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Outlines tax proposals from
Malaysia's Budget 2003 speech

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Malaysian Budget 2003

For decades, our economic growth has been overly reliant on foreign direct investment and international trade. Growth must be domestic-driven and generated by our own resources as well as domestic investment activities. In **Budget 2003**, we see the following proposals...to ensure that our sources of growth will be diversified...

INDIVIDUAL TAX

1. Income tax treatment for expatriates in operational headquarters and regional offices

Presently, expatriates working in Operational Headquarters companies (OHQ) and Regional Offices (RO) are frequently out of Malaysia in the course of their duties but nevertheless taxed on their entire income.

To attract more regional offices to be located in Malaysia, it is proposed that expatriates working in OHQ and RO be taxed only on that portion of chargeable income attributable to the number of days they are in the country.

Effective date: Y/A 2003

2. Review of residence requirement for individual income tax

Currently, resident individuals are liable to income tax between 0% and 28%, while non-resident individuals are taxed at a flat rate of 28%. In addition, individual residents are eligible for various tax relief and rebates.

An individual is required to be in Malaysia for at least 182 days in any year to qualify for resident status for the purposes of income tax. However, an individual who is in Malaysia for less than 182 days in any year is eligible for residence status for that year if the said period of less than 182 days is linked to another period of consecutive stay of 182

days in a preceding or following year. Both these periods (i.e. less than 182 days and at least 182 days) are deemed linked, if the individual was in Malaysia on 31 December of that year and 1 January of the following year.

In order to relax the condition for resident status, it is proposed that the requirement for an individual to be in Malaysia on 31 December of the current year and 1 January of the following year be abolished. His absence during the 2 days is to be deemed as part of the period of temporary absence currently allowed.

Effective date: Y/A 2003

3. Review of income tax on compensation on loss of employment

Currently, compensation received by an employee who had been retrenched or had accepted the Voluntary Separation System (VSS) is exempted from income tax up to RM4,000 for each completed year of service.

It is proposed that compensation received by an employee who had been retrenched or had accepted the VSS, which is exempted from income tax be increased from RM4,000 to RM6,000 for each completed year of service.

Effective date: Y/A 2003



INDIRECT TAX

1. Review of service tax on courier service

Presently, courier service is subject to 5% service tax, regardless whether delivery is to destinations within or outside the country.

It is proposed that courier service provided from a point within Malaysia to a destination outside Malaysia be exempted from service tax.

Effective date: 1 January 2003

2. Service tax treatment on services rendered to companies within the same group

A service tax of 5% is imposed on taxable services provided by any person including professional services rendered by a company to companies within the same group.

The imposition of service tax on professional services provided to companies within the same group does not encourage specialisation or sharing of common resources to reduce cost and enhance efficiency.

It is proposed that the professional services provided to companies within the same group be exempted from service tax.

The services involved are provided by the following professionals:

- i. public accountants;
- ii. advocates and solicitors;
- iii. engineers;
- iv. architects;
- v. surveyors including valuers, assessors and real estate agents;
- vi. consultants; and
- vii. management service providers.

Effective date: 1 January 2003

3. Bad debts provisions for sales tax and service tax

Currently, sales tax or service tax payable by the licensee to the Government must be paid within the taxable period although the tax has not been collected from the customers. There is no provision under the Sales Tax Act 1972 or the Service Tax Act 1975 that allows uncollected tax to be treated as bad debts.

It is proposed that sales tax or service tax which has been paid by the licensee is treated as bad debts under the following circumstances:

- i. the licensee is unable to collect the debt from the customer after the expiry of twelve months from the date of payment of tax; or
- ii. the debtor had been adjudged a bankrupt under the Bankruptcy Act 1967; or
- iii. the debtor had been placed under receivership or official assignee; or

- iv. the debtor had been ordered by the court to wind up; or
- v. the licensee had filed a claim in court to recover the tax or the licensee had initiated action for the customer to be adjudged a bankrupt.

Once deemed as bad debts, the licensee is eligible to apply for refund of the tax subject to conditions to be determined.

Effective date: 1 January 2003

4. Sales tax valuation for locally manufactured goods

Currently, the value of imported goods used for purposes of sales tax is the same as that used in arriving at the import duty. The value of imported goods is determined in accordance with the World Trade Organisation (WTO) method of valuation, which is based on the transaction value. Unless proven, adjustments on the value of the goods are disallowed.

For locally manufactured goods, the determination of value for purposes of sales tax is based on the notional value concept which is based on an open market price where an up-lift on the value of goods can be imposed under certain circumstances. The burden of proof of the open market price is with the manufacturer.

The different valuation methods may result in a higher sales tax imposed on the locally manufactured goods.

It is proposed that the valuation method for locally manufactured goods be standardised with that of imported goods which is based on the transaction value.

Effective date: 1 January 2003

5. Abolition of import duty and sales tax on paper

Currently, quality paper is subject to import duty of 5% or 10% and sales tax of 10% whereas books and other reading materials are not subject to any tax.

To further stimulate the printing industry and help reduce the cost of printing books and other reading materials within the country, it is proposed that import duty and sales tax on quality paper be abolished.

Effective date: 4 pm on 20 September 2002

6. Review of stamp duty on financing instruments under Islamic Banking

In principle, financing under Islamic banking should attract the same amount of stamp duty as conventional banking. However, stamp duty is again imposed on instruments relating to the restructuring and rescheduling of loans under Islamic banking as well as financing facilities offered on a clean basis, that is the Islamic revolving financing facility. The additional stamp duty is imposed on new agreements for the sale or purchase of assets required for the renewal of the *akad* from time to time.



Under conventional banking, the restructuring and rescheduling of loans and financing facilities on a clean basis are done through letters of offer with a nominal stamp duty of RM10 and do not require any new agreements.

It is proposed that stamp duty be exempted on all new agreements for the sale or purchase of assets required for financing facilities under the Islamic banking as follows:

- i. the restructuring and rescheduling of the existing financing, limited to the outstanding balance; and
- ii. the renewal of financing facilities on a clean basis, that is the Islamic revolving financing facility.

Effective date: 21 September 2002

7. Stamp duty remittance on transfer of property

Presently, transfer of property without any monetary consideration among family members such as from the husband to the wife and from parents to children is subject to the same rate of stamp duty as those monetary consideration. Stamp duty on instruments of transfer of property is based on the prevailing market value of the property as follows:

- i. 1% on the first RM100,000;
- ii. 2% on the next RM400,000; and
- iii. 3% on the remaining amount.

It is proposed that stamp duty on instruments of transfer of property without any monetary consideration between husband and wife and between parents and children be remitted by 50%.

Effective date: 1 January 2003

8. Enhancing efficiency of customs agents

Currently, the criteria stipulated by the Customs Department to approve customs agents under Section 90, Customs Act 1967 are capital requirement, permanent premises and appointment by clients. However, the criteria do not include skills in the relevant fields.

To ensure that customs agents are highly skilled to provide efficient forwarding services, it is proposed that approval for customs agent be given to those who have undergone training and are successful in the examinations conducted by the Customs Department.

Effective date: 1 January 2003

9. Simplifying and standardising customs regulations/procedures

Presently, various existing customs regulations and procedures, required for the movement of goods, impose a burden on investors. Such requirements include:

- i. bank guarantee as a security for movement of goods on which tax has not been paid;
- ii. various types of forms to be submitted for movement of goods; and
- iii. re-inspection of goods by the Customs Department although they have been inspected by other agencies such as the Veterinary Department or the Agriculture Department.

It is proposed that the customs regulations and procedures be simplified and standardized as follows:

- i. movement of goods with low tax value will need only to be covered by a general bond;
- ii. movement of taxable goods to use only one form; and
- iii. goods already inspected by other agencies will not be further inspected by the Customs Department.

Effective date: 1 January 2003

10. Review of road tax on multi purpose semi-trailers and prime movers

Currently, road tax on multi purpose semi-trailers and multi purpose prime movers is imposed separately. In addition, road tax on multi purpose semi-trailers takes into account the weight of the multi purpose prime mover. This results in road tax on multi purpose semi-trailers to be much higher than that of multi purpose prime movers. As a result, transportation companies are not keen to own more units of multi purpose semi-trailers.

To encourage transportation companies to own a fleet of multi purpose semi-trailers and to promote the transportation industry as well as to reduce the cost of transportation, it is proposed that road tax on multi purpose semi-trailers and prime movers be reviewed as follows:

- i. road tax on multi purpose semi-trailers be abolished;
- ii. road tax on multi purpose prime movers is revised from being based on the kerb weight of the prime mover to that which is based on the gross combined weight i.e. weight of the prime mover, semi-trailer and vehicle load capacity;
- iii. road tax of RM90 on semi-trailers for containers be abolished; and
- iv. road tax on prime movers for containers be maintained based only on the kerb weight.

Effective date: 1 January 2003

CORPORATE TAX

1. Corporate tax for small and medium scale companies

Currently, all companies in Malaysia are subject to corporate tax of 28% on the chargeable income. Taking into consideration tax incentives, the effective tax rate is much lower. For instance, it is only about 8% for companies enjoying reinvestment allowance. However, small and medium scale companies do not benefit much from tax incentives.

It is proposed that companies with paid-up capital of RM2.5 million and below be subject to a corporate tax of 20% on chargeable income of up to RM100,000. The corporate tax rate on the remaining chargeable income is maintained at 28%. Dividends distributed will be given a tax credit of 20% in the hands of the shareholders.

Effective date : Y/A 2003

2. Option to pioneer companies to qualify for reinvestment allowance

Presently, a Pioneer Status company that undertakes reinvestment is not eligible for Reinvestment Allowance.

To further promote reinvestment, it is proposed that a Pioneer Status company which intends to undertake reinvestment before the expiry of its Pioneer Status be eligible for Reinvestment Allowance, on condition that the Pioneer Status is surrendered for cancellation.

Effective date : 21 September 2002

3. Incentive to acquire a foreign company

Currently, no tax incentives are granted to a company that acquires a foreign owned company abroad in pursuit of obtaining high technology or export market network.

To expedite the participation of local investors in high technology industries or to accelerate export market penetration, it is proposed that a locally owned company that acquires a foreign owned company abroad be granted an annual allowance of 20% of the acquisition cost for 5 years for the:

- i. acquisition of high technology for production within the country; or
- ii. to gain new export markets for local products.

Effective date : 21 September 2002

4. Review of withholding tax on services

Currently, payments for services rendered by non-residents to obtain technical advice, assistance or technical services in relation to management or administration of any project are subject to withholding tax of 10%.

Therefore, payment for services rendered by non-residents that are deemed derived from Malaysia is subject to withholding tax, regardless of whether the services are rendered within or outside Malaysia.

To reduce cost of doing business, it is proposed that payments to non-residents for services rendered abroad be not liable to withholding tax of 10%.

Effective date : 21 September 2002

5. Review of incentives for the conservation of energy

As a measure to further reduce the cost of doing business through energy conservation, it is proposed:

a. Companies providing energy conservation services:

The existing incentive be extended for a period of 3 more years until 31 December 2005. The company is required to implement the project within one year from the date of approval of the incentive.

b. Companies which incur capital expenditure for conserving energy for own consumption:

The write-off period on capital expenditure incurred on the equipment used in energy conservation be accelerated from 3 years to 1 year.

Effective date : Y/A 2003

6. Review of withholding tax on non-resident contractors

Currently, any payment to a non-resident contractor for services rendered under a contract is subject to withholding tax of 15% for purposes of income tax of the company and 5% for its non-resident employee. This withholding tax is an advanced payment and not a final tax.

To ensure that a non-resident contractor is not burdened with an excessive withholding tax compared to the actual amount of tax payable, it is proposed that the rate of withholding tax be reduced to 10% for the company and 3% for its employee.

Effective date : 21 September 2002



7. Special incentives to increase export

Presently, various tax incentives are available to assist companies to export manufactured and agricultural goods as well as services.

To further enhance exports and to ensure that Malaysian goods are able to penetrate the global market, it is proposed that a locally owned manufacturing company be given more attractive incentives as follows :

- i. tax exemption on statutory income equivalent to 30% of increased export value provided the company achieves a significant increase in exports;
- ii. tax exemption on statutory income equivalent to 50% of increased export value provided the company succeeds in penetrating new markets; and
- iii. full tax exemption on increased export value, provided the company achieves the highest increase in exports.

Effective date: Y/A 2003

8. Review of income tax exemption on interest earned from private debt securities

Interest income derived from investments in selected private debt securities by an individual, unit trust and listed closed -end fund is exempted from income tax.

To further promote financing through private debt securities, it is proposed that income tax exemption on interest income is further extended to interest earned from the following instruments:

- i. securities or bonds guaranteed by the Government; and
- ii. debentures, other than convertible loan stock, approved by the Securities Commission.

Effective date : Y/A 2003

9. Promotion of Islamic private debt securities

Currently, expenses incurred in the issuance of private debt securities, either conventional or Islamic, are not allowed as a deduction in the computation of income tax as such expenses are capital expenditure.

To promote Islamic private debt securities (IPDS) based on the principles of *mudharabah*, *musarakah* and *ijarah*, it is proposed that expenses incurred in the issuance of such IPDS be given deduction in the computation of income tax for a period of 5 years.

Effective date : Y/A 2003

10. Incentive for regional distribution centre

To make Malaysia as a regional distribution hub, it is proposed that an approved Regional Distribution Centre (RDC) be granted the following incentives:

- i. full tax exemption on statutory income for 10 years;
- ii. dividends paid from the exempt income be exempted from tax in the hands of the shareholders;
- iii. import duty and sales tax exemption on goods for the purpose of distribution; and

- iv. expatriate posts to be approved according to their requirements.

The proposal is subject to the following conditions:

- i. the RDC is incorporated in Malaysia under the Companies Act 1965;
- ii. total annual turnover of the RDC should not be less than RM100 million;
- iii. the RDC must be located in the free zones (free industrial zone or free commercial zone) or licensed warehouse (public and private) or licensed manufacturing warehouse (LMW); and
- iv. the RDC is not permitted to sell more than 20% of its products to the local market.

Tax exemption on statutory income and dividend in the hands of the shareholder granted to the RDC is also extended to the IPC.

Effective date : 21 September 2002

11. Review of incentives for operational headquarters

Currently, an approved Operational Headquarters company (OHQ) is taxed at a concessionary tax rate of 10% on income from qualifying services rendered to its related companies outside Malaysia for a period of 5 years with a possible extension of another 5 years.

As a measure to attract more OHQs to operate in Malaysia, it is proposed that OHQs be exempted from income tax for 10 years. Dividends paid from the exempt income is exempted in the hand of shareholders.

Effective date : 21 September 2002

12. Export incentives for professional services

Currently, double deduction on expenses for the promotion of export for all services are given only to companies registered with the Registrar of Companies.

Since certain professional services have the potential to penetrate the export market and generate income, it is proposed that double deduction on expenses incurred for the promotion of export be extended to the following professional services:



- i. Legal;
- ii. accounting (including taxation and management consultancy services);
- iii. architectural (including town planning and landscaping services);
- iv. engineering and integrated engineering (including valuation and quantity surveying); and
- v. medical and dental.

Effective date : Y/A 2003

13. Incentives to consolidate the management of smallholdings and idle land

Currently, the consolidation of the management of smallholdings is undertaken mostly by public agencies.

To promote the consolidation of management of smallholdings and idle land, it is proposed that:

- i. a company that invests in a wholly-owned subsidiary company involved in the consolidation of management of smallholdings or idle land be allowed a deduction equivalent to the amount of investment; and
- ii. a wholly-owned subsidiary company involved in the consolidation of management of smallholdings or idle land be exempted from service tax.

Effective date : 21 September 2002 for (i) above
1 January 2003 for (ii) above

14. Incentives to increase the planting of rubberwood trees

To ensure a regular supply of rubberwood for the furniture industry, it is proposed that a non-rubber plantation company that plants at least 10 per cent of its plantation with rubberwood trees be given Accelerated Agriculture Allowance. The write-off period on capital expenditure incurred for land preparation, planting and maintenance of rubberwood cultivation be accelerated from two years to one year.

Effective date : 21 September 2002

15. Additional incentives for deep sea fishing

Currently, deep sea fishing is eligible for Pioneer Status with tax exemption of 70% of statutory income for a period of 5 years or Investment Tax Allowance of 60% on qualifying capital expenditure incurred within a period of 5 years with the allowance deducted for each year of assessment be set off against 70% of statutory income.

To further promote investment in this industry, it is proposed that the existing incentives for food production be extended to deep sea fishing. The proposed incentives are:

a. First Option:

- i. the company which invests in the subsidiary company engaged in the deep sea fishing be granted tax deduction equivalent to the amount of investment made in that subsidiary; and
- ii. the subsidiary company undertaking deep sea fishing be given income tax exemption of 100% on its statutory income for 10 years commencing from the first year the company enjoys profit in which:
 - a. losses incurred before the exemption period is allowed to be brought forward after the exemption period of 10 years;
 - b. losses incurred during the exemption period is also allowed to be brought forward after the exemption period of 10 years; and
 - c. dividends paid from the exempt income is exempted from tax in the hands of the shareholders.

b. Second Option:

- i. the company which invests in the subsidiary company engaged in the deep sea fishing be given group relief for the losses incurred by the subsidiary company before it records any profit; and
- ii. the subsidiary company undertaking deep sea fishing be given income tax exemption of 100% on its statutory income for 10 years commencing from the first year the company enjoys profit in which:
 - a. losses incurred during the exemption period is also allowed to be brought forward after the exemption period of 10 years; and
 - b. dividends paid from the exempt income is exempted from tax in the hands of the shareholders.

The incentives are granted with the following conditions:

- i. the investing company should own 100% of the company that undertakes deep sea fishing;
- ii. the project should commence within a period of one year from the date the incentive is approved; and
- iii. the project must comply with the provisions of the Fisheries Act 1985.

For existing inventors and companies involved in deep sea fishing, the incentives are given for a period of 5 years subject to the same conditions as above.

Effective date : Application received from 21 September 2002 to 31 December 2005



16. Incentives for food processing activity

Presently, companies engaged in the processing of promoted food products are granted Pioneer Status with tax exemption of 70% on the statutory income for 5 years or Investment Tax Allowance of 60% on qualifying capital expenditure incurred within a period of 5 years with the allowance deducted in each year of assessment to be set-off against 70% of statutory income.

All manufacturing companies including food-processing companies undertaking reinvestments are granted Reinvestment Allowance of 60% on the qualifying capital expenditure for 15 years.

A locally owned company in the resource-based industry which undertakes reinvestment for expansion of the existing project is given another round of incentives as follows:

- i. Pioneer Status with tax exemption of 70% of the statutory income for 5 years; or
- ii. Investment Tax Allowance of 60% on qualifying capital expenditure incurred within a period of 5 years with the allowance deducted in each year of assessment to be set-off against 70% of statutory income.

To enhance food production and export, it is proposed that a locally owned company that reinvests in the promoted food processing activity be given another round of the same incentives as follows:

a. Companies located outside the promoted areas:

- i. Pioneer Status with tax exemption of 70% of the statutory income for 5 years; or
- ii. Investment Tax Allowance of 60% on qualifying capital expenditure incurred within a period of 5 years with the allowance deducted in each year of assessment to be set-off against 70% of statutory income.

b. Companies located in the promoted areas:

- i. Pioneer Status with tax exemption of 85% of the statutory income for 5 years; or
- ii. Investment Tax Allowance of 80% on qualifying capital expenditure incurred within a period of 5 years with the allowance deducted in each year of assessment to be set-off against 85% of statutory income.

Effective date : 21 September 2002

17. Incentives for modernising chicken and ducks rearing system

To promote modernisation and the usage of environment friendly practices in the agricultural sector, the closed house system of rearing chicken and ducks should be encouraged. It is proposed that chicken and ducks rearers who reinvest for the purpose of shifting from opened house system to closed house system be given Reinvestment Allowance (RA) for a period of 15 consecutive years commencing from the first year the reinvestment is made, as follows:

- i. projects located in promoted areas that is the Eastern Corridor of Peninsular Malaysia, Sabah and Sarawak be given RA of 60% on qualifying capital expenditure incurred with the allowance deducted in each year of assessment to be set-off against 100% of statutory income; and
- ii. projects located outside promoted areas be given RA of 60% on qualifying capital expenditure incurred with the allowance deducted in each year of assessment to be set-off against 70% of statutory income.

This incentive is given on condition that the minimum rearing capacity of the closed house system is as follows:

- i. 20,000 broiler chicken/broiler ducks per cycle; or
- ii. 50,000 layer chicken/layer ducks per cycle.

This incentive is given to chicken and ducks rearers approved by the Ministry of Agriculture.

Effective date: Y/A 2003

18. Tax incentive for automotive component modules

To promote investment and to stimulate local companies to undertake design and research and development (R&D) activities, it is proposed that new and existing companies that undertake design, R&D and production of qualifying automotive component modules or systems be given:

- i. Pioneer Status with tax exemption of 100% of the statutory income for 5 years; or
- ii. Investment Tax Allowance of 60% on qualifying capital expenditure incurred within a period of 5 years with the allowance deducted for each of assessment to be set-off against 100% of the statutory income.

Effective date : 21 September 2002

19. Incentives for selected machinery and equipment

To further develop the machinery and equipment industry, it is proposed that tax incentives currently available for the strategic industry be extended to the manufacturers of the following categories of machinery and equipment:

- i. specialised/process machinery or equipment for specific industry;
- ii. packaging machinery;
- iii. plastic extrusion machinery; and
- iv. parts and components of the above machinery and equipment.

Effective date : 21 September 2002

20. Incentives for knowledge-based economy

To further encourage companies to invest in knowledge intensive activities, it is proposed that:

- i. companies granted 'Strategic Knowledge-based Status Company' be given the following incentives:
 - a. Pioneer Status with tax exemption of 100% of statutory income for a period of 5 years; or
 - b. Investment Tax Allowance of 60% on the qualifying capital expenditure incurred within 5 years with the allowance deducted for each year of assessment to be set-off against 100% of statutory income.



The new budget unveiled...

These incentives are granted with the following conditions:

- a. the company must be a knowledge-intensive company having the following characteristics:
 - potential to generate knowledge content;
 - high value added operations;
 - high technology; and
 - a large number of knowledge workers.
 - b. the company must have a Corporate Knowledge-based Master Plan.
- ii. expenditure incurred by a company for drafting the individual Corporate Knowledge-based Master Plan be allowed as a deduction in the computation of income tax. The deduction be claimed when the company begins to implement the Corporate Knowledge-based Master Plan.

Effective date : 21 September 2002 for (i) above
Y/A 2003 for (ii) above

21. Incentives for old folks care centre

Presently, no incentive is given to the old folks care centre.

To increase the number of old folks care centres as well as to improve their well-being, it is proposed that any person who constructs or purchases a building to be used as an old folks care centre be given building allowance of 10% of the cost incurred for

10 years. The old folks centre must be approved by the Social Welfare Department.

Effective date : Y/A 2003

22. Review of incentives for the use of renewable energy resources

To further promote the use of renewable energy in the generation of energy, it is proposed that:

- i. the existing incentives for the use of biomass as a source of renewable energy be extended for another 3 years until 31 December 2005. The company is required to implement the project within one year from the date of approval; and
- ii. the scope of the existing incentives be extended to the use of other sources of renewable energy as follows:
 - a. hydro power (not exceeding 10 megawatts); and
 - b. solar power.

Effective date : Applications received from
21 September 2002 until
31 December 2005 for (ii) above

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