above exemption shall only apply to a wholesale fund which complies with the relevant guidelines of the Securities Commission Malaysia.</p> <p><i>(Effective from YA 2017)</i></p> | This proposal aims to provide clarity and restriction on the tax exemption on interest income derived by a unit trust. |
| Tightening of exemption given to Real Estate Investment Trust (REIT) or Property Trust Fund (PTF) | <p>Currently, the total income (as defined) of a REIT or PTF, which is approved by the Securities Commission for a year of assessment is exempted from tax provided 90% of the total income is distributed to the unit holder.</p> <p>It is proposed that the REIT or PTF which is approved by the Securities Commission must also be listed on Bursa Malaysia to be eligible for the exemption.</p> <p><i>(Effective from YA 2017)</i></p> | This proposal imposes an additional requirement that the REIT or PTF, which is approved by the Securities Commission must also be listed on Bursa Malaysia to be eligible for the exemption. |
| Deductions for approved donations under Section 44(6) | <p>Contributions in money to an approved institution or organisation under Section 44(6) are given a deduction.</p> <p>The deduction under Section 44(6) is now available for contributions in money to a fund approved by the Director General of Inland Revenue.</p> <p>For this purpose, "fund" means a fund administered and augmented by an institution or organisation in Malaysia for the sole purpose of carrying out the objectives for which the fund is established or held and that fund is not established or held primarily for profit.</p> <p>It is also proposed that the income of such a fund be exempted from tax pursuant to Paragraph 13(1) of Schedule 6.</p> <p><i>(Effective from YA 2017)</i></p> | This proposal extends the deduction under Section 44(6) to contributions specifically made to an approved fund (as defined). |
| Increase in the limit of tax deduction for sponsoring arts, cultural and heritage activities | <p>It is proposed that the limit of tax deduction for a company that sponsors local as well as foreign arts, cultural and heritage activities be increased from an aggregate of RM500,000 to RM700,000 per year of assessment whilst the limit of deduction for sponsoring foreign arts, cultural and heritage activities be increased from RM200,000 to RM300,000 per year of assessment.</p> <p><i>(Effective from YA 2017)</i></p> | This proposal is aimed at encouraging arts, cultural and heritage activities in Malaysia. |
| Gift of money to sports activity | <p>Currently, a taxpayer may claim a deduction in respect of any gift of money or contribution in kind for any sports activity approved by the Minister of Finance or to any sports body approved by the Commissioner of Sports appointed under the Sports Development Act 1997.</p> <p>It is proposed that a deduction is only given to any gift of money made for any sports activity approved by the Minister of Finance.</p> <p><i>(Effective from YA 2017)</i></p> | This proposal limits the tax deduction to gifts of money (i.e. cash contribution only) for sports activity approved by the Minister of Finance. |

| BUDGET HIGHLIGHTS | COMMENTS |
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| <p>Extension of tax incentive for Structured Internship Programme</p> | <p>Currently, companies that participate in the Structured Internship Programme (SIP) are eligible for a double deduction on expenses incurred in implementing the programme. This programme is made available for Malaysian students pursuing full-time degree and diploma courses in institutions of higher learning or for equivalent vocational level (Malaysian Skills Certificate Levels 4 and 5) as follows:</p> <ul style="list-style-type: none"> i. Degree Level – YA 2012 to YA 2016 ; and ii. Diploma and Vocational Level – YA 2015 to YA 2016 <p>The above double deduction is to be extended for another 3 years to YA 2019 and to include Malaysian students pursuing full-time vocational level (Malaysian Skills Certificate Level 3).</p> <p><i>(Effective from YA 2017 to YA 2019)</i></p> |
| <p>Extension of Tax Incentive for Anchor Companies</p> | <p>A double deduction is currently given to anchor companies that develop local vendors under the Vendor Development Programme (VDP) and have signed the Memorandum of Understanding (MoU) with the Ministry of International Trade and Industry (MITI) for expenses incurred in carrying out the following activities:</p> <ul style="list-style-type: none"> i. Activities in relation to product development namely product quality development, product innovation or research and development; ii. Activities in relation to capability improvement namely certification programme, assessment programme or business process re-engineering; or iii. Activities in relation to human capital namely hard skill training, lean management, financial management system or capacity building. <p>The qualifying criteria for double deduction are as follows:</p> <ul style="list-style-type: none"> i. The qualifying expenses must be verified by MITI before the anchor companies can claim the deduction; ii. Qualifying expenses are capped at RM300,000 per year of assessment; and iii. Deduction is given for 3 consecutive years of assessment from the year of assessment in which the expenditure is first incurred. <p>The incentive is given to anchor companies that have signed a MoU with MITI from 1 January 2014 to 31 December 2016.</p> <p>It is proposed that the incentive for anchor companies that implement VDP be extended for another 4 years.</p> <p><i>(Effective for anchor companies that have signed a MoU with MITI from 1 January 2017 to 31 December 2020)</i></p> |

| BUDGET HIGHLIGHTS | | COMMENTS |
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| <p>Claiming of Industrial Building Allowance (IBA) on buildings used for the purpose of letting of property</p> | <p>With effect from YA 2016, generally with the exception of a factory building, certain buildings such as a private hospital, maternity home, nursing home and those used for research, warehouse or hotel (refer to as prescribed buildings) would not qualify as an industrial building if the prescribed building or part thereof is used for the purpose of letting of property including the business of letting of such property.</p> <p>It is proposed that:</p> <ol style="list-style-type: none"> i. where part of a prescribed building used for the purpose of letting of property is not more than 10% of the floor area of the whole building, the whole building will qualify as an industrial building; ii. where part of a prescribed building used for the purpose of letting of property is more than 10% of the floor area of the whole building, such part of the building shall not be treated as an industrial building. However, IBA can be claimed on the expenditure incurred on the floor area on the part of the building which is not used for the purpose of the letting of property; and iii. restriction on the IBA claim on certain prescribed buildings be extended to include buildings used for the purpose of industrial, technical or vocational training approved by the Minister of Finance. <p><i>(Effective from YA 2016)</i></p> | <p>The proposal seeks to:</p> <ol style="list-style-type: none"> i. allow the prescribed building to qualify as industry building provided that part of the building used for the purpose of letting of property is not more than 10% of the floor area of the whole building; and ii. where that part of the prescribed building used for the purpose of letting of property is more than 10% of the floor area of the whole building, to allow IBA claim on expenditure incurred on the floor area of that part of the building which is not used for the purpose of the letting of property. |
| <p>Appeal for tax returns submitted with no chargeable income /</p> <p>Application for relief other than in respect of error or mistake</p> | <p><u>Appeal for tax returns submitted with no chargeable income</u></p> <p>It is proposed that Section 97A be extended to include the following:</p> <p>Where a taxpayer has submitted his income tax return with no chargeable income and is aggrieved by the public rulings or any practice of the Director General generally prevailing at the time when the return is made, the tax return shall be deemed to be a notification made by the Director General to the taxpayer on the day the return is made. This will enable the taxpayer to appeal against such deemed notification within 30 days from the date of being so notified.</p> <p>It is also proposed that a taxpayer who has submitted his income tax return with no chargeable income may make an application in writing to the Director General for relief under the following circumstances:</p> <ol style="list-style-type: none"> a. there is an error or mistake in the return; b. the amount computed in the return is inaccurate due to: <ol style="list-style-type: none"> i. the law relating to any exemption, relief, remission, allowance or deduction which is gazetted after the year of assessment in which the return is furnished; ii. the approval for any exemption, relief, remission, allowance or deduction which is granted after the year of assessment in which the return is furnished; or iii. the deduction on expenses which has not been allowed due to non-payment of withholding tax on the day the return is furnished. <p>The application of the relief in respect of (a) above shall be made within 6 months from the date the return is furnished.</p> <p>In respect of the relief under (b)(i) and (ii) above, the application shall be made within 5 years after the end of the year the exemption, relief, remission, allowance or deduction is gazetted or the approval is granted, whichever is the later. For the relief under (b)(iii) above, the application shall be made within 1 year after the end of the year the withholding tax payment is made.</p> <p>This proposal also provides that a person may submit a further appeal within a certain time frame where the person is aggrieved by the Director General's decision on the application for relief made.</p> <p><i>(Effective from 1 January 2017)</i></p> | <p>This proposal provides an avenue for taxpayers to appeal against the tax returns submitted with no chargeable income due to various reasons.</p> <p>The time frame of 6 months to apply for a relief in respect of an error or mistake in the return with no chargeable income is much shorter as compared to that of 5 years for relief in respect of error or mistake in a return where the taxpayer has paid tax.</p> |

| BUDGET HIGHLIGHTS | COMMENTS |
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| <p><u>Application for relief other than in respect of error or mistake</u> A new Section 131A is introduced to allow a person to apply for relief in respect of a return furnished and tax paid on an assessment based on the same circumstances set out in items (b)(i) to (iii) above with the same time frame to make the application for relief.</p> <p>Similarly, a person may submit a further appeal within a certain time frame where the person is aggrieved by the Director General's decision on the application for relief made.</p> <p><i>(Effective from 1 January 2017)</i></p> | <p>This proposal provides an avenue for taxpayers to apply for relief in respect of an assessment which is excessive for reasons other than in respect of an error or mistake.</p> |
| <p>Extension of electronic submission of estimate of tax payable</p> | <p>With effect from YA 2018, a company shall submit its estimate or revised estimate of tax payable electronically to the IRB.</p> <p>It is proposed that the same requirement be applied to a limited liability partnership, trust body or co-operative society.</p> <p><i>(Effective from YA 2019)</i></p> |
| <p>Failure to furnish Country-by-Country Report (CbC Report)</p> | <p>The new Section 112A provides that a person who fails to furnish a CbC Report, commits an offence and on conviction will be liable to a fine of not less than RM20,000 and not more than RM100,000 and/ or imprisonment for a term not exceeding six months.</p> <p>The court may make a further order that the convicted person furnishes a CbC Report within thirty days, or a specified period as ordered by the court.</p> <p><i>(Effective upon coming into operation of the Finance Act)</i></p> |
| <p>Failure to comply with rules or provide incorrect returns or reports or incorrect information for the purpose of a Mutual Administrative Assistance Arrangement</p> | <p>The new Section 119B provides that where a person fails to comply with any rules specified under Section 154(1)(c) for the exchange of information with other countries through a Mutual Administrative Assistance Arrangement, the person commits an offence and on conviction will be liable to a fine of not less than RM20,000 and not more than RM100,000 and/ or imprisonment for a term not exceeding six months.</p> <p>The same fine and/or imprisonment term are applicable to a person who makes an incorrect return, information return or report or gives any incorrect information as required under rules for the exchange of information with other countries through a Mutual Administrative Assistance Arrangement pursuant to the new Section 113A.</p> <p><i>(Effective upon coming into operation of the Finance Act)</i></p> |
| <p>Power to make rules</p> | <p>Section 154(1)(ec) is expanded to give the Minister of Finance the power to make rules to prescribe fees in relation to an application for an Advance Pricing Arrangement under Section 138C.</p> <p>Similar provision is already available for the application for Advance Ruling.</p> <p><i>(Effective upon coming into operation of the Finance Act)</i></p> |

| BUDGET HIGHLIGHTS | | COMMENTS |
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| PERSONAL TAX | | |
| Employment gross income | <p>A new section 13(1A) has been introduced to provide that the amount of output tax paid under the Goods and Services Tax Act 2014 in connection with an employee's gross income from employment and borne by the employer shall be included as the gross income of the employee.</p> <p><i>(Effective from YA 2015)</i></p> | In view of the proposal, employers may need to review the Forms E/ EA. This may also result in the need to revise the affected employee's income tax return for YA 2015. |
| Deduction for husband / wife relief | <p>Amendment has been proposed that the deduction for the husband relief of RM4,000 shall not be given if the husband (who is not a disabled person) has sources of income outside Malaysia in excess of RM4,000 even though he has no source of income from Malaysia nor total income to be aggregated with that of his wife in her assessment.</p> <p>Similar amendment has been proposed that the deduction for the wife relief of RM4,000 shall not be given if the wife (who is not a disabled person) has sources of income outside Malaysia in excess of RM4,000 even though she has no source of income from Malaysia nor total income to be aggregated with that of her husband in his assessment.</p> <p><i>(Effective from YA 2017)</i></p> | The proposal will deny the claim for husband or wife relief of RM4,000 each, as the case may be if the husband or wife (neither of whom is a disabled person) has sources of income outside Malaysia in excess of RM4,000. |
| Tax relief for fees paid to child care centres and kindergartens | <p>A new tax relief of up to RM1,000 per annum will be given to individual taxpayers who incur child care fees enrolling their children aged up to 6 years, in child care centres or kindergartens registered with the Department of Social Welfare or the Ministry of Education.</p> <p>This relief can only be claimed by either parent of the children.</p> <p><i>(Effective from YA 2017)</i></p> | This proposal is to ease the burden of taxpayers with regard to the cost of child care and early childhood education. |
| Tax relief for lifestyle | <p>The existing tax reliefs for the purchase of reading materials, computers and sports equipment shall be combined into a lifestyle relief.</p> <p>The scope of the lifestyle relief is expanded to include the purchase of printed daily newspapers, smartphones or tablets, internet subscriptions as well as gymnasium membership fees.</p> <p>The relief is given up to RM2,500 per annum.</p> <p><i>(Effective from YA 2017)</i></p> | The objective of this proposal is to provide flexibility for taxpayers to claim tax relief. |
| Tax relief for the purchase of breastfeeding equipment | <p>A new tax relief up to RM1,000 once every 2 years of assessment shall be claimable for the purchase of breastfeeding equipment.</p> <p>The purchase can be made either in complete set or separate parts consisting of breast pump kit and an ice pack, a breast milk collection and storage equipment and a cooler set or bag.</p> <p>Only women taxpayers with children aged up to 2 years are eligible to claim this relief.</p> <p><i>(Effective from YA 2017)</i></p> | This proposal is to encourage and support women to return to work while continuing to breastfeed their infant. |

BUDGET HIGHLIGHTS

COMMENTS

GOODS AND SERVICES TAX (GST)

| <p>Prescribed registered person to provide information on supply made and payment received</p> | <p>The prescribed registered person shall provide information on all supply made and payment received by him to the Director General (DG) using a device and in the manner as prescribed by the Minister of Finance (the Minister).</p> <p>The DG has the power to approve any person to install and maintain the prescribed device at the premises of the prescribed registered person.</p> <p>Any person who has access to the prescribed device shall keep the information obtained from the device confidential unless required or authorised under the GST Act 2014, by any court or for the performance of his duties or the exercise of his powers, to disclose such information.</p> <p><i>(Effective from 1 January 2017)</i></p> | <p>The proposed amendments are to provide the Royal Malaysian Customs Department another means to collect information for conducting GST audits.</p> | | | | | | | | |
|--|--|--|---------------------------|---------------|-----|----------------|----------------|---------------|----------------|--|
| <p>Penalty on late payment of GST liability</p> | <p>Penalties ranging from 10% to 40% shall be imposed on the amount of GST liability that remains unpaid, based on the numbers of days late:</p> <table border="1" data-bbox="379 837 1139 987"> <thead> <tr> <th>Number of days late</th> <th>Penalty (%) on unpaid GST</th> </tr> </thead> <tbody> <tr> <td>First 30 days</td> <td>10%</td> </tr> <tr> <td>Second 30 days</td> <td>Additional 15%</td> </tr> <tr> <td>Third 30 days</td> <td>Additional 15%</td> </tr> </tbody> </table> <p><i>(Effective from 1 January 2017)</i></p> | Number of days late | Penalty (%) on unpaid GST | First 30 days | 10% | Second 30 days | Additional 15% | Third 30 days | Additional 15% | <p>The proposed amendment is to increase the maximum penalty from 25% to 40% and to provide clarity that the penalty is imposed on the remaining unpaid GST due and payable.</p> |
| Number of days late | Penalty (%) on unpaid GST | | | | | | | | | |
| First 30 days | 10% | | | | | | | | | |
| Second 30 days | Additional 15% | | | | | | | | | |
| Third 30 days | Additional 15% | | | | | | | | | |
| <p>Time of supply for imported services</p> | <p>It is proposed that the time of supply for imported services shall be the earlier of:</p> <ol style="list-style-type: none"> the date when payment is made; or the date when invoice is received from* the supplier. <p>*previously "issued by"</p> <p><i>(Effective from 1 January 2017)</i></p> | <p>The proposed amendment is to allow for potential delays in receiving invoices from overseas suppliers.</p> | | | | | | | | |
| <p>GST Relief</p> | <p>GST relief will be given for the purchase of aid equipment for registered persons with disabilities (PWDs) without going through Private Charitable Entities (PCEs). The list of equipment eligible for GST relief will be expanded.</p> <p>The relief will be given directly to PWDs with valid OKU (Orang Kurang Upaya) card on the purchase of approved equipment from designated suppliers.</p> <p>Under Persons with Disabilities Act 2008, PWDs include those who have long term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society.</p> <p><i>(Effective from 1 January 2017)</i></p> | <p>The objective of this proposal is to enable more disabled persons including non-PCE members to benefit from the relief.</p> | | | | | | | | |
| <p>Refund of GST being the subject of relief</p> | <p>Any person who has paid GST for goods or services granted relief by the Minister and approved by the Minister to a refund of such GST paid, shall be entitled to such refund and may make a claim in the prescribed form within six years from the occurrence of such entitlement.</p> <p><i>(Effective from 1 January 2017)</i></p> | <p>The proposed amendment is to provide the mechanism and period for any person who has been granted relief and approved by the Minister to claim for refund of GST which has been overpaid.</p> | | | | | | | | |

| BUDGET HIGHLIGHTS | | COMMENTS |
|---|---|--|
| Matters to be treated as neither a supply of goods nor a supply of services | <p>Any supply of land to the Federal Government, a State Government, a local authority or any person for the purposes of providing public amenities and public utilities whether for no consideration or at nominal value shall be treated as neither a supply of goods nor a supply of services.</p> <p><i>(Effective from 1 January 2017)</i></p> | <p>The proposed amendment extends the list of matters treated as neither a supply of goods nor a supply of services.</p> <p>This similar supply is currently under relief from GST if made by a developer or land owner who fulfils the prescribed conditions under the GST Relief Order 2014.</p> |
| Warehousing Scheme | <p>The Warehousing Scheme shall only be applicable for goods approved by the customs officer to be deposited in the warehouse.</p> <p>GST is due and payable for goods removed from a warehouse under the Warehousing Scheme as if the removal were importation into Malaysia except for goods removed with the approval of the proper officer of customs:</p> <ol style="list-style-type: none"> for export; for deposit to another warehouse under the Warehousing Scheme; to a free zone; or to a Designated Area (DA). <p>The Warehousing Scheme shall not be applicable to goods as may be prescribed.</p> <p><i>(Effective from 1 January 2017)</i></p> | <p>The proposed amendment is to include the exception for GST due and payable for goods removed from a warehouse under the Warehousing Scheme to a free zone (including free industrial zone) and a DA. It further determines that the scheme does not apply to goods as prescribed by the DG.</p> |
| Removal of goods from Designated Area (DA) | <p>GST is due and payable for goods removed from a DA to another DA through Malaysia or from a DA to Malaysia as if the removal were importation into Malaysia. However, the payment of GST shall be suspended on any goods removed from a DA through Malaysia to another DA, to a free zone or to a warehouse under the Warehousing Scheme, unless the Minister otherwise directs.</p> <p><i>(Effective from 1 January 2017)</i></p> | <p>The proposed amendment is to include the suspension of GST payment for goods removed from a DA to a free zone (including free industrial zone) and to a warehouse under the Warehousing Scheme.</p> |
| Free Zone (FZ) | <p>Free zone has the meaning assigned to it in subsection 2(1) of the Free Zones Act 1990 and is inclusive of Free Industrial Zone (FIZ) and Free Commercial Zone (FCZ).</p> <p>No GST shall be charged on importation of goods into a free zone for the purposes of commercial, manufacturing or retail trade activities unless the goods are used or consumed in the zone and as prescribed by the Minister.</p> <p>No GST is imposed on the supply of goods within or between free zones.</p> <p>Any removal of goods from a free zone to Malaysia is deemed as an import. However, unless the Minister otherwise directs in an order, the payment of GST shall be suspended on any goods removed from a free zone through Malaysia</p> <ol style="list-style-type: none"> to another free zone; to a DA; or to a warehouse under the Warehousing Scheme. <p><i>(Effective from 1 January 2017)</i></p> | <p>The proposed amendment is to rename FCZ as FZ which is now inclusive of FIZ.</p> |

BUDGET HIGHLIGHTS

COMMENTS

REAL PROPERTY GAINS TAX

Disposal by way of gift

Currently, where a donor disposes of an asset by way of a gift to a recipient and where the donor and recipient are either husband and wife, parent and child or grandparent and grandchild, the donor shall be deemed to have received no gain and suffered no loss on the disposal.

It is proposed that the donor has to be a citizen in order for the disposal of an asset by way of a gift in either of the three situations above to be treated as a no gain no loss disposal.

(Effective from 1 January 2017)

The disposal of an asset by way of a gift shall be regarded as a no gain no loss disposal provided only if the donor is a citizen.

STAMP DUTY

Increase in the rate of stamp duty on sale of property

The stamp duty rates on instruments of transfer of property are to be increased as follows:

| Value of Property (RM) | Current Rate (%) | Proposed Rate (%) | Increase (%) |
|--------------------------|------------------|-------------------|--------------|
| ≤RM100,000 | 1 | 1 | - |
| >RM100,000 – RM500,000 | 2 | 2 | - |
| >RM500,000 – RM1,000,000 | 3 | 3 | - |
| >RM1,000,000 | 3 | 4 | 1 |

(Effective from 1 January 2018)

It is unclear whether the proposed increase in the stamp duty rate applies only to real estate as mentioned in the Budget Speech or to the wider definition of "property" as defined in the Stamp Act 1949.

Stamp duty exemption for the purchase of first home

It is proposed that 100% stamp duty exemption be given on the instrument of transfer and loan agreement for the purchase of first home not exceeding RM300,000 for buyers who are Malaysian citizens.

Where the price of the home is between RM300,000 to RM500,000, the stamp duty exemption is limited to the first RM300,000.

(Effective for sale and purchase agreements executed from 1 January 2017 to 31 December 2018)

The proposal reflects the government's continued support to assist Malaysians in buying their first home.

This proposal is likely to be enacted by way of the issuance of a Stamp Duty Remission Order.

INCENTIVES

Extension of tax incentives for new 4 & 5 star hotels

Hotel operators undertaking new investments in 4 and 5 star hotels are eligible for the following incentives in respect of applications received by the Malaysian Investment Development Authority (MIDA) up to 31 December 2016.

Peninsular Malaysia:

- i. Pioneer Status - Exemption of 70%* of Statutory Income for a period of 5 years; or
- ii. Investment Tax Allowance – Allowance of 60%* of qualifying capital expenditure incurred within a period of 5 years to be set off against 70%* of statutory income for each year of assessment.

*substitute with 100% for Sabah & Sarawak

It is proposed that this incentive be extended to applications received by MIDA for another 2 years.

(Effective for applications received by MIDA from 1 January 2017 to 31 December 2018)

The extension of this incentive is to encourage the private sector to continue providing international standard accommodation facilities to meet the needs of high-end tourists.

| BUDGET HIGHLIGHTS | | COMMENTS |
|---|--|---|
| Expansion of scope of activities for Halal Industry Players | <p>Halal industry players operating in Halal parks approved by the Halal Development Corporation (HDC) are eligible for the following incentives:</p> <ol style="list-style-type: none"> Investment Tax Allowance of 100% of qualifying capital expenditure for a period of 10 years; or Income tax exemption on increase of export sales for a period of 5 years; Import duty exemption on raw materials used for the development and production of promoted halal products; and Double deduction on expenses incurred in obtaining international quality standards certification. <p>Currently, the qualifying halal products eligible for the incentives are limited to the following:</p> <ol style="list-style-type: none"> Specialty processed food; Pharmaceuticals, cosmetics and personal care; Livestock and meat products; and Halal ingredients. <p>It is proposed that the qualifying halal products are to be extended to nutraceutical and probiotic products.</p> <p><i>(Effective for applications received by HDC from 22 October 2016)</i></p> | The expansion of the qualifying halal products would encourage more eligible companies to invest in halal products in line with the Government's aims to enhance Malaysia's competitiveness in the halal products industry. |

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