

Client Alert

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For further information, please contact:

Adeline Wong

Partner

+603 2298 7880

adeline.wong@wongpartners.com

Irene Khor

Associate

+603 2298 7891

irene.khor@wongpartners.com

Malaysia: Tax Highlights of the National Economic Recovery Plan (PENJANA)

Introduction

The Prime Minister of Malaysia unveiled the National Economic Recovery Plan, also known as the *Pelan Jana Semula Ekonomi Negara* ("**PENJANA**") on 5 June 2020, as Malaysia stepped into the Recovery phase. The Recovery phase is the fourth of the Malaysian Government's six-stage approach in addressing the impact of the COVID-19 pandemic (i.e., Resolve, Resilience, Restart, Recovery, Revitalise, and Reform).

PENJANA aims to spur economic recovery and focuses on three key goals, which are to (i) empower the people, (ii) propel businesses, and (iii) stimulate the economy. It involves 40 initiatives worth approximately RM 35 billion, of which RM 10 billion is in the form of direct fiscal injection by the Government.

We expect the relevant authorities to issue guidelines to provide clarity on the PENJANA tax initiatives.

We set out below the key tax highlights from PENJANA.

1. Tax Incentives to Attract Foreign Direct Investments

To attract foreign companies to relocate their businesses to Malaysia, the following tax incentives were announced. Applications for these incentives can be made to the Malaysian Investment Development Authority ("**MIDA**") between 1 July 2020 and 31 December 2021.

Tax Incentive	Details
Full income tax exemption (i.e., 0% tax rate) for new investment in manufacturing sectors	<p>The number of years in which the full income tax exemption is available to a manufacturing company is dependent on the value of capital investment of the company:</p> <ul style="list-style-type: none">(i) 10 years tax exemption where the company makes capital investments of between RM 300 million to RM 500 million within three years from the approval of the incentive;(ii) 15 years tax exemption where the company makes capital investments of more than RM 500 million within three years from the approval of the incentive. <p>The company must relocate and commence its business in Malaysia within one year from the date of approval of the incentive.</p> <p>Comments: Under the Promotion of Investments Act 1986, manufacturing companies involved in prescribed promoted</p>





Tax Incentive	Details
	<i>activities and products may also be eligible to apply for a pioneer status tax incentive, which potentially offers an income tax exemption of up to 100% of the statutory income for a period of up to 10 years.</i>
100% investment tax allowance	Existing companies in Malaysia that relocate its overseas facilities into Malaysia will be able to apply for a 100% of investment tax allowance for 5 years. Comments: <i>It is expected that MIDA will be providing further details (for e.g., the applicable conditions) for this incentive.</i>

2. Financial Stress Support for All Businesses

To ease the financial impact of the COVID-19 pandemic on businesses and to support them in their recovery, the Government has extended the following measures to all businesses:

Type of Tax	Initiatives
Sales and service tax ("SST")	A 50% remission of penalties on the late payment of SST due and payable from 1 July 2020 to 30 September 2020. Comments: <i>The Royal Malaysian Customs Department ("Customs") previously announced that penalties on late payment of SST for the period of the movement control order are fully remitted if payment is made latest by 30 June 2020. Notably, that remission was not applicable to the late payment of service tax by foreign registered providers of digital services. As such, it is expected that Customs will be providing further details on whether the new 50% remission might similarly be inapplicable to foreign registered providers of digital services, so that taxpayers will have more clarity.</i>
Income tax	<ul style="list-style-type: none">• Extension of special tax deductions for expenses incurred by businesses for the renovation and refurbishment of business premises of up to RM 300,000, to 31 December 2021.• Extension of accelerated capital allowance ("ACA") on eligible capital expenses incurred on machinery and equipment, including Information and Communication Technology ("ICT") equipment, to 31 December 2021.• Extension of special tax deduction for landlords, who provide at least a 30% rental reduction for their small and medium enterprise ("SME") tenants, to 30 September 2020.



	<p>Comments: Under the earlier economic stimulus package, the deduction for renovation and refurbishment costs and ACA only applied to relevant expenses incurred during the period from 1 March 2020 to 31 December 2020, and the deduction for landlords only applied to the months of April 2020 to June 2020. This ACA can be claimed within two years at the following rates:</p> <p>(i) initial allowance: 20%; and</p> <p>(ii) annual allowance: 40%.</p>
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3. Support for the Tourism Sector

To support the tourism sector, the Government announced the following initiatives:

Type of Tax	Initiatives
Tourism tax	<p>Tourism tax exemption will be applicable with effect from 1 July 2020 to 30 June 2021.</p> <p>Comments: At present, tourism tax is chargeable on foreign travelers at the rate of RM 10 per room per night.</p>
Service tax	<p>For service tax-registered hotel operators, the exemption from the obligation to charge service tax is extended to 30 June 2021.</p> <p>Comments: Under the earlier economic stimulus package, the same service tax exemption was granted on accommodation services and other related services provided by the hotel operators, for the period from 1 March 2020 to 31 August 2020.</p>
Income tax	<ul style="list-style-type: none">• Extension of personal income tax relief of up to RM 1,000 for domestic tourism expenses to 31 December 2021. <p>Comments: Under the earlier economic stimulus package, the personal income tax relief was granted for (i) accommodation expenses incurred in relation to premises registered with the Ministry of Tourism, Arts and Culture Malaysia, and (ii) entrance fees to tourist attractions, within the period from 1 March 2020 to 31 August 2020.</p> <ul style="list-style-type: none">• Businesses in the tourism industry such as tour agencies, hotel operators and airline companies are allowed a further deferment of corporate income tax instalment payments for three months (from 1 October 2020 to 31 December 2020).



Type of Tax	Initiatives
	<i>Comments: Under the earlier economic stimulus package, businesses in the tourism industry were allowed a deferment of corporate income tax instalment payments for six months (from 1 April 2020 to 30 September 2020).</i>

4. Support for the Commodity Sector

To support the commodity sector, the Government will grant a 100% export duty exemption on the exportation of crude palm oil, crude palm kernel oil and refined bleached deodorised palm kernel oil, from 1 July 2020 to 31 December 2020.

***Comments:** At present, export duty on these commodities may range from 0% to 30% depending on the value per tonne.*

5. Tax Deductions and Allowances for COVID-19 Related Expenses

Extension of the period and expansion of the scope of expenses allowed as tax deductions (or capital allowances, depending on the circumstances) that are incurred by businesses for COVID-19 prevention, such as arranging for employees to undertake COVID-19 testing and the purchase of personal protective equipment ("PPE") and thermal scanners.

***Comments:** This follows a similar measure announced under the first economic stimulus package on 27 February 2020, that disposable PPE are eligible for tax deductions under Section 33(1) of the Income Tax Act 1967 ("ITA") and non-disposable PPE can be claimed as capital allowance.*

We are hopeful that more details will be provided on the scope of allowable deductions that may be claimed under Section 33(1) for both COVID-19 related and non-COVID-19 related expenses incurred for occupational health and safety purposes, so that taxpayers will have more clarity.

6. Spurring the Establishment of New SMEs and Increasing the Competitiveness of SMEs

To encourage the establishment of new businesses, new SMEs established between 1 July 2020 and 31 December 2021 will be entitled to income tax rebate of up to RM 20,000 per year for three YAs.

To increase the business competitiveness of SMEs through mergers and acquisitions ("M&A"), it was announced that SMEs are granted stamp duty exemption in respect of any instrument executed for purposes of M&A, between 1 July 2020 and 30 June 2021.

***Comments:** For context, instruments typically executed as part of M&A transactions include (i) share transfer forms (the usual stamp duty rate being 0.3% on the higher of the consideration or market value of the shares), and (ii) business*



transfer agreements (the usual stamp duty rate being 1-4% on the higher of the consideration or market value of the business).

7. Stamp Duty and Real Property Gains Tax Exemptions for Residential Properties

To stimulate the property market in Malaysia, the following exemptions will be granted to homeowners and prospective homebuyers:

Type of Tax	Initiatives
Stamp duty	<p>The Home Ownership Campaign ("HOC") will be reintroduced, under which the following stamp duty exemptions will be granted for the purchase of residential homes priced between RM 300,000 to RM 2.5 million:</p> <ul style="list-style-type: none">(i) stamp duty exemption on the instrument of transfer, limited to the first RM 1 million of the price of the home; and(ii) full stamp duty exemption on the relevant loan agreement. <p>In order to be eligible for the stamp duty exemptions:</p> <ul style="list-style-type: none">(i) the developer must provide at least a 10% discount; and(ii) the relevant sale and purchase agreements ("SPAs") have to be executed within the period from 1 June 2020 to 31 May 2021. <p>Comments: The previous HOC offered stamp duty exemptions in connection with SPAs that were executed within the period from 1 January 2019 to 31 December 2019.</p>
Real property gains tax (" RPGT ")	<p>Gains arising from the disposal of residential homes within the period from 1 June 2020 to 31 December 2021 by Malaysian citizens will not be subject to RPGT, up to a maximum disposal of three units of residential homes per individual.</p> <p>Comments: At present, the usual RPGT rates for the disposal of real property by Malaysian citizens range from 5% to 30%, depending on the holding period.</p>

8. Sales Tax Exemption for the Purchase of Passenger Cars

To stimulate the automotive sector and provide financial relief to car buyers, the Government will grant the following sales tax exemption from 15 June 2020 to 31 December 2020, in respect of passenger cars:

- (i) full sales tax exemption on locally assembled cars; and
- (ii) 50% sales tax exemption on imported cars.



Comments: At present, sales tax is imposed at 10% (i) on the sale price by the local assembler to the distributor for locally assembled cars, or (ii) on the importation of imported cars, and are embedded in the final price to consumers. It is hoped that Customs will provide further clarification on the reduced final price that consumers may expect, as well as the potential transitional issues (for e.g., if cars currently held by distributors have already been subjected to sales tax).

9. Flexible Work Arrangement Incentives

To encourage continuous adoption of work-from-home arrangements as the new normal, the following incentives are offered to employers and employees:

Recipient	Incentives
Employers who implement flexible work arrangements ("FWAs") or enhance existing FWAs	<p>Effective 1 July 2020, further tax deductions for expenses incurred by the employers.</p> <p>Comments: At present, tax deductions are allowed for consultation fees and costs of training employees incurred in implementing or enhancing FWAs verified by Talent Corporation Malaysia Berhad, for a period of three consecutive years of assessment ("YAs"). It is expected that further details will be provided on how the proposed incentive will enhance the existing tax deductions that can be claimed by employers.</p>
Employees	<ul style="list-style-type: none">Effective 1 June 2020, personal income tax relief of up to RM 2,500 on the purchase of handphone, notebook and tablet.Effective 1 July 2020, income tax exemption of up to RM 5,000 for employees who receive a handphone, notebook and tablet from their employer. <p>Comments:</p> <p>It is expected that further details will be provided on how these proposed incentives will enhance the existing incentives currently available. For example, at present, individuals can claim a lifestyle relief of up to RM 2,500 for lifestyle relief expenses incurred in purchasing reading materials, a personal computer, a smartphone, a tablet or an internet subscription, for personal use.</p>

10. Personal Income Tax Relief for Child Care Expenses

For YAs 2020 and 2021, the personal income tax relief for parents on childcare service expenses is increased from RM 2,000 to RM 3,000.



Comments: *At present, personal income tax relief is available for resident individuals who enroll their children aged 6 years and below in child care centres or kindergartens registered with the Department of Social Welfare or the Ministry of Education.*

Conclusion

The majority of the tax initiatives introduced by PENJANA benefits individuals and SMEs as they try to recover from the adverse economic impact brought about by the COVID-19 pandemic.

In addition, the Government's efforts to attract foreign direct investments is welcome, and will hopefully yield positive results soon. Notwithstanding that multinational companies may face risks and challenges in relocating their businesses or operations during this time, Malaysia remains a business-friendly jurisdiction. It is expected that MIDA and other authorities will continue to pay much attention to providing a supportive environment for businesses, so that a stronger economic recovery is possible. As such, businesses should monitor this space for further developments.

www.wongpartners.com

Wong & Partners
Level 21
The Gardens South Tower
Mid Valley City
Lingkaran Syed Putra
59200 Kuala Lumpur

