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TaXavvy

Budget 2018 Edition (Part II)

31 October 2017



Welcome to our *TaXavvy Budget 2018 Edition* which brings to you the key tax proposals of Budget 2018



This TaXavy edition is prepared based on the
Finance (No. 2) Bill 2017.



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Corporate tax



Removal of Thin Capitalisation Rules (TCR)

TCR was introduced during the 2009 Budget but its implementation has been deferred to take effect from 1 January 2018.

With the proposed implementation of the Earning Stripping Rules to replace TCR with effect from 1 January 2019, it is proposed that the current provisions in Section 140A of the Income Tax Act relating to thin capitalisation for financial assistance between associated persons to be removed.

(Effective from 1 January 2018)

Takaful business - Extension of scope of deductible management expenses

It is proposed that the scope of management expenses which are deductible for tax purposes be extended to the following:-

- (i) Any other fee receivable by the Shareholders' Fund from the General Takaful Fund, and
- (ii) Any other fee receivable by an investment fund from the Family Takaful Fund.

The amount of deductible management expenses is computed based on a prescribed formula.

(Effective from year of assessment 2018)

Notification to the Director General (DG) on the Change of Accounting Period and Penalty for Non-Compliance

It is proposed that a company, limited liability partnership, trust body or co-operative society shall notify the DG in the prescribed form on the change of accounting period by the prescribed due date -

Accounting period of new accounts	Due date to notify the DG on the change of accounting period
Less than 12 months	• 30 days before the end of the new accounting period
More than 12 months	• 30 days before the end of the old accounting period

Where the taxpayer fails to notify the DG on the change in accounting period by the prescribed due date, it is proposed that -

- any penalty for late filing of tax return that had been imposed based on the old accounting period; and
- any penalty for unpaid tax instalments or failure to furnish an estimate of tax payable that had been imposed,

shall be recoverable as if it were tax due and payable to the Government or under the Act.

(Effective from year of assessment 2019)



Residual Expenditure (RE) for Asset Classified as Held for Sale (HFS)

When an asset is classified as HFS in accordance with generally accepted accounting principles in the basis period for a year of assessment, the asset is deemed disposed under the Income Tax Act 1967 (the Act) in the following basis period. This applies to both situations where the asset is sold and where the asset is not sold in the following basis period.

Upon disposal or deemed disposal of the asset, balancing charge or balancing allowance has to be computed as the difference between the disposal value and RE as prescribed under the Act.

Current treatment	Proposed treatment
<p>In determining the RE of the asset classified as HFS for purposes of computing the balancing charge or balancing allowance in the following scenarios:–</p> <p>(a) Asset is sold or; (b) Asset is not sold</p> <p>in the basis period following the basis period for a year of assessment in which the asset is classified as HFS</p>	<p>The total qualifying expenditure (QE) incurred shall be reduced by –</p> <ul style="list-style-type: none">• An amount of annual allowance (AA) which would have been made for that following basis period as if the asset had been in use in that following basis period for the purpose of business.
	<p>The total QE incurred shall be reduced by –</p> <ul style="list-style-type: none">(a) Any initial allowance (IA) made in relation to that asset for any year of assessment;(b) Any AA made in relation to that asset for any year of assessment; and(c) An amount of AA which would have been made for the basis period in which the asset was classified as HFS as if the asset had been in use in that basis period for the purpose of a business.

(Effective upon coming into operation of the Finance Act)

Real property gains tax



Revised treatments involving non-citizens and non-permanent residents

	Current treatment	Proposed treatment
<ul style="list-style-type: none">Duty of acquirer to retain part of purchase consideration and pay the amount retained to the Inland Revenue Board (IRB)	Where the purchase consideration consists wholly or partly of money, the acquirer is required to retain either the whole of the money or 3% of the purchase consideration, whichever is lesser, and pay the amount retained to the IRB.	In cases involving acquisition of real property from a person who is not a citizen and not a permanent resident, the retention sum is either the whole of the money or 7% of the purchase consideration, whichever is lesser. (Effective from 1 January 2018)
<ul style="list-style-type: none">Transfer of assets between spouses; orTransfer of assets owned by an individual, by his wife or by an individual jointly with his wife or with a connected person to a company which is controlled by such individual, by his wife, jointly with his wife, or jointly with a connected person. The consideration of the transfer is $\geq 75\%$ shares of such company	<p>The disposer's actual disposal price is disregarded in computing the gain/loss from such disposals for real property gains tax purposes.</p> <p>The actual disposal price is deemed to be equal to its acquisition price. The disposer is deemed to accrue no gain and suffer no loss on the disposal.</p>	<p>The current treatment shall continue to apply only to disposal of real property owned by a citizen.</p> <p>Where the property is not owned by a citizen, the actual disposal price will be reinstated in the computation of gain/loss from such disposal.</p> (Effective from 1 January 2018)
<ul style="list-style-type: none">Real property gains tax rates	<p>The real property gains tax rates applicable to gains arising from disposal of real property by non-citizens and non-permanent residents are as follows:</p> <ul style="list-style-type: none">Disposal within 5 years – 30%Disposal after 5 years – 5%	<p>The real property gains tax rate applicable to non-citizens and non-permanent residents are to be extended to an executor of the estate of a deceased person who is not a citizen and not a permanent resident.</p> (Effective from 1 January 2018)

Real property gains tax



Conditional contracts

	Current treatment	Proposed treatment
<ul style="list-style-type: none">• Date of disposal where the disposal is conditional	<ul style="list-style-type: none">a) The date of disposal is the date of signing the contract; orb) If the disposal requires approval by the Government or State Government or an authority or committee appointed by the Government or State Government, the date of disposal shall be on the date where such approval is secured; or where the approval is conditional, on the date where all the conditions to such approvals are satisfied.	<p>The current treatment under (b) shall continue to apply only to approvals required from the Government or State Government and shall cease to apply to approvals required from an authority or committee appointed by the Government or State Government.</p> <p>(with effect from 1 January 2018)</p>

Goods and Services Tax



Contributions to Human Resources Development Fund

Payment of human resources development levy under the Pembangunan Sumber Manusia Berhad Act 2001 by an employer is neither a supply of goods or a supply of services.

(Effective date to be *Gazetted* by the Minister of Finance)

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