

Tax e-Alert

17 OCTOBER 2019

Budget 2020 Highlights

The key highlights of the Budget 2020 and the Finance Bill 2019 (Bill) are discussed in this e-Alert.

(A) Direct tax

- *Personal income tax*

Income tax rate for individuals with annual income of above RM2 million will be increased from 28% to 30%. This increase will affect about 2,000 top income earners in Malaysia and generate an additional income of RM40 million for the government.

Clause 20 of the Bill proposes to amend paragraph 1, Schedule 1 of the Income Tax Act 1967 (ITA) as follows:

Individual income tax	Rates (%)
Up to RM5,000	0
RM5,000 - 20,000	1
RM20,001 - 35,000	5
RM35,001 - 50,000	10
RM50,001 - 70,000	16
RM70,001 - 100,000	21
RM100,001 - 250,00	24
RM250,001 - 400,000	24.5
RM400,001 - 600,000	25
RM600,001 - 1,000,000	26
RM1,000,000 - 1,999,999	28
Above RM2,000,000	30

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- **Small and medium-sized enterprises (SMEs)**

The SME income tax rate for chargeable income up to the first RM500,000 was reduced by 1% to 17% in 2019. In Budget 2020, the chargeable income threshold will be increased from RM500,000 to RM600,000, subject to the SME having a paid-up capital of not more than RM2.5 million and annual sales of not more than RM50 million. Clause 20 of the Bill proposes to amend paragraphs 2A and 2D of Schedule 1 of the ITA.

- **Charitable societies and donations**

Currently, tax treatment on cash *wakaf* and endowment contributions is not specified. Clause 22 of the Bill proposes an amendment to Schedule 6 of the ITA, whereby tax deduction will be expanded to the following:

- Cash *wakaf* contribution to state religious authorities or a body established by state religious authorities administering *wakaf*.
- Cash *wakaf* contribution to public universities allowed by the state religious authorities to receive *wakaf*.
- Cash endowment contribution to public universities.

The donation reporting threshold for the purposes of Section 44(6) will be increased to RM20,000 beginning 2020.

Further, tax deduction on donation for charitable and sports activities and projects of national interest currently capped at 7% from the aggregate income for a taxpayer other than the company will be increased to 10% in line with the threshold given to a company.

At present, income tax exemptions are given for all income received by a religious institution or an organisation established for the purpose of religious worship or the advancement of religion and registered under the Registrar of Societies Malaysia. Beginning 2020, similar tax exemption will be extended to a religious institution or an organisation registered as a Company Limited by Guarantee with the Companies Commission of Malaysia.

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- ***Deduction for gift to approved institutions***

Clause 8 seeks to amend Section 44(6), (11B) and (11C) of the ITA, whereby the maximum deduction allowed for persons other than a company that contribute to approved institutions for any sports activity is increased from 7% to 10% of the aggregate income.

- ***Income distributed by unit trust***

Clause 5 of the Bill seeks to amend Section 6(1)(i) of the ITA, whereby any income distributed by a unit trust to an institutional investor or an individual unit holder will enjoy a 10% tax rate for six years, commencing from the year of assessment (**YA**) 2020.

- ***Amendment of tax return***

Clause 11 of the Bill seeks to amend Section 77B(4) of the ITA, whereby all filing of amended tax returns will be subjected to a penalty of 10% of the additional tax. Previously, an additional sum is charged on amended returns submitted after 60 days from the due date for filing.

- ***Tax assessments***

Clause 12 of the Bill seeks to amend Section 91 of the ITA, whereby the Director General of Inland Revenue (**DGIR**) is now empowered to raise an assessment arising from a mutual agreement procedure in a double taxation agreement.

- ***Extension of time to appeal***

Clause 14 of the Bill seeks to amend Section 100 of the ITA, whereby an application for extension of time to appeal against an assessment must be made within seven years from the end of the period to appeal. Previously, there was no such time frame.

- ***Late payment penalty***

Clause 15 of the Bill seeks to amend Section 103 of the ITA, whereby any late payment of tax will be subjected to an increase of 10% only. The additional increase of 5% penalty will no longer be in place.

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- **Tax Identification Number**

Beginning January 2021, Malaysians above the age of 18 and corporate entities will be assigned a Tax Identification Number.

- **Incentive for women**

Tax exemption for women returning to work is extended for four years to encourage women who choose to return to work and also to increase the number of women in the workforce.

	Exemption	Duration
Previously	Income tax exemption for 12 consecutive months	For applications received by TalentCorp from 1 January 2018 to 31 December 2019
Budget 2020	Income tax exemption for 12 consecutive months	For applications received by TalentCorp from 1 January 2020 to 31 December 2023

- **Tax incentives**

The government intends to review the Promotion of Investments Act 1986 and the various special tax incentives granted under the ITA. The new framework is expected to be ready by 1.1.2021. Up to RM1 billion worth of customised packaged investment incentives will be made available by the government, annually over five years. The strategy is to attract targeted Fortune 500 companies and global unicorns in high technology, manufacturing, creative and new economic sectors. Up to another RM1 billion worth of customised packaged investment incentives will be also be made available annually over five years.

- **Tax incentives for E&E industry**

The electrical & electronics (E&E) industry will be granted income tax exemption for up to 10 years for investment in selected knowledge-based services and a special investment tax allowance will be made available to encourage E&E

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companies that have exhausted the reinvestment allowance incentive to further reinvest in Malaysia.

- **Automation**

To encourage automation and to increase a company's productivity, accelerated capital allowance and automation equipment capital allowance will be granted to the manufacturing sector, respectively, on the first RM2 million and RM4 million incurred on qualifying capital expenditure.

- **Venture capital angel investors**

Venture capital and angel investors who invest in investee companies in the form of ordinary shares are entitled to tax exemptions equivalent to the amount of investment made in the investee companies for applications submitted to the Ministry of Finance by 31.12.2020. It is proposed that the application period for tax incentive be extended for another three years to encourage alternative sources of funding for start-ups.

- **Tax deduction on cost of issuance of Sukuk extended until 2025**

At present, expenses incurred in issuing Sukuk under the principles of *Wakalah* are eligible for income tax deduction. It is proposed that this is extended for another five years until YA 2025.

- **Green Investment Tax Allowance**

The government aims to generate 20% of the country's energy consumption from renewable sources by 2025. Two tax incentives, "Green Investment Tax Allowance" (**GITA**) and "Green Income Tax Exemption" (**GITE**), are being introduced. Under the GITA, 100% of capital expenditure incurred on qualifying green activities may be set off against 70% of statutory income. Under GITE, on the other hand, there is an income tax exemption of 70% on statutory income for 10 years of assessment for solar leasing activities. Both the incentives will be available until 31.12.2023.

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- **Islamic funds**

To promote Islamic funds and Sustainable and Responsible Investment (**SRI**) fund management activity, the government will extend the tax exemption for fund management companies managing Shariah-compliant funds and SRI funds and tax deduction on the cost of issuing SRI Sukuk for another three years until YA 2023.

- **Intellectual property generated income**

Intellectual property generated income based on patent and copyright software of qualifying activities will be given 100% tax exemption for a period of up to 10 years. The Modified Nexus Approach as recommended by the OECD will be adopted for the purpose of computation of the income tax exemption.

- **Arts and tourism sector**

Income tax exemptions will be given to investments in international theme park projects and organisers of approved arts and cultural activities, approved international sports recreational competitions, and conference organisers. Pursuant to Clause 7(a) of the Bill, the term “infrastructure and information and communication technology” in the existing Section 34(6) of the ITA will be substituted with “infrastructure, information and communication technology or *maintenance of a building designated as a heritage site by the Commissioner of Heritage under the National Heritage Act 2005*”.

There is also an increase in tax deductions to companies sponsoring arts, cultural and heritage activities in Malaysia from RM700,000 to RM1 million per year. This change is stated in Clause 7(b) of the Bill. Additionally, accelerated capital allowance is available for expenditure incurred for the purchase of new locally assembled excursion buses and a 50% excise duty exemption will be given to tour operators for the purchase of new tourism vehicles.

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- ***Merger of Special Commissioners of Income Tax (SCIT) and Customs Appeal Tribunal (CAT)***

It has been proposed that the SCIT and CAT be merged into a Tax Appeal Tribunal. Any taxpayer who is aggrieved by a decision of the DGIR or the Director General of Customs may submit an appeal to the Tax Appeal Tribunal, which will be in operation in 2021.

(B) Indirect tax

- ***Goods and Services Tax (GST)***

Budget 2020 has made it clear that the government does not intend to reinstate the GST. Further, it was also announced that as at end-September 2019, the government has issued GST refunds amounting to RM15.9 billion to 78,000 taxpayers.

- ***Sales and Service Tax (SST)***

Budget 2020 reiterates the imposition of service tax on digital services, which is defined as “*any service that is delivered or subscribed over the internet or other electronic network and which cannot be obtained without the use of information technology and where the delivery of the service is essentially automated*”.

Based on Customs’ Guidelines, digital services will include software, applications and video games, online licensing of software, updates and add-on websites, music, e-books and films, advertising and online platforms, search engines and social networks, database and hosting, file sharing, cloud sharing, website hosting and online data warehousing, telecommunications, online learning courses and payment processing services.

It was announced that foreign digital service providers may commence registration with Customs starting 1.10.2019.

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- **Approved major exporter scheme**

Clause 37 of the Bill introduces the “Approved Major Exporter Scheme” to the Sales Tax Act 2018, whereby companies will be exempted from payment of sales tax for goods imported, provided that such goods will be exported to designated or special areas or when the taxable goods are used as raw materials to be manufactured and subsequently exported to designated or special areas.

- **Customs duty**

Smuggling has been a persistent problem plaguing our country, especially goods chargeable to high excise duties such as tobacco and liquor. In order to strengthen enforcement to curb smuggling, the government will allocate RM235 million to purchase 20 additional cargo scanners to be placed at all strategic ports of entry.

(C) Other taxes

- **Tourism tax**

Tourism tax is charged on a tourist staying at any accommodation premises. The government reiterated its stance of allocating 50% of collection from tourism tax to the respective State Governments.

- **Stamp duty**

Stamp duty exemptions on the instruments of transfer between the developer and financial institution, and between financial institutions and the buyer will be given to those participating in the soon-to-be introduced Rent-to-Own (**RTO**) financing scheme. Through this scheme, financing up to RM10 billion will be provided by the financial institutions with the support of the government via a 30% or RM3 billion guarantee. This RTO scheme is for purchase of a first home up to RM500,000. Under this scheme, the applicant will rent the property for up to five years and after the first year, the tenant will have the option to purchase the house based on the price fixed at the time the tenancy agreement is signed.

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- **Real property gains tax**

For the purpose of real property gains tax (**RPGT**) computation, the determination of market value as of 1 January 2000 for real properties acquired before year 2000 will be amended to market value as of 1 January 2013 as the acquisition price for the disposal of real properties acquired prior to year 2013. This proposal is reflected via Clauses 25 and 26 of the Bill, which seek to amend Schedule 2 and Schedule 3 of the Real Property Gains Tax Act 1976.

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In concluding, businesses are advised to review their present tax treatment and policies and initiate the necessary changes in light of the proposed amendments announced in Budget 2020.

If you require any assistance in reviewing your tax position from a legal perspective, please contact our Tax, SST & Customs partners, **Datuk D P Naban** or **S Saravana Kumar** at tax@lh-ag.com

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