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Malaysia

Highlights of the Malaysian Budget 2019

5 November 2018

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Budget 2019

On 2 November 2018, the Malaysian Budget 2019 ("**Budget**") was unveiled by the Finance Minister, YB Tuan Lim Guan Eng. The Budget focuses on three key areas: (i) implementing institutional reforms; (ii) ensuring the socio-economic well-being of Malaysians; and (iii) fostering an entrepreneurial economy.

This is the first budget presented by the new Pakatan Harapan Government. The Budget reflects the desire to benefit the people of Malaysia and be business-friendly, whilst seeking ways to safeguard and collect revenue. We outline below the tax-related aspects of the Budget.

1. Sales and Services Tax ("**SST**")

1.1. Digital Services

With effect from 1 January 2020, service tax will be imposed on electronically-supplied services (e.g., downloaded software, music, video or digital advertising services) obtained by consumers from foreign service providers. For importation of digital products and services by consumers (i.e. B2C), new provisions will be introduced in the Malaysia Service Tax Act 2018 requiring the foreign service provider who provides such services to consumers in Malaysia to register and charge service tax.

This is in line with the Organisation for Economic Cooperation and Development's ("**OECD**") recommendation that any tax on the digital economy should be imposed based on the place of consumption of the services in the form of consumption tax.

1.2. Exemption for Business-to-Business ("**B2B**") Services

In response to concerns over increased costs of doing business as a result of a potentially cascading effect from the imposition of service tax, the Government has announced that service tax exemptions will be granted for specific B2B services provided by registered entities, with effect from 1 January 2019.

1.3. Credit System

A credit system for sales tax deductions will be introduced with effect from 1 January 2019, to assist small manufacturers who purchase products from importers (instead of other registered manufacturers).

1.4. Imported Services

In order to level the playing field between local and foreign service providers, the Government announced that services imported by businesses (i.e., B2B) will be subject to service tax, with effect from 1 January 2019. New provisions will be introduced under the Malaysian Service Tax Act 2018 to enable recipients of imported services to account for and remit the service tax to the Royal Malaysian Customs Department.

2. Special Voluntary Disclosure Program ("**SVDP**")

The Finance Minister observed that Malaysia is implementing the OECD's Common Reporting Standard for the automatic exchange of information, and as such, the Inland Revenue Board ("**IRB**") will have more information than ever before. It is likely that the IRB will scrutinise such information to ensure that sufficient tax is paid in Malaysia.

Under the SVDP, taxpayers who make a voluntary disclosure during the period from 3 November 2018 to 30 June 2019 will be offered a reduced penalty rate.

The IRB has issued operational guidelines on the implementation of the SVDP. Based on the guidelines, the SVDP will apply to (i) under-declared income and over-claimed reliefs/deductions/rebates for the year of assessment ("**YA**") 2017 and preceding years; (ii) unreported real property gains for YA 2017 and preceding years; and (iii) unstamped instruments.

The reduced penalty rates under the SVDP are as follows:

Matters	Period of Voluntary Disclosure and Rate of Penalty (% on tax payable)		
	3 November 2018 – 31 March 2019	1 April 2019 – 30 June 2019	After 30 June 2019
Under-reported income (i.e., income, petroleum income, and real property gains)	10 %	15 %	80 - 300 %
Unstamped instrument exceeding 6 months from the stamping deadline	10% or a minimum of RM 50	15% or a minimum of RM 100	20% or RM 100, whichever is greater

Payment for voluntary disclosure under the SVDP has to be made by the following deadline:

Period of Voluntary Disclosure	Payment to be Made on or Before
3 November 2018 – 31 March 2019	1 April 2019
1 April 2019 – 30 June 2019	1 July 2019

3. Real Property Gains Tax ("**RPGT**")

Effective 1 January 2019, it is proposed that the RPGT rates for the disposal of real properties or shares in a real property company after the fifth year (i.e., sixth year or thereafter) be increased as follows:

<table>
<tr><th>Disposer</th><th>Current Rate</th><th>Proposed Rate</th></tr>
<tr><td>Company</td><td rowspan="2">5%</td><td rowspan="2">10%</td></tr>
<tr><td>Non-citizen / not a permanent resident</td></tr>
<tr><td>Malaysian individual</td><td>0%</td><td>5%
(excluding low cost, low-medium cost, and affordable housing with prices below RM 200,000, which will be exempted).</td></tr>
</table>

4. Stamp Duty

4.1. Increased Stamp Duty Rate for Properties Valued Above RM 1,000,000

Currently, the instrument of transfer for a property is stampable at an *ad valorem* rate of 1% for the first RM 100,000, 2% on any amount in excess of RM 100,000 but not exceeding RM 500,000, and 3% on any amount in excess of RM 500,000.

The Government has announced that stamp duty on the transfer of property valued at more than RM 1,000,000 will increase from 3% to 4%, with effect from 1 January 2019. The proposed rate is as set out below:

Consideration Price / Market Value (whichever is higher)	Stamp Duty Rate (%)
First RM 100,000	1
RM100,001 - RM500,000	2
RM500,001 - RM1,000,000	3
RM1,000,001 and above	4

4.2. Stamp Duty for First-Time Home Buyers

First-time home buyers purchasing residential properties priced up to RM 500,000 will be exempted from paying stamp duty (calculated by reference to the first RM 300,000 of the value of the property) on loan agreements and sale and purchase agreements for a period of two years until December 2020.

In addition, first-time purchasers will be exempted from paying all stamp duty charges for residential properties valued between RM 300,001 and RM 1,000,000 for a period of six months. This is in conjunction with the National Home Ownership Campaign, where a minimum price discount of 10% will be offered by developers.

The proposed stamp duty treatment and effective date are as set out below:

Price of First Residential Home	Stamp Duty Treatment	Effective Date
Up to RM 300,000	100% stamp duty exemption on the instrument of transfer and the loan agreement	Sale and purchase agreement executed from 1 January 2019 to 31 December 2020
Between RM 300,001 and RM 1,000,000 (from any housing developer for a period of 6 months)	100% stamp duty exemption on the instrument of transfer	Sale and purchase agreement executed from 1 January 2019 to 30 June 2019
Between RM 300,001 and RM 500,000	100% stamp duty exemption, limited to the first RM 300,000 of the price of the residential property. The remaining balance is subject to the prevailing stamp duty rate	Sale and purchase agreement executed from 1 July 2019 to 31 December 2020

5. Income Tax

5.1. Reduction for Small and Medium Enterprises ("**SMEs**")

Presently, SMEs (i.e., a company with a paid up capital of up to RM 2,500,000) are taxed at 18% on chargeable income up to RM 500,000 with the remaining chargeable income taxed at 24%. With effect from YA 2019, it is proposed that the tax rate for chargeable income up to RM 500,000 be reduced from 18% to 17%.

5.2. Concessionary Rate for Principal Hub

A Principal Hub is defined by the Malaysian Investment Development Authority as a "*locally incorporated company that uses Malaysia as a base for conducting its regional and global businesses and operations to manage, control, and support its key functions including management of risks, decision making, strategic business activities, trading, finance, management and human resource*".

It is proposed that the Principal Hub tax incentive be improved by "charging a concessionary 10% income tax rate on the overall statutory income related to Principal Hub activities for a period of 5 years". The Government has yet to release the details of how the existing Principal Hub incentive will be modified.

5.3. Labuan International Business and Financial Centre

To enhance Labuan's competitiveness, it is proposed that restrictions on transactions conducted in Malaysian Ringgit and restrictions on transactions between Labuan and Malaysian residents be removed.

Currently, a Labuan entity carrying on a Labuan business activity which is a Labuan trading activity is subject to tax at the rate of 3% upon its chargeable profits (i.e., the net profits as reflected in the audited accounts), or a flat tax of RM 20,000. The Budget maintains the current tax rate of 3%. However, the flat tax of RM 20,000 under the Labuan Business Activity Tax Act 1990 will be abolished with effect from 1 January 2019.

Additionally, it is proposed that with effect from 1 January 2019:

(a) Labuan IBFC activities carried out in Labuan will be subject to substantive conditions as determined by a committee;

(b) income from intellectual property assets held by a Labuan entity will be subject to the prevailing income tax rate under the Malaysian Income Tax Act 1967; and

(c) residents transacting with Labuan entities will be entitled for a tax deduction on the expenditure incurred, limited to 3% of allowable expenditure.

6. Excise Duty on Sugar Sweetened Beverages

In an effort to curb obesity among Malaysians, the list of manufactured goods subject to excise duty will now include "sugar sweetened beverages". The proposed duty is RM 0.40 per litre with effect from 1 April 2019. The duty will be applicable to:

(a) fruit juices and vegetable juices whether or not containing added sugar or other sweetening matter under the tariff heading of 20.09, which contains sugar exceeding 12 grams per 100 milliliters; and

(b) beverages including carbonated drink containing added sugar or other sweetening matter or flavoured and other non-alcoholic beverages under the tariff heading of 22.02, which contains sugar exceeding 5 grams per 100 milliliters.

7. Tax Deductions

7.1. Contributions to Social Enterprise

It is proposed that income tax deductions be allowed for contributions from any parties to a social enterprise uplifting underprivileged and marginalised communities, subject to a maximum of 10% of the aggregate income of a company or 7% of the aggregate income for a person other than a company. It remains to be seen how the Government will identify these social enterprises.

7.2. Employment of Senior Employees and Ex-Convicts

From YA 2019 until YA 2020, additional tax deductions will be allowed on the remuneration paid for employers who employ employees between the ages of 61 to 65 years ("**Senior Employees**") or ex-convicts with a monthly remuneration up to RM 4,000.

Employer contributions to the Employees Provident Fund for Senior Employees will be reduced from 6% to 4% with effect from 1 January 2019. The mandatory contributions for Senior Employees will also be fully exempted and such employees will not be required to make any contribution.

7.3. Islamic Finance

The existing tax incentive will be extended and made available for two years beginning on the YA 2019 until YA 2020 which includes:

(a) tax deduction on expenditure incurred when issuing *sukuk* under the principles of *Ijarah* and *Wakalah*; and

(b) further deduction on additional expenditure incurred when issuing *sukuk* under the principles of *Ijarah* and *Wakalah*;

(c) double deduction on additional expenditure incurred by companies when issuing retail bonds; and

(d) double deduction on additional expenditure incurred by companies when issuing retail sukuk under the principles of *Mudharabah, Musyarakah, Istisna', Murabahah* and *Bai' Bithaman Ajil* based on *Tawarruq*.

7.4. Tax Incentives in relation to Industry 4.0

The Government has introduced the Industry4WRD Policy which aims to boost Malaysia to become strategic partners for smart manufacturing and manufacturing-related services in Asia Pacific, the preferred destination for high-tech industry investment and the total solution provider for advanced technology.

In order to achieve the goals under the Industry4WRD Policy, it is proposed that the following income tax incentives be given:

Areas	Incentives	Effective Date
Industry4.0 Readiness Assessment (I4.0-RA)	Tax deduction is eligible to be claimed on the readiness assessment expenses of I4.0-RA. The eligible deduction is on expenses up to RM 27,000 paid to the Malaysian Productivity Corporation.	YA 2019 to YA 2021
Industry4WRD Vendor Development Program ("**Program**")	Anchor company that develop local vendors in I4.0 is eligible to claim double deduction on expenses incurred in implementing the Program as follows: (a) operating expenditure on costs of product development, upgrading capabilities of vendors and skill training of vendors, as verified by the Ministry of International Trade and Industries; and (b) qualifying operating expenditure are capped up to RM 1,000,000 per year and eligible to be claimed for 3 consecutive years of assessment.	Memorandum of understanding signed between company and Ministry of International Trade and Industry from 1 January 2019 to 31 December 2021
Human Capital Development	Double tax deductions will be provided for: (a) scholarships and bursaries provided by companies to Malaysian students pursuing studies at technical and vocational levels, diploma and degree courses in engineering and technology, subject to certain conditions;	(a) From YA 2019 to YA 2021

	(b) expenditure incurred in upgrading and developing its employees technical skills in I4.0 technology for training programs approved by the Malaysia Investment Development Authority; and	(b) For companies participating in the Readiness Assessment Intervention Plan from 1 January 2019 to 31 December 2019
	(c) company expenses in carrying out internship programs for undergraduate students in the fields of engineering and technology which are approved by the Ministry of Human Resources ("**MOHR**").	(c) From YA 2019 to YA 2021
	Tax deduction will be provided for:	
	(d) expenses incurred by companies participating in the National Dual Training System Training Scheme for the I4.0 program approved by the MOHR;	(d) For programs implemented from 1 January 2019 to 31 December 2019
	(e) expenses for development of new I4.0 technology and engineering courses by the Private Higher Education Institutions. The new courses must be verified by Ministry of Education ("**ME**"); and	(e) From YA 2019 to YA 2021
	(f) equipment and machinery contributed by companies to Skills Development Centres, Polytechnics or Vocational Colleges certified by the MOHR or ME.	(f) For contributions made from 1 January 2019 to 31 December 2021

8. Cessation of Wholesale Money Market Funds Tax Exemption

The tax exemption granted to wholesale money market funds on its interest income from licensed banks, licensed Islamic banks, and development financial institutions will cease with effect from 1 January 2019 as the industry has been sufficiently developed.

9. Venture Capital Tax Incentives

Currently, venture capital tax incentives are provided for applications received by the Malaysian Securities Commission from 1 January 2018 until 31 December 2018. Such incentives include:

(a) income tax exemption on management fees, performance fees and income from profit sharing received on investment made by venture capital companies ("**VCC**");

(b) income tax exemption on statutory income from all sources of income except interest income from savings and fixed deposits and profits from *Shariah*-compliant deposits;

(c) exemptions for a 5-year period for investments made in the venture company, subject to certain conditions;

(d) tax deduction equivalent to the amount of investment made in VCC, limited to a maximum of RM 20 million per year for each company or individual is given to companies or individuals with business income investing into VCC funds created by venture capital management corporations; and/or

(e) tax deductions equivalent to the amount of investment made in venture company at the adjusted income level is given to companies or individuals with business income investing in venture company.

It is proposed that the application period for venture capital tax incentives be extended for another year, until 31 December 2019.

10. Green Technology Incentives

10.1. Environmentally-Friendly Plastics Incentives

Companies which produce environmentally-friendly plastics based on bio-resin and biopolymer may be granted the following income tax incentives:

Incentive	Exemption / Allowance
Pioneer Status incentive; or	An exemption of 70% of the statutory income for a period of 5 years.
Investment tax allowance	An allowance of 60% on the qualifying capital expenditure incurred within a period of 5 years.

10.2. Expansion of the Green Technology Investment Allowance

Presently, the Green Technology Investment Allowance provides for an investment tax allowance of 100% of the qualifying capital expenditure incurred on a green technology asset from the YA 2013 (the date on which the first qualifying capital expenditure is incurred must not be earlier than 25 October 2013) until YA 2020. The allowance can be offset against 70% of the statutory income in the YA, and unutilised allowances can be carried forward until they are fully absorbed. The MyHijau Directory prescribes a list of green technology assets which qualify for the incentive.

It is proposed that the list of green technology assets which qualify for the Green Technology Investment Allowance be expanded from 9 assets to 40 assets. The details of these additional assets have yet to be released.

11. Time Limit on Period to Carry Forward Losses

11.1. Unabsorbed Losses and Unutilised Capital Allowance

With effect from YA 2019, the Government will place a time limit on the carrying forward of unabsorbed losses and unutilised capital allowances up to a maximum of 7 consecutive YAs.

11.2. Reinvestment Allowance and Investment Allowance for Service Sector

With effect from YA 2019, the Government will place a time limit on the carrying forward of the unutilised reinvestment allowance under Schedule 7A of the Malaysian Income Tax Act 1967 and the unutilised investment allowance for service sector under Schedule 7B of the Malaysian Income Tax Act 1967 up to a maximum of 7 consecutive YAs, upon expiry of the relevant qualifying period.

11.3. Pioneer Losses and Unabsorbed Allowances

With effect from YA 2019, the Government will place a time limit on the carrying forward of the unabsorbed pioneer losses and unabsorbed allowances under the Malaysian Promotion of Investments Act ("**MPIA**") following the expiry of the pioneer status or incentive under the MPIA respectively up to a maximum of 7 consecutive YAs.

12. Restrictions on Group Relief

With effect from YA 2019, it is proposed that:

(a) a company is only allowed to surrender its losses after 12 months from the date of commencement of operations of the surrendering company. The losses may only be surrendered for a period of 3 consecutive YAs only; and

(b) a company claiming the losses (i.e., claimant company) with unutilised income tax allowance or unabsorbed pioneer losses after the expiry of the relevant incentives will not be eligible for group relief.

13. Free Trade Zones and Duty-Free Status

13.1. Free Trade Zones

The Government will convert 380 acres of land in Pulau Indah into a Free Trade Zone, which will serve as an extension to the Port Klang Free Zone.

13.2. Customs Duty Incentives

It is proposed that the following incentives will be provided:

(a) additional duty-free shops on Penang's Swettenham Pier;

(b) declaring Pulau Pangkor as a duty-free island; and

(c) enhancing the duty-free island status of Pulau Langkawi.

14. Review of Tax Incentives

In line with the Government's commitment to the OECD's initiatives to counter harmful tax practices, the Government has been undertaking work to review and modify Malaysia's tax incentives regimes. Existing tax reliefs and incentives will be reviewed for relevance and to reduce tax leakages.

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