



Malaysian Budget 2010

The Budget 2010 is set to drive the nation towards embracing a high-income economy by raising private equity, invigorating the stock market and further developing Islamic finance while emphasising on micro-credit programme.

Contents	
1	Individual Tax
2	Corporate Tax
7	Stamp Duty, Indirect Tax & Others

With the theme **1MALAYSIA, TOGETHER WE PROSPER**, Budget 2010 focuses on three strategies:

- First: Driving the Nation towards a High-Income Economy;
- Second: Ensuring Holistic and Sustainable Development; and
- Third: Focusing on well-being of the *Rakyat*.

INDIVIDUAL TAX

1. Tax relief on broadband subscription fees

It is proposed that individual tax payers be given tax relief on broadband subscription fees up to RM500 per year.

Effective date: Y/A 2010 until Y/A 2012

2. Review of individual and co-operative income tax

It is proposed that the resident individual income tax be reviewed as follows:

- i. personal relief be increased from RM8,000 to RM9,000; and
- ii. tax rate for chargeable income group exceeding RM100,000 be reduced by 1 percentage point from 27% to 26%.

It is also proposed that the existing personal tax relief of RM6,000 on contribution to Employees Provident Fund and on life insurance premium be increased to RM7,000. The increased relief amount of RM1,000 is given solely on annuity scheme premium from insurance companies commencing payment from 1 January 2010. The increased relief amount is also applicable to additional premium paid on existing annuity scheme commencing payment from 1 January 2010.

It is further proposed that:

- i. the tax rate for non-resident individuals be reduced by 1 percentage point from 27% to 26%; and



- ii. the co-operative income tax rate for chargeable income group exceeding RM500,000 be reduced by 1 percentage point from 27% to 26%.

Effective date: Y/A 2010 onwards

CORPORATE TAX

1. Tax incentives for small and medium enterprises to register patents and trademarks

To promote innovation and intellectual property development among small and medium enterprises (SME), it is proposed that expenses incurred in the registration of patents and trademarks in the country be allowed as a deduction for the purpose of income tax computation.

Such registration expenses include fees or payment made to patent and trademark agents registered under the Patents Act 1983 and the Trade Marks Act 1976.

The definitions of SME for the purpose of this tax incentive are as follows:

- i. **Companies as defined under paragraph 2A and 2B, Schedule 1, Income Tax Act 1967.**

Paragraph 2A

Subject to paragraphs 2B, 2C and 3, income tax shall be charged for a year of assessment on the chargeable income of a company resident in Malaysia which has a paid-up capital in respect of ordinary shares of RM2.5 million and less at the beginning of the basis period for a year of assessment at the following rates:

Chargeable income	RM	Rate of income tax
For every ringgit of the first	500,000	20%
For every ringgit exceeding	500,000	25%

Paragraph 2B

The provisions of paragraph 2A shall not apply to a company referred to in that paragraph if more than -

- (a) 50% of the paid up capital in respect of ordinary shares of the company is directly or indirectly owned by a related company;
- (b) 50% of the paid up capital in respect of ordinary shares of the related company is directly or indirectly owned by the first mentioned company; or
- (c) 50% of the paid up capital in respect of ordinary shares of the first mentioned company and the related company is directly or indirectly owned by another company.

Paragraph 2C

For the purpose of paragraph 2B, “related company” means a company which has a paid up capital in respect of ordinary shares of more than RM2.5 million at the beginning of the basis period for a year of assessment.

- ii. **Manufacturing Industries, Manufacturing Related Services Industries and Agro-Based Industries**

- enterprises with full-time employees not exceeding 150 persons, or with annual sales turnover not exceeding RM25 million.

- iii. **Services Industries, Primary Agriculture and Information & Communication Technology (ICT)**

- enterprises with full time employees not exceeding 50 persons, or with annual sales turnover not exceeding RM5 million.

Effective date: Y/A 2010 to Y/A 2014

2. Enhancing tax incentives for health tourism

Currently, healthcare service providers who offer services to foreign clients in and from Malaysia are given tax exemption on statutory income to the amount of 50% of the value of increased exports. Export income is income derived in providing health care services to foreign clients as follows:

- i. a company, a partnership, an organization or a cooperative society incorporated or registered outside Malaysia; or
- ii. non-Malaysian citizens who do not hold Malaysian work permits; or
- iii. Malaysian citizens who are non-residents living abroad.

It is proposed that the tax incentive given to healthcare service providers offering services to foreign clients in Malaysia now be enhanced. The exemption rate of 50% on the value of increased export to be increased to 100% subject to 70% of the statutory income for each year of assessment.

For the purpose of this incentive, foreign clients exclude:

- i. a non-Malaysian citizen that participates in Malaysia *My Second Home Programme* and his dependants;
- ii. a non-Malaysian citizen holding a Malaysian student pass and his dependants;
- iii. a non-Malaysian citizen holding a Malaysian work permit and his dependants; or
- iv. Malaysian citizen who are non-residents living abroad and his dependants.

However, healthcare services offered to such foreign clients as mentioned above continue to enjoy the existing incentives.

Effective date: Y/A 2010 to Y/A 2014

3. Tax incentives for buildings obtaining Green Building Index certificate

Currently, tax incentives are given to companies to generate energy from renewable sources and also for energy conservation activities. In order to widen the usage of green technology, the Government has launched the Green Building Index (GBI) on 21 May 2009. GBI is a green rating index on environment-friendly buildings. The index is based on certain criteria amongst which are:

- i. energy and water efficiency;
- ii. indoor environmental quality;
- iii. sustainable management and planning of building sites in respect of pollution control and facilities for workers;
- iv. usage of recyclable and environment friendly materials and resources; and
- v. adoption of new technologies.

To encourage the construction of buildings using green technology, it is proposed that:

- i. owners of buildings awarded the GBI certificate be given tax exemption equivalent to 100% of the additional capital expenditure incurred to obtain the GBI certificate. The exemption is allowed to be set-off against 100% of the statutory income for each year of assessment. The incentive is applicable for new buildings and upgrading of existing buildings.

The incentive is given only for the first GBI certificate issued in respect of the building.

The proposal is effective for buildings awarded with GBI certificates from 24 October 2009 until 31 December 2014.

- ii. buyers of buildings and residential properties awarded GBI certificates bought from real property developers are eligible for stamp duty exemption on instruments of transfer of ownership of such buildings.

The amount of stamp duty exemption is on the additional cost incurred to obtain the GBI certificate. The incentive is given only once to the first owner of the building.

The proposal is effective for sales and purchase agreements executed from 24 October 2009 until 31 December 2014.

4. Extension and expansion of tax incentives for export of financial services

In the Budget 2007, banking institutions are given tax exemption on:

- i. profits of newly established branches overseas; or
- ii. income remitted by new overseas subsidiaries.



Will the **Budget 2010** promote substantial growth



The incentives are subject to the following conditions:

- i. applications to establish new branches or subsidiaries overseas must be submitted to Bank Negara Malaysia from 2 September 2006 until 31 December 2009; and
- ii. the branches or subsidiaries have to commence operations within a period of 2 years from the date of approval by Bank Negara Malaysia.

The tax exemption is given for a period of 5 years from the commencement of operations of the branches or subsidiaries.

To further promote the export of services of the banking, insurance and *takaful* sectors, it is proposed that:

- i. the tax incentives given to banks be extended to insurance companies and *takaful* companies;
- ii. the effective period for the 5-year tax exemption be given flexibility to be deferred from the date of commencement of operations to begin not later than the third year of operations; and
- iii. the incentive is extended on condition that applications to establish new branches or subsidiaries overseas be received by Bank Negara Malaysia not later than 31 December 2015.

5. Extension of tax incentive period to promote Malaysia as an International Islamic Financial Centre

Currently, expenses incurred in the promotion of Malaysia as an International Islamic Financial Centre (MIFC) are given double deduction incentive for the purpose of income tax computation. The incentive is given for 3 years from year of assessment 2008 until year of assessment 2010. The expenses allowed as deduction are:

- i. market research and feasibility study;
- ii. preparation of technical information relating to type of services offered;
- iii. participation in an event to promote MIFC;
- iv. maintenance of sales office overseas; and
- v. publicity and advertisement in any media outside Malaysia.

These expenses are to be verified by the MIFC Secretariat.

To ensure that Malaysia advances significantly in the development of Islamic financial services, it is proposed that the double deduction incentive given on expenses to promote Malaysia as MIFC be extended until the year of assessment 2015.

6. Extending tax incentive on expenditure to establish Islamic Stock Broking companies

Currently, expenditure incurred prior to the commencement of an Islamic stock broking company is given an incentive in the form of a deduction for the purpose of income tax computation subject to the condition that the company must commence its business within a period of 2 years from the date of approval by the Securities Commission. The incentive is effective for applications received by the Securities Commission from 2 September 2006 until 31 December 2009.

To further encourage the establishment of Islamic stock broking companies, it is proposed that the incentive in the form of a deduction for the purpose of income tax computation be extended for applications received by the Securities Commission to establish Islamic stock broking companies until 31 December 2015.



and **lead us out** of the economic turmoil?

7. Extension and expansion of tax incentives on the issuance of Islamic securities

It is proposed that:

- i. the incentive in the form of deduction for the purpose of income tax computation given on expenses incurred on the issuance of Islamic securities approved by Securities Commission be extended until the year of assessment 2015; and
- ii. the same incentive be extended to Islamic securities approved by Labuan Offshore Financial Services Authority effective from year of assessment 2010 to 2015.

8. Standardizing tax treatment for special purpose vehicle

Currently, tax treatment for special purpose vehicle (SPV) established under the Companies Act 1965 solely to channel funds for the purpose of issuance of Islamic securities approved by the Securities Commission are as follows:

- i. the SPV is not subject to income tax and is not required to comply with administrative procedures under the Income Act 1967; and
- ii. income received and the cost incurred in the issuance of Islamic securities by the SPV are deemed as income and cost of the company establishing the SPV. Therefore, the company establishing the SPV is subject to tax on that income and given deduction on such cost incurred.

A similar SPV established under the Offshore Companies Act 1990 and which elects to be taxed under the Income Tax Act 1967 is not accorded the same tax treatment.

It is proposed that the tax treatment in (i) and (ii) above be also given to SPV established under the Offshore Companies Act 1990 electing to be taxed under the Income Tax Act 1967.

Effective date: Y/A 2010

9. Extending tax exemption on profits from non-ringgit sukuk

Profits from non-Ringgit sukuk approved by the Securities Commission and issued in Malaysia are given tax exemption from the year of assessment 2008. The exemption does not cover profits from sukuk approved by Labuan Offshore Financial Services Authority.

It is proposed that tax exemption on profits derived from the issuance of sukuk approved by the Securities Commission be extended to the issuance of sukuk approved by Labuan Offshore Financial Services Authority.

Effective date : Y/A 2010

10. Expediting investment for selected activities

Currently,

A. Forest Plantation

- i. investor company:
 - a. the company which invests in its subsidiary company engaged in forest plantation activities is granted tax deduction equivalent to the amount of investment made in that subsidiary; or
 - b. the company which invests in its subsidiary company engaged in forest plantation activities is granted group relief on losses incurred by its subsidiary company before it records any profit.

- ii. subsidiary company undertaking forest plantation activities:
 - a. the subsidiary company undertaking forest plantation activities is granted income tax exemption of 100% on its statutory income for 10 years commencing from the first year the company derive profits;
 - b. an existing forest plantation company that reinvest for purposes of expansion of the forest plantation project is granted income tax exemption of 100% on its statutory income for 5 years commencing from the first year the company derive profits.

This incentive is effective for applications received from 21 May 2003.

B. Consolidation of The Management of Smallholdings and Idle Land

- i. a company or individual or partnership or a cooperative society that invest in a wholly owned subsidiary company involved in the consolidation of management of smallholdings or idle land is allowed a deduction equivalent to the amount of investment;
- ii. a company or individual or partnership or a cooperative society undertaking the consolidation of management of smallholdings or idle land is given tax exemption of 100% of statutory income for a period of 5 years; and
- iii. a wholly-owned subsidiary company undertaking the consolidation of management of smallholdings or idle land is exempted from service tax.

Incentive (i) and (ii) are given for applications received from 21 September 2002 and incentive (iii) is effective from 1 January 2003.



C. Knowledge Based Economy

- i. companies participating in a strategic knowledge intensive activity is granted 'strategic knowledge based company' status and eligible for the following incentives:
 - a. Pioneer Status with income tax exemption of 100% of statutory income within a period of 5 years; or
 - b. Investment Tax Allowance of 60% on the qualifying capital expenditure incurred within a period 5 years. The allowance to be set-off against 100% of statutory income for each year of assessment.
- ii. Expenditure incurred by a company for drafting the individual corporate knowledge based master plan is allowed as a deduction in the computation of income tax.

The deduction is claimed when the company begins to implement the corporate knowledge based master plan.

Incentive (i) is given for applications received from 21 September 2002 and incentive (ii) is effective from year of assessment 2003.

It is proposed that incentives (A), (B) and (C) be imposed an effective period. To qualify for the incentives, the applications must be received not later than 31 December 2011.

11. Submission of tax estimate

Where a company upon commencement of operation, has a basis period for a year of assessment of less than six months is not required to furnish estimate or make instalment payments for that year.

In the case where a company, trust body or co-operative society fails to furnish an estimate under section 107C and no direction is issued by the Director General under that section in a year of assessment but there is a tax payable by that person for that year, the amount of tax payable will be increased by an amount equal to 10 per cent of such tax.

Effective date: Y/A 2011 and subsequent years of assessment

STAMP DUTY, INDIRECT TAX & OTHERS

1. Extension of stamp duty exemption on instruments of Islamic financing

Instruments of Islamic financing approved by the Syariah Advisory Council of Bank Negara Malaysia or the Syariah Advisory Council of the Securities Commission are given additional stamp duty exemption of 20%. The additional exemption is given after ensuring tax neutrality between conventional and Islamic financing. The exemption is given on instruments executed from 2 September 2006 until 31 December 2009.

It is proposed that the same exemption be extended to instruments executed until 31 December 2015.

2. Standardization of tax assessment system for upstream petroleum companies

Currently, upstream petroleum companies are subject to income tax under the Petroleum (Income Tax) Act 1967, whilst downstream petroleum companies are subject to tax under the Income Tax Act 1967. The Petroleum (Income Tax) Act 1967 uses:

- i. the preceding year assessment system where tax assessed in the current year is based on income received in the preceding year; and
- ii. official assessment system undertaken by the Inland Revenue Board.

It is proposed that the assessment system on income derived from upstream petroleum companies under the Petroleum (Income Tax) Act 1967 be changed to the:

- i. current year assessment system; and
- ii. self assessment system.

It is further proposed that income tax for YA 2010 based on income received in 2009 be allowed to be paid by installments for 5 years.

Effective date: Y/A 2010

3. Tax on the disposal of real property

Currently, gain from the disposal of real property has been exempted from Real Property Gains Tax effective 1 April 2007.

It is proposed that tax at a fixed rate of 5% be imposed on gains from the disposal of real property with collection mechanism and exemptions as follows:

- i. tax is collected through a withholding mechanism whereby the purchaser withholds 2% of the purchase value and pays to the Inland Revenue Board;
- ii. exemption up to RM 10,000 or 10% of the gains, whichever is higher be given to individuals; and
- iii. existing exemptions under the Real Property Gains Tax Act 1976 are retained:
 - a. gifts between parent and child, husband and wife, grandparent and grandchild; and
 - b. disposal of a residential property once in a lifetime for an individual who is a citizen or permanent resident of Malaysia.

Effective date: 1 January 2010

4. Service tax on credit cards and charge cards

It is proposed that service tax be imposed on credit cards and charge cards including those issued free of charge as follows:

- i. RM50 per year on the principal card; and
- ii. RM25 per year on the supplementary card.

Service tax will be collected on the date the card is issued, on the completion of each year or on the date of renewal.

Effective date: 1 January 2010

5. Tax incentive for knowledge workers in Iskandar Malaysia

It is proposed that employment income of Malaysian and foreign knowledge workers (approved by the Minister of Finance) residing in Iskandar Malaysia and working in qualifying activities be taxed at 15% indefinitely.



Did the **Budget 2010** measure up to your expectations?

The qualifying activities are as follows:

- i. green technology;
- ii. biotechnology;
- iii. educational services;
- iv. healthcare services;
- v. creative industries;
- vi. financial advisory and consulting services;
- vii. logistics services; and
- viii. tourism.

The incentive is for knowledge workers who apply and commence employment in Iskandar Malaysia between 24 October 2009 and 31 December 2015.

6. EPF contribution

As part of the First Stimulus Package, the Government allowed employees to reduce their EPF contribution voluntarily from 11% to 8% for 2 years effective from 1 January 2009. With the expected economic recovery, employees' contribution to EPF will be increased again to 11% on a voluntary basis, effective immediately.

However, from 1 January 2011, employees EPF contribution will revert to 11%.

7. Filing of return by employer

i. Filing of return by employer

Every employer must furnish the return (Form E) of its employees' employment income no later than 31 March for each year. In addition, the employer must also prepare and deliver to his employee a statement of remuneration on or before the last day of February each year.

Effective date: 31 December 2009 and subsequent years

ii. Failure to furnish return by employer

Any person who, without reasonable excuse fails to submit the return by employer as well as prepare and deliver the statement of remuneration shall be guilty of an offence and upon conviction, be liable to a fine ranging from RM200 to RM2,000 or to imprisonment for a term not exceeding six months or both.

8. Goods and Services Tax

The Government is currently at the final stage of completing the study on the implementation of goods and services tax (GST). The purpose of this study is to ensure that if GST needs to be implemented to stabilise Government finance, it will not burden the *rakyat*. If the Government implements GST, it will replace the current sales tax and service tax as well as exemption will be granted to the low-income group.

The GST rate to be imposed will be lower than the current sales tax and service tax rates.

SJ Grant Thornton

Grant Thornton Adviser is published as a service to our clients, associates and other interested parties. Please be advised that the information contained herein is for general guidance only. Any reader intending to base a decision on information contained in this publication is advised to consult us before proceeding.

© 2009 SJ Grant Thornton
Malaysian Member of Grant Thornton International Ltd

www.gt.com.my

For any tax-related enquiries, please contact your local Grant Thornton office.

KUALA LUMPUR

Ms Seah Siew Yun
Mr Murugan Anbanantham
Level 11, Faber Imperial Court
Jalan Sultan Ismail
P.O.Box 12337
50774 Kuala Lumpur

T (603) 2692 4022
F (603) 2721 2588
E sjgt@gt.com.my

PENANG

Ms Gwendolyn Lau
51-8-A, Menara BHL Bank
Jalan Sultan Ahmad Shah
10500 Penang

T (604) 228 7828
F (604) 227 9828
E info@sjgt-pg.com.my

KUANTAN

Ms Han Siew Bueh
A-105A, 1st Floor
Sri Dagangan
Jalan Tun Ismail
25000 Kuantan
Pahang

T (609) 515 6124
F (609) 515 6126
E info@sjgt-ktn.com.my

JOHOR BAHRU

En Fadzlee Sani
Unit 29-08, Level 29
Mailbox 227
Menara Landmark
12 Jalan Ngee Heng
80000 Johor Bahru, Johor

T (607) 223 1848
F (607) 224 9848
E info@sjgt-jb.com.my