



Malaysian Budget 2009

Contending with slowing global and local economies and inflationary pressures, Budget 2009 has complemented to lowering business costs and improving economic efficiency with the following measures in place . . .

Contents

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

INDIVIDUAL TAX

1. Review of individual and co-operative income tax

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

- i. tax rebate for chargeable income up to RM35,000 be increased from RM350 to RM400;
- ii. tax rate for chargeable income exceeding RM35,000 to RM50,000 be reduced by 1 percent from 13% to 12%; and
- iii. tax rate for chargeable income exceeding RM250,000 be reduced by 1 percent from 28% to 27%.

As for non-resident individuals and co-operative, it is reviewed as follows:

- i. the tax rate for non-resident individuals be reduced by 1 percent from 28% to 27%; and
- ii. the co-operative income tax rates be reduced as follows:

- a. tax rate for chargeable income group exceeding RM20,000 to RM30,000 be reduced by 1 percent from 3% to 2%; and
- b. tax rate for chargeable income group exceeding RM500,000 be reduced by 1 percent from 28% to 27%.

Effective date: Y/A 2009

2. Tax exemption on interest from deposits

To increase the disposable income especially of those who depend on income from savings, it is proposed that tax on interest income received by individuals from monies deposited in all approved institutions be fully exempted.

Effective date: 30 August 2008

3. Review of income tax treatment on allowances, benefits in kind and perquisites

To encourage employers to provide more benefits to their employees and to assist in reducing cost of living, it is proposed that employees be given



further tax exemption on allowances, benefits in kind and perquisites received from employers as follows:

- i. petrol card or petrol allowance or travel allowance between the home and work place up to RM2,400 a year;
- ii. petrol card or petrol allowance or travel allowance and toll card for official duties up to RM6,000 a year;
- iii. allowance or fees for parking;
- iv. meal allowance;
- v. allowance or subsidies for childcare of up to RM2,400 a year;
- vi. telephone and mobile phone, telephone bills, pager, personal data assistant (PDA) and internet subscription;
- vii. employers' own goods provided free of charge or at discounted value where the value of the discount does not exceed RM1,000 a year;
- viii. employers' own services provided free or at a discount provided such benefits are not transferable;
- ix. subsidies on interest on loans totaling up to RM300,000 for housing, passenger motor vehicles and education. The exemption be given to existing and new loans;
- x. medical benefits exempted from tax be extended to include expenses on maternity and traditional medicines such as ayurvedic and acupuncture; and
- xi. existing perquisites be extended to awards related to innovation, productivity and efficiency such as the Six Sigma Award and the exemption be increased from RM1,000 to RM2,000 a year.

The above exemptions are not extended to directors of controlled companies, sole proprietors and partnerships.

Expenses on allowance, benefits in kind and perquisites provided by employers be given full deduction even though such benefits are not stipulated in the service contract of the employee.

Effective date: Y/A 2008 except for proposal (i) which is effective from Y/A 2008 to Y/A 2010

4. Tax treatment on clubs

To enhance transparency in tax treatment of clubs, it is proposed that specific provisions be introduced in the Income Tax Act 1967 as follows:

- i. income derived from transactions with members is not subject to tax while income derived from transactions with non-members be subject to tax;
- ii. income from investment and external sources being non-mutual receipts be subject to tax; and
- iii. deduction be only allowed on expenses incurred in the production of chargeable income and limited only on the portion attributable to non-members.

This tax treatment be also applicable to institutions similar to clubs. Effective date: Y/A 2009

5. Tax treatment on professional associations

To enhance transparency in tax treatment of professional associations, it is proposed that professional associations be incorporated in the definition of trade associations.

Effective date: Y/A 2009

6. Tax treatment on bonus and directors' fees

Currently, income tax on bonus and directors' fees is based on the year such incomes are receivable.

In line with Self Assessment System, it is proposed that bonus and directors' fees be taxed in the year such incomes are received.

Effective date: Y/A 2009

CORPORATE TAX

1. Enhancing tax incentives for rearing of chicken and ducks using closed house system

It is proposed that chicken and duck rearers who reinvest to expand the closed house system in existing or new locations be given the following incentives:

- i. projects located in the promoted areas be given RA of 60% on qualifying capital expenditure. The allowance is to be set-off against 100% of the statutory income for each year of assessment; and
- ii. projects located outside the promoted areas be given RA of 60% on qualifying capital expenditure. The allowance is to be set-off against 70% of the statutory income for each year of assessment.

These incentives are given to chicken and duck rearers using closed house system approved by the Ministry of Agriculture and Agro-Based Industry.

Effective date: Y/A 2009 to Y/A 2010

2. Extending the scope of tax deduction on community projects

It is proposed that the scope of charitable and community projects eligible for deduction for the purpose of tax computation be extended to include projects related to increase the income of the poor as well as for the conservation or preservation of the environment.

Effective date: Y/A 2009

3. Increasing the limit for tax deduction on contributions

In order to encourage companies to increase their contributions for charitable purposes, sports activities and projects of national interest, it is proposed that the limit for tax deduction for purpose of tax computation be increased from 7% to 10% of aggregate income.

The proposal is not extended to companies under the Petroleum (Income Tax) Act 1967.

Effective date: Y/A 2009

4. Deduction on expenses for recruitment of workers

It is proposed that the recruitment cost incurred before the commencement of operations be allowed as a deduction for the purpose of tax computation. Such cost includes expenses incurred in participation in job fairs, payment to employment agencies and head-hunters.

Effective date: Y/A 2009

5. Tax incentives to enhance training in selected fields

Currently, expenses incurred for the training of employees at approved training institutions are eligible for double deduction.

It is proposed that:

- A. double deduction be given on expenses incurred by employers in training their employees in the following fields:
 - i. post graduate courses in information communication and technology (ICT), electronics and life sciences;
 - ii. post basic courses in nursing and allied health care; and
 - iii. aircraft maintenance engineering courses.

Effective date: Y/A 2009 to Y/A 2012

- B. withholding tax exemption be given to non-resident experts on income received by providing technical training services in the above fields.

Effective date: 30 August 2008 until 31 December 2012

6. Enhancing group relief

It is proposed that the rate of current year losses allowed to be set-off in group relief treatment be increased from 50% to 70%.

Effective date: Y/A 2009

7. Tax incentive to enhance the use of ICT

It is proposed that the period to claim Accelerated Capital Allowance on expenses incurred on ICT equipment including computer and software be accelerated from 2 years to 1 year.

Effective date: Y/A 2009 to Y/A 2013

8. Implementation of advance pricing arrangement

Currently, Advance Pricing Arrangement (APA) is not included in the scope of Advance Rulings under the Income Tax (Advance Ruling) Rules 2007 which came into effect on 1 January 2007.

It is proposed that companies be allowed to apply for APAs to the Director General of Inland Revenue (DGIR) to determine transaction prices for income tax purposes.

Effective date: 1 January 2009

9. Enhancing tax incentives for hotels in Sabah and Sarawak

To support the development of the Corridors in Sabah and Sarawak, it is proposed that hotel operators undertaking new investments in 4 and 5 star hotel in Sabah and Sarawak be given Pioneer Status or Investment Tax Allowance incentives as above.

The proposal is effective for applications received by MIDA from 30 August 2008 to 31 December 2013.

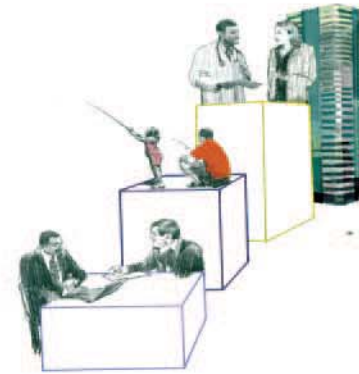
10. Stimulating the development of venture capital industry

Currently, one of the tax incentives for venture capital companies (VCC) is income tax exemption for 10 years subject to the investment condition as follows:

- i. at least 50% of funds invested in venture companies must be in seed capital; or
- ii. at least 70% of funds invested in venture companies must be in start-up or early stage financing.



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It is proposed that VCC investing in venture companies with at least 30% of its funds in seed capital, start-up or early stage financing be given income tax exemption for 5 years.

The proposal is effective for applications received by the Securities Commission from 30 August 2008 until 31 December 2013.

11. Tax incentives for small and medium enterprises (SMEs)

In order to improve the cash flow and enhance the competitiveness of the SMEs by increasing their investment in modern and sophisticated machinery and equipment, it is proposed that:

- i. SMEs be given Accelerated Capital Allowance on expenses incurred on plant and machinery acquired in year of assessment 2009 and 2010. The allowance is to be claimed within 1 year that is in the year of assessment the asset is fully acquired; and
- ii. SMEs be not subject to the maximum limit of RM10,000 for capital allowance on small value assets.

For the purpose of imposition of income tax and tax incentives, the definition of SMEs is reviewed as a company resident in Malaysia with a paid up capital of ordinary shares of RM2.5 million or less at the beginning of the basis period of a year of assessment whereby such company cannot be controlled by another company with a paid up capital exceeding RM2.5 million.

Proposal (i) is effective for Y/A 2009 and Y/A 2010 whilst proposal (ii) is effective from Y/A 2009.

12. Incentives for listing of foreign companies and foreign products in Bursa Malaysia

To reduce cost of corporate advisors to attract foreign companies and foreign product listings in Bursa Malaysia, it is proposed that income tax exemption be given on fees received by corporate advisors for primary listing, dual listing or cross listings of:

- i. corporations with predominantly foreign based operations;
- ii. Exchange Traded Funds and Real Estate Investment Trusts with foreign based assets;
- iii. Foreign listed securities; and
- iv. Foreign financial instruments.

The proposal is subject to listing conditions approved by the Securities Commission.

Effective date: Y/A 2009 to Y/A 2013

13. Tax exemption on income of corporate advisors on the issuance and trading of sukuk

It is proposed that income tax exemption be given on:

- i. fees earned by qualified institutions in undertaking activities related to the arranging, underwriting and distributing of non-ringgit sukuk issued in Malaysia and distributed outside Malaysia; and
- ii. profits received by qualified institutions from the trading of non-ringgit sukuk issued in Malaysia.

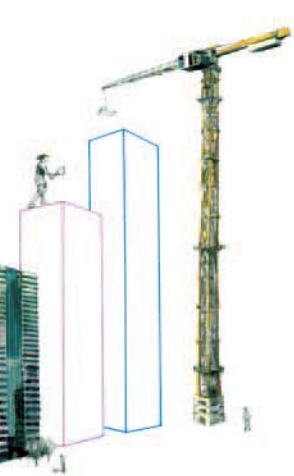
These incentives are subject to the condition that such sukuk and institutions are approved by the Securities Commission.

Effective date: Y/A 2009 to Y/A 2011

14. Review of incentives for Real Estate Investment Trusts (REITs)

Currently, among the tax incentives given to REITs are as follows:

- i. foreign institutional investors especially pension funds and collective investment funds receiving income from REITs listed in Bursa Malaysia are subject to a final withholding tax rate of 20% for 5 years; and



... or were there any unexpected leaps?

- ii. non-corporate investors including resident and non-resident individuals as well as other local entities receiving income from REITs listed in Bursa Malaysia are subject to a final withholding tax of 15% for 5 years.

It is proposed that the final withholding tax rate imposed on foreign institutional investors be reduced to 10%. In addition, recognizing that REITs is an attractive investment product for individuals, it is proposed that the withholding tax rate on non-corporate investors including individual residents and non-residents be reduced to 10%.

Effective date: 1 January 2009 until 31 December 2011

15. Extend tax incentive to enhance security control

To support the efforts of companies to enhance the security of their businesses, it is proposed that Accelerated Capital Allowance on security control equipment be extended to all business premises. Security control equipment eligible for the allowance are:

- i. anti-theft alarm system;
- ii. infra-red motion detection system;
- iii. siren;
- iv. access control system;
- v. closed circuit television;
- vi. video surveillance system;
- vii. security camera;
- viii. wireless camera transmitter; and
- ix. time lapse recording and video motion detection equipment.

Effective date: Y/A 2009 to Y/A 2012

16. Provision to determine and collect tax on other incomes of non-residents

To enhance transparency, equity and effectiveness of the tax system, it is proposed that provisions to determine the tax liability of non-residents be established as follows:

- i. if responsibility for the payment of gains or profits lies with the Federal Government, State Government or local authorities; or
- ii. if responsibility for the payment of gains or profits lies with the resident; or
- iii. if such payment is charged as an outgoing or expenses in the accounts of a business carried on in Malaysia.

The income under Section 4(f) Income Tax Act 1967 is taxed at a rate of 10% from the gross income. The collection of tax from the income of non-residents be implemented under the withholding tax mechanism.

Effective date: 1 January 2009

17. Review of Reinvestment Allowance

It is proposed that the criteria and conditions of Reinvestment Allowance (RA) incentive be amended as follows:

- i. manufacturing activity be given a more specific and clear definition under Schedule 7A, Income Tax Act 1967;
- ii. the condition that a company must be in operation for at least 12 months to be eligible to claim RA be extended to at least 36 months;
- iii. a company purchasing an asset from a related company within the same group where RA has been claimed on that asset is not allowed to claim RA on the same asset; and
- iv. the provision to clawback RA for assets disposed off within a period of 2 years from the date of purchase of the asset be extended to 5 years.

Effective date: Y/A 2009

18. Review of withholding tax on technical fees

Currently, technical fees paid to non-residents are subject to income tax of 10% on the gross income. The gross income includes reimbursements such as travelling cost, hotel accommodation and telephone bills.

It is proposed that reimbursements relating to hotel accommodation in Malaysia are not included in the computation of gross technical fees for the purpose of withholding tax.

Effective date: 1 January 2009

19. Self amendment for additional assessment of income tax

Currently, under the Self Assessment System, a tax payer declares his income and computes tax payable in the income tax form. Where the tax payer commits an error by under-declaring his income or claiming excessive deductions or expenses, the existing provisions do not allow him to make amendments to the self-assessed return.

It is proposed that a new provision be introduced in the Income Tax Act 1967 to allow tax payers to make self amendment for additional assessment. The conditions for self amendment are as follows:

- i. amendments allowed are in respect of errors resulting in increased assessments such as errors committed in reporting income or claims on deductions or expenses;
- ii. self amendment be allowed only once for each year of assessment;
- iii. self amendment be allowed within a period of 6 months from the due date of furnishing the tax form; and
- iv. tax payer makes self amendment in specified forms.

A tax payer who makes self amendment will not be subject to a penalty for the under-declaration of income or excessive claim on deductions or expenses. However, a tax payer is subject to a late payment penalty equivalent to the penalty imposed on a tax payer who files a correct return but defaults in paying tax due within the stipulated period.

Effective date: Y/A 2009

20. Widening the scope of appeal to Special Commissioners of Income Tax

Currently, the existing provisions in the Income Tax Act 1967 allow the tax payer to file an appeal only when an assessment issued by the DGIR involves income tax liability. Therefore, a tax payer with no tax liability (including loss cases) is not allowed to file an appeal to the Special Commissioners of Income Tax (SCIT).



It is proposed that the scope of appeal to the SCIT be widening by allowing such tax payer to file the appeal by using the Notification of Non-Chargeability instead of the notice of assessment. The appeal is to be filed through the DGIR using Form Q.

Effective date: 1 January 2009

21. Tax treatment on cost of dismantling, removing assets and restoring site

It is proposed that a special provision be introduced in Schedule 3, Income Tax Act 1967 to provide for balancing allowance on the cost of dismantling and removing plant and machinery as well as restoring site where the asset was located subject to the following conditions:

- i. the eligibility for such tax treatment only applies where the obligation to carry out works on dismantling and removing the plant and machinery as well as restoring site is provided for under any written law or agreement; and
- ii. such plant and machinery is not allowed to be used by that person in another business or used in the business of another person.

The total balancing allowance is determined by adding the cost of dismantling and removing the plant and machinery as well as restoring site to the balance of expenditure on plant and machinery at the time of the disposal of the asset.

Effective date: Y/A 2009

22. The application of arm's length principle on business transaction carried out between related companies

Currently, there are no specific provisions under the Income Tax Act 1967 to address transfer pricing and thin capitalisation issues.

To enhance transparency of tax treatment relating to transfer pricing and thin capitalisation cases, it is proposed that specific provisions be established to empower the DGIR to make adjustments on transactions of goods, services or financial assistance carried out between related companies based on the arm's length principle.

Effective date: 1 January 2009

STAMP DUTY, INDIRECT TAX & OTHERS

1. Review of road tax on private vehicles owned by individuals and companies

Currently, private saloon and non-saloon diesel vehicles owned by individuals and companies are subject to higher road tax compared to petrol vehicles (except in Sarawak).

It is proposed that road tax imposed on private saloon and non-saloon diesel vehicles owned by individuals and companies be reduced to be equated with that of petrol vehicles.

Further, it is proposed that the current road tax treatment on green diesel vehicles in the whole of Malaysia be withdrawn.

Effective date: 1 September 2008

2. Tax incentives for bus and taxi operators

To reduce the operational cost of buses and taxi operators, it is proposed that:

- i. bus operators be given sales tax exemption on the purchase of locally assembled buses including air-conditioners;
- ii. expenses incurred in the purchase of new buses be given Accelerated Capital Allowance to be claimed within one year; and
- iii. road tax be reduced to RM20 per year on all types of buses, taxis and hired cars including limousines. Further, it is proposed that the current road tax treatment on green diesel vehicles in the whole of Malaysia be withdrawn.

- Effective date: (a) Application received by the Ministry of Finance from 30 August 2008 until 31 December 2011 for proposal (i)
- (b) Buses purchased in Y/A 2009 until Y/A 2011 for proposal (ii)
- (c) 1 September 2008 for proposal (iii)

3. Stamp duty exemption on loan agreements for residential properties

It is proposed that loan agreement instruments executed for the purchase of residential properties priced up to RM250,000 be given 50% stamp duty exemption. This exemption is granted to only one house per Malaysian citizen.

The proposal is effective for sale and purchase agreements executed from 30 August 2008 to 31 December 2010

4. Tax incentives for hybrid cars

It is proposed that franchise holders of hybrid cars be given 100% exemption of import duty and 50% exemption of excise duty on new CBU hybrid cars.

The above exemption is subject to the following criteria and conditions:

- i. hybrid cars should comply with the United Nations' definition as follows:
"A vehicle with at least 2 different energy converters and 2 different energy storage systems (gasoline and electric) on-board the vehicle for the purpose of vehicle propulsion";
- ii. limited to new CBU hybrid passenger cars with engine capacity below 2000 cc;
- iii. engine specification of at least Euro 3 technology;
- iv. hybrid cars certified by Road Transport Department, obtaining Vehicle Type Approval and certified to have achieved not less than a 50% increase in the city-fuel economy or not less than a 25% increase in combined city-highway fuel economy relative to a comparable vehicle that is an internal combustion gasoline fuel; and
- v. emission of carbon monoxide of less than 2.3 gram per kilometre.

Effective date: Applications received by the Ministry of Finance from 30 August 2008 until 31 December 2010

5. Stamp duty on loan agreements and service agreements

To simplify the assessment of stamp duty on loan agreement and service agreement instruments, it is proposed that all loan agreement and service agreement instruments except for education loans, be subject to ad valorem stamp duty rates of RM5.00 for every RM1,000 or part thereof. For education loan agreements the rate is fixed at RM10.

Effective date: 1 January 2009

6. Review of excise duty on cigarettes

To promote a healthy life style, it is proposed that the specific excise duty rates on cigarettes be further increased.

Effective date: 4.00 p.m. 29 August 2008



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7. Review of import duty on selected products

As a continuous measure by government to liberalize trading activities, it is proposed that:

- i. import duty between 2% and 25% on food products such as ground nuts, sardines and fruit juices be abolished;
- ii. import duty between 5% and 50% on electric goods/ components such as voice recorders, generators and washing machine components be abolished;
- iii. import duty of 5% and 25% on fertilizers and pesticides be abolished;
- iv. import duty from between 10% and 30% on food products such as coffee paste, tomato sauce and monosodium glutamate be reduced to between 5% to 15%;
- v. import duty from between 15% and 30% on electrical goods such as blenders, rice cookers, microwave ovens and electric kettles be reduced to between 5% and 20%;
- vi. import duty from between 10% and 30% on petrochemical and polymer industrial goods such as rubber mats, tubes made of rubber and plastic bottles be reduced to between 5% and 20%;
- vii. import duty of 20% on port cranes be reduced to 5%;
- viii. import duty from between 25% and 60% on textiles such as carpets and glassware be reduced to between 20% and 30%; and
- ix. import duty from between 5% and 20% on food products such as vermicelli, biscuits, mixed fruit juice and sweet corns in air tight containers be fully exempted.

It is also proposed that import license on port cranes be abolished.

Effective date: 4.00 p.m. on 29 August 2008

8. Enhancing tax incentives for the generation of energy from renewable sources

To widen the usage of energy from renewable sources, it is proposed that:

- i. import duty and sales tax exemption on solar photovoltaic system equipment for the usage by third parties be given to importers including photovoltaic service providers approved by the Energy Commission; and
- ii. sales tax exemption on the purchase of solar heating system equipment from local manufacturers.

Effective date: Applications received by the Ministry of Finance from 30 August 2008 until 31 December 2010.

9. Enhancing tax incentives for energy conservation

As a measure to widen the usage of Energy Efficiency (EE) equipment, it is proposed that:

- i. exemption of import duty and sales tax be given on EE equipment such as high efficiency motors and insulation materials to importers including authorized agents approved by the Energy Commission; and
- ii. sales tax exemption be given on the purchase of locally manufactured EE consumer goods such as refrigerator, air conditioner, lightings, fan and television.

Effective date: Applications received by the Ministry of Finance from 30 August 2008 until 31 December 2010.

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