

# *TaXavvy* 2016 Budget Edition 23 October 2015



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Welcome to our **TaXavvy 2016 Budget Edition** which brings to you the key tax proposals of the 2016 Budget

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# Highlights



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# Corporate tax



## ***Amendments arising from Goods and Services Tax (GST) implementation***

Arising from the implementation of GST, the following are proposed insertions into the Income Tax Act 1967 (ITA), Petroleum (Income Tax) Act 1967 (PITA), Real Property Gains Tax (RPGT) Act 1976 and Promotion of Investments Act 1986 (PIA):

- Any GST input tax incurred by a person is disallowed as a deduction and does not qualify as qualifying expenditure under Schedules 3, 7A and 7B of the ITA, the First and Second Schedules of the PITA and under the PIA, where the person is liable to be registered under the GST Act 2014 (GST Act) and has failed to do so, or if the person is entitled under the GST Act to credit that amount of tax as input tax.
- Any GST that is an output tax borne by a person (if he is registered or liable to be registered under the GST Act), will not qualify for a deduction and is excluded from the computation of the acquisition price or disposal price of the chargeable asset for RPGT purposes.
- Any GST cost incurred by the disposer on the acquisition or disposal of a chargeable asset will be treated as incidental cost of the acquisition or disposal of that chargeable asset for RPGT purposes if the disposer is a non-GST registrant or is not entitled to claim the GST as input tax.
- Any GST paid or to be paid by the disposer as input tax on the acquisition or disposal of a chargeable asset will be excluded from the acquisition price or disposal price of that chargeable asset for RPGT purposes if the disposer is entitled to the GST as input tax or is liable to be registered under the GST Act but failed to do so.

- Where there is any adjustment made under the GST Act to which the input tax relates to a qualifying expenditure of an asset, a corresponding adjustment will need to be made to the residual expenditure of the asset for Income Tax purposes. The timing of adjustment will be in the YA in which the period of adjustment as provided under the GST Act ends, except in the case of disposal, such adjustment is to be made in the YA the disposal is made.

(Effective from YA 2015)

## ***Industrial Building Allowance (IBA)***

It is proposed that the following buildings would not qualify for IBA if the building or part of the building is used for letting purposes: licensed private hospital, maternity home, nursing home, building used for research, warehouse, building used for approved service project, hotel, airport, motor racing circuits, building used as living accommodation of employees of persons carrying on manufacturing, hotel, tourism business or approved service project; and approved school or educational institution.

(Effective from YA 2016)

## ***Replacement of part of an asset***

It is proposed that where any part of an asset is replaced with a new part (which is depreciated separately in accordance with generally accepted accounting principles), such part is deemed to have been disposed of in that basis period for that year of assessment.

(Effective from YA 2016)

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## ***Corporate tax***

### ***Timing of taxability of business income in respect of services***

Business income in respect of services shall be taxable in the basis period (BP) for a YA when the debt owing in respect of the service arises, whether the service has been rendered or is to be rendered in the future.

In other cases (notwithstanding that no debt is owing in respect of such service), the sum if received in a BP for a YA, is taxable in that YA. However, if that sum is subsequently refunded in a BP for a subsequent YA, that sum is deductible in that subsequent YA.

The above also applies to income in respect of the use or enjoyment of any property.

(Effective from YA 2016)

### ***Submission of written notice for interest deduction claim***

With effect from YA 2014, interest expense payable for a particular YA is not deductible in arriving at the adjusted income of that YA if it is not due to be paid in the basis period (BP) for that YA. The deduction is to be given when the interest is due to be paid.

In addition to the above, taxpayers are now required to notify the Director General in writing not later than 12 months after the interest expense is due to be paid to qualify for the deduction.

(Effective for YA 2016)

# Personal Tax



## Review of individual income tax rates

A tax resident who has chargeable income exceeding RM600,000 will now be taxed as follows with effect from YA 2016:

|                                |           |     |
|--------------------------------|-----------|-----|
| For every ringgit in excess of | 600,000   | 26% |
| For every ringgit in excess of | 1,000,000 | 28% |

In addition, the tax rate for a non-resident individual will be increased to 28%.

(Effective from YA 2016)

## Increase in reliefs

The tax reliefs will be increased as follows effective from YA 2016:

| Types of Relief                     | Maximum Allowed (RM)                  |
|-------------------------------------|---------------------------------------|
| Spouse                              | 4,000                                 |
| Parental care (new)*                | 1,500 (each parent of the individual) |
| Children below 18 years of age      | 2,000                                 |
| Children studying at tertiary       | 8,000                                 |
| Disabled child studying at tertiary | 14,000                                |
| Fee for tertiary education (self)   | 7,000                                 |
| Contribution to SOCSO (new)         | 250                                   |

(\*Effective from YA 2016 to 2020)

## Gratuity payment

A new exemption is introduced in Schedule 6 of the ITA to expand the exemption on gratuity payment.

It is proposed that sums received by way of gratuity on retirement from an employment under any written law or termination of a contract of employment, other than the current employment gratuity which is fully exempted, shall be exempt up to one thousand ringgit per completed year of service of that individual.

(Effective from YA 2016)

## Electronic submission of employer return (Form E)

With the introduction of the subsection 83(1B), every company must furnish its return under Section 83(1) of the Act by way of an electronic medium or electronic transmission.

(Effective from YA 2016)

## Basis period to which gross income from an employment is related

Currently, only bonuses and directors fees are taxed in the year the payments are received regardless of the period in which they are attributed to.

It has been proposed that all employment income receivable for any particular period will be deemed received and taxed in the year of receipt.

(Effective from YA 2016)

# Tax incentives



## Reinvestment Allowance (RA)

- To promote reinvestment among existing companies in the manufacturing and agriculture sectors upon expiry of the RA incentive period, the companies will be entitled to claim a special RA on qualifying capital expenditure incurred for reinvestment.

(Effective from YA 2016 to YA 2018)

- Schedule 7A of the ITA has been expanded to include the following definitions :

| Qualifying Project | Definition  |
|--------------------|---|
| Automating         | Process whereby manual operations are substituted by mechanical operations with minimal or reduced human intervention |
| Diversifying       | Enlarge or vary the range of product of a company related to the same industry  |
| Expanding          | Increase of product capacity or expansion of factory area   |
| Modernizing        | Upgrading of manufacturing equipment and process  |

(Effective from YA 2016)

## Tax incentives for food production projects

The following existing tax incentives for food production projects are proposed to be extended for another 5 years:

- Deduction equivalent to cost of investment made in a subsidiary carrying out new food production project

- Income tax exemption for companies carrying out new food production project
- Income tax exemption for companies carrying out expansion of an existing food production project

The scope of the eligible projects are also expanded to include:

- planting of coconuts, mushrooms and cash crops
- rearing of deer
- cultivation of seaweed
- rearing of honey (bees and *kelulut*)
- planting of animal feed crops as determined by the Ministry of Agriculture and Agro-Based Industry and approved by the Ministry of Finance

(Effective for applications to be received by the Ministry of Agriculture and Agro-Based Industry from 1 January 2016 to 31 December 2020)

## Tax incentives for tour operating companies

The following incentives for tour operating companies are to be extended for another 3 YAs:

- 100% tax exemption on statutory income derived from the business of operating tour packages within Malaysia participated by not less than 1,500 local tourists per year; and
- 100% tax exemption on statutory income derived from the business of operating tour packages within Malaysia participated by not less than 750 inbound tourists per year.

(Effective from YA 2016 to YA 2018)



## Tax incentives

### Independent Conformity Assessment Bodies (ICAB)

ICAB is a company which offers independent conformity assessment services in testing products, materials, systems or services for conformance to international specifications, safety or other standards.

To encourage the development of such services in Malaysia, the following incentives are proposed:

|                          | New ICAB   | Existing ICAB  |
|--------------------------|--|--|
| Investment tax allowance | Allowance of 60% on qualifying capital expenditure for 5 years to be offset against 100% of Statutory Income | Allowance of 60% on qualifying capital expenditure for 5 years to be offset against 100% of Statutory Income |
| Income tax exemption     | Exemption of 100% of Statutory Income from qualifying activities for 5 years                                 |  |

The incentives are to be given to ICABs servicing the following sectors:

- Machinery and equipment;
- Electrical and electronics;
- Chemicals;
- Aerospace;
- Medical devices; and
- Fresh and processed food.

The types of activities eligible for the incentives are:

- Testing laboratories;
- Calibration laboratories;
- Certifications;
- Inspections; or
- Good laboratory practice.

To qualify for the incentives, the ICAB must obtain accreditation by the following bodies:

- Department of Standards Malaysia;
- Accrediting bodies recognised by the International Laboratory Cooperation (ILAC) under Mutual Recognition Arrangement;
- International Accreditation Forum (IAF) under Multi-Lateral Agreement; or
- OECD Good Laboratory Practice Mutual Acceptance Data.

(Effective for applications to be received by MIDA from 1 January 2016 until 31 December 2018)

### Exports incentive to Small and Medium Enterprises (SMEs)

Manufacturing companies with paid-up capital not exceeding RM2.5 million will be given revised value added criteria in order to qualify for exports incentive:

| Value added of goods exported attain at least | Tax exemption on statutory income equivalent to |
|---|---|
| 20%   | 10% of the value of the increased exports       |
| 40%   | 15% of the value of the increased exports       |

The above tax exemption is restricted to 70% of the statutory income.

(Effective from YA 2016 to YA 2018)

## ***Tax incentives***

### ***Automatic double deduction for R&D projects***

Presently, double deduction claims for R&D projects are subject to approval by the Inland Revenue Board (IRB).

It is proposed that companies with paid-up capital not exceeding RM2.5 million be allowed to claim the double deduction automatically after submission of the application to the IRB.

(Effective from YA 2016 to YA 2018)

### ***Issuance of Retail Bond and Retail Sukuk***

To further promote investors' involvement particularly individual investors in the capital market, the following incentives will be extended for another 3 years:

- (i) Double deduction on additional issuance costs of retail bonds
- (ii) Double deduction on additional issuance costs of sukuk under the principles of Mudharabah, Musyarakah, Istisna', Murabahah and Bai' Bithaman Ajil based on tawarruq; and
- (iii) Further deduction on additional issuance costs of sukuk under the principles of Ijarah and Wakalah.

(Effective from YA 2016 to YA 2018)

### ***Sustainable and Responsible Investments Sukuk (SRI Sukuk)***

It is proposed that the deduction for the issuance costs of SRI Sukuk approved by, or authorized by or lodged with the Securities Commission of Malaysia be extended for another five years in order to

promote and establish Malaysia as a regional issuance hub for SRI Sukuk .

(Effective from YA 2016 to YA 2020)

### ***Extension of tax incentive for Real Estate Investment Trusts (REITs)***

Dividends received from REITs listed on the Bursa Malaysia by the following investors are currently subject to a final withholding tax at 10%:

- Foreign institutional investors
- Non-corporate investors

The above is to be extended for another 3 years.

(Effective from 1 January 2017 to 31 December 2019)

### ***Shariah-compliant fund management company***

To promote Shariah-compliant fund management services, the following tax exemptions are to be extended until YA 2020:

- Statutory income derived from business of providing fund management services to foreign investors in Malaysia
- Statutory income derived from business of providing fund management services to local investors in Malaysia
- Statutory income derived from business of providing fund management services to business trusts or real estate investment trusts in Malaysia

# Tax administration



## ***Enhancement of penalty for non-submission of income tax return***

A person who is convicted for non-submission of income tax return for 2 YAs and above without reasonable excuse would be subject to the following upon conviction:

- Fine of RM1,000 to RM20,000 or imprisonment of not more than 6 months or both; and
- Special penalty equal to three times of the income tax payable based on the Director General's best judgement.

(Effective upon coming into operation of the Finance Act)

## ***Penalty for failure to furnish the correct particulars in the income tax return form***

Failure to furnish the correct particulars as requested in the income tax return form would on conviction, be subject to a fine of not less than RM 200 and not more than RM 20,000 or imprisonment for a term not exceeding six months or both.

(Effective upon coming into operation of the Finance Act)

## ***Electronic submission of tax estimates***

It is proposed that the estimate of tax payable and revised estimate of tax payable for a YA be furnished to the IRB on an electronic medium or by way of electronic transmission only.

(Effective from YA 2016)

## ***Assessment or reduced assessment on adjustment made on input tax paid or to be paid under the GST Act***

Where adjustment is made to the input tax paid or to be paid under the GST Act, the Director General may issue assessment or reduced assessment under ITA and PITA as appropriate.

The assessment or reduced assessment will be issued for the year of assessment to which the adjustment relates, or if such year cannot be ascertained, for the year of assessment in which the Director General discovers the adjustment.

(Effective from YA 2015)

# Goods and Services Tax



## ***Increase in scope of supplies not subject to GST***

The list of goods and services which are to be treated as zero rated supplies have been expanded in the 2016 Budget speech to include the following:

- (i) All types of controlled drugs under the Poisons List Group A, B, C and D under the Poisons Act 1952 which are registered by the Drug Control Authority;
- (ii) Over-the-counter Medicine registered by the Drug Control Authority with the Registration Number under suffix X and N;
- (iii) Three additional brands of drugs under the National Essential Medicines List classified as medical devices;
- (iv) Soybean-based milk and organic-based milk for infant and children;
- (v) Dahl (chickpeas, green and white beans etc);
- (vi) Water chestnut and lotus root;
- (vii) Mustard seeds;
- (viii) Jaggery powder; and
- (ix) Dried mee kolok.

(Effective from 1 January 2016)

## ***Rebate for prepaid-cards***

Malaysian customers using prepaid cards will receive a rebate equivalent to the amount of GST paid on their prepaid cards.

The rebates will be credited directly into the customer's prepaid accounts.

(Effective from 1 January 2016 to 31 December 2016)

## ***GST relief for teaching equipment***

Relief from the payment of GST will be granted on

teaching materials and equipment procured by skills and vocational training providers.

The training must be conducted through approved programmes under the National Skills Development Act 2006.

(Effective from 1 January 2016)

## ***GST relief for re-importation of goods***

Relief from the payment of GST will be provided for re-importation of goods exported temporarily for the following purposes:

- (i) promotion, research or exhibition; and
- (ii) rental and leasing of eligible equipment outside the country. Such eligible equipment include equipment used in the upstream oil and gas industry.

The requirement to maintain records will also be simplified.

(Effective from 1 January 2016)

## ***Approved Traders Scheme for MRO players***

Companies undertaking Maintenance, Repair and Overhaul (MRO) activities in the aerospace industry will now be allowed to apply for the Approved Trader Scheme.

(Effective from 1 January 2016)

## ***Economy class for domestic air transportation is exempted from GST***

The domestic air transportation for economy class passengers on Rural Air Services routes within and between Sabah, Sarawak and Labuan will be exempt from GST.

(Effective from 1 January 2016)

# Other taxes



## Stamp duty

### Shariah financing instruments

To further encourage Shariah financing and to reduce the cost of home ownership, the existing 20% stamp duty exemption on the principal or primary instrument of financing in accordance to the Shariah principles shall be extended for another 2 years.

(For housing financing instruments executed on or after 1 January 2016 but not later than 31 December 2017)

### Abandoned housing projects

To further encourage rescuing contractors to complete abandoned housing projects and reduce financial burden of affected house purchasers, the existing stamp duty exemption for the rescuing contractors and the original house purchasers of abandoned projects approved by Ministry of Housing and Local Government be extended for another 2 years as follows:

| Instruments                                       |   |
|---|---|
| Rescuing Contractors                              | <ul style="list-style-type: none"> <li>• Loan agreements to finance the completion of abandoned housing projects; and</li> <li>• Instruments of transfer of title for land and houses in abandoned housing projects.</li> </ul> |
| Original house purchaser in the abandoned project | <ul style="list-style-type: none"> <li>• Loan agreements for additional financing; and</li> <li>• Instruments of transfer of the house.</li> </ul>  |

(Effective from 1 January 2016 to 31 December 2017)

## Real Property Gains Tax (RPGT)

### Power of Director General of Inland Revenue (DGIR) to impose additional penalty

The DGIR is empowered to impose additional penalty in respect of additional RPGT payable in the case where the RPGT return has not been furnished by the disposer.

(Effective when the Finance Act comes into operation)

### Exemption for partial disposal

An amendment is made to the formula to calculate the exemption for partial disposals as the greater of:

- a portion of the exemption of RM10,000 computed proportionately to the part of the chargeable asset disposed of; or
- 10% of the chargeable gain.

(Effective when the Finance Act comes into operation)

## Petroleum (Income Tax) Act 1967 (PITA)

Where the taxpayer fails to furnish information in respect of a deduction claimed within the time specified in a notice by the Director General, the deduction shall be disallowed. This proposal is to align the PITA to the ITA.

(Effective from YA 2016)

## *The Academy brings to you...*

### **Building resilience PwC Budget Seminar 2015**

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## Let's talk

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