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Outlines tax proposals from Malaysia's
Budget 2008 Announcements

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Malaysian Budget 2008

Budget 2008 has showered us with goodies. Paving the way to sustainable growth, the Government has put in place measures to provide a foundation for long-term growth of the domestic sector...

INDIVIDUAL TAX

1. Income tax treatment for expatriates working for International Procurement Centre (IPC) and Regional Distribution Centre (RDC)

Currently, expatriates working for IPC and RDC are taxed on the entire employment income received in Malaysia even though they are frequently out of Malaysia in the course of their duties.

It is proposed that expatriates working for IPC and RDC be taxed only on that portion of employment income attributable to the number of days they are in the country.

Effective date: Y/A 2008

2. Extending the scope of individual tax relief for post graduate studies

It is proposed that courses eligible for relief not exceeding RM5,000 per annum be extended to all fields of studies at post graduate level, i.e. masters and doctorate level.

Effective date: Y/A 2008

3. Gift of new computer and broadband subscription fee from employers to employees

Currently, gift of computer or payment of broadband subscription fee from employers to employees are treated as benefit-in-kind to the employees and subject to income tax. Expenditures incurred by employers for providing such benefits are also not allowed as deduction.

In line with the Government's aspiration to increase broadband penetration rate, it is proposed that:

- i. benefit-in-kind in the form of new computers or payment of broadband subscription fees are not subject to income tax in the hands of employees; and
- ii. expenses incurred by the employers on such computers or broadband subscription fees be allowed as deduction.

Effective date: Y/A 2008 to Y/A 2010



4. Tax relief on purchase of sports equipment

Currently, individual tax payers have been given tax relief especially for the purpose of healthcare on the following:

- i. health insurance premiums of up to RM3,000; and
- ii. medical expenses for serious illnesses for himself, spouse, children and parents of up to RM5,000 including the medical examination for himself, spouse and children of up to RM500.

It is proposed that individual tax relief up to a maximum of RM300 a year be given on purchase of sports and exercise equipment such as all type of racquets and balls, treadmill, exercise bike and airwalker.

Effective date: Y/A 2008

5. Tax treatment on private retirement benefit

Currently, retirement benefit of the private sector employees who retire at the compulsory retirement age of 55 and above or on health reason is fully exempted from income tax. While retirement benefit for those that retire at the compulsory retirement age of 50 and up to less than 55 is given tax exemption of up to RM6,000 for each completed year of service.

It is proposed that the retirement benefit for private sector employees who retire at the compulsory retirement age of 50 and above be given full income tax exemption. This exemption is given on the condition that the compulsory retirement age is provided for in the employment contract or collective agreement between employer and employee.

Effective date: Y/A 2007

6. Deduction for individual

Deduction of up to a maximum of RM3,000 in respect of amount deposited into Skim Simpanan Pendidikan Nasional account by an individual for his child in a year of assessment.

Effective date: Y/A 2007

CORPORATE TAX

1. Review of company tax system

Currently, company income tax is based on full imputation system. Under this system, tax is imposed at the companies' and shareholders' level (on the dividends). However, tax imposed at the shareholders' level will take into account tax imputed at the companies' level through tax credit.

It is proposed that a single tier company income tax system be introduced at the rate of 26%. Under this single tier system, tax on company's profits is a final tax and dividend distributed to shareholders will be exempted from tax.

Companies which have no credit balance of section 108 account (nil balance) on 1 January 2008 will automatically be allowed to move to the single tier tax system and be taxed at the rate of 26%. Whilst companies with credit balance in the section 108 account be given an option to elect for a single tier tax system.

Companies with credit balance of section 108 account which do not elect to switch over to the single tier system are allowed to use the credit balance for purpose of dividend distribution during the transitional period of 6 years until 31 December 2013. The mechanism and conditions to utilise the credit are as follows:

- i. The credit balance of section 108 account allowed for the purposes of dividend distribution to the shareholders is the balance as at 31 December 2007;
- ii. The credit balance of section 108 account will be adjusted only for tax reductions;
- iii. Company that has fully utilised the credit balance of section 108 account at any time during the transitional period will automatically move to the single tier tax system;
- iv. All companies will automatically move to the single tier tax system on 1 January 2014 even though they still have credit balance of section 108 account as at 31 December 2013;
- v. Maintaining the current provision of disallowing companies which take over other companies to acquire the credit balance of section 108 account;
- vi. Companies are only be allowed to pay cash dividend; and
- vii. For small and medium companies, tax on dividend paid to shareholders is deducted from the credit balance of section 108 account based on the highest current tax rate.

Conditions for shareholders to claim tax credit are as follows:

- i. Only direct expenses related to dividend income are allowed to be deducted in arriving at adjusted dividend income;
- ii. Claim for tax credit is only allowed for shares held continuously for 90 days or more from the date of purchase of shares (excluding public listed companies);
- iii. Only dividend distributed from ordinary shares are eligible for tax credit; and
- iv. Dividend income of shareholders of a company which is not from business source will not be allowed to be aggregated with other income in the computation of chargeable income. This condition is not applicable to entities other than a company.

It is also proposed that the company tax rate be reduced by one percentage point to 25% with effect from year of assessment 2009.

For small and medium companies, under the single tier system, tax rate for chargeable income up to RM500,000 is maintained at 20%.

Effective date: Y/A 2008

2. Deduction for professional indemnity insurance

It is proposed that professional indemnity insurance premiums be allowed as deductions for income tax purposes.

Effective date: Y/A 2008

3. Tax treatment on transfer of buildings to Real Estate Investment Trusts (REITs)

It is proposed that the disposal of buildings from companies to REITs is not subject to balancing charge. As such, REITs are eligible to claim the balance of unclaimed Industrial Building Allowance of the disposer.

Effective date: Y/A 2008

4. Tax incentive for companies managing Islamic funds

It is proposed that local and foreign companies managing Islamic funds of local and foreign investors be given income tax exemption on all fees received from managing the funds. The Islamic funds must be approved by the Securities Commission.

Effective date: Y/A 2008 to Y/A 2016

5. Additional incentives for Malaysia International Islamic Financial Centre (MIFC)

It is proposed that income tax exemption be given to income received by non-resident experts in Islamic finance. The experts have to be verified by the MIFC Secretariat.

Effective date: 8 September 2007 until 31 December 2016

6. Review of tax treatment for Takaful business

It is proposed that a special provision be introduced in the Income Tax Act 1967 including specific tax treatment as follows:

- i. Management expenses borne from the shareholders' fund be allowed as deductions from the gross income of the shareholders' fund;

- ii. Share of profits distributed from the family Takaful fund and general Takaful fund be allowed as tax deduction;
- iii. Share of profits distributed to the participants in relation to the investment income be taxed on the participants through a final withholding tax mechanism;
- iv. Tax be imposed on the Wakalah fee received by the shareholder from the family Takaful fund and general Takaful fund; and
- v. Deduction be allowed for *Qard* from the shareholders' fund and to impose tax on the repayment of *Qard*.

Effective date: Y/A 2008

7. Review of tax treatment for life insurance business

As a measure to further improve tax treatment for life insurance business, it is proposed that a tax set-off from the total tax charged on the shareholders' fund be given to overcome the incidence of double taxation. The amount of the tax set-off is calculated based on a given formula.

Effective date: Y/A 2008

8. Review of income tax treatment for Labuan Offshore Companies

Currently, income from offshore activities is taxed as follows:

- i. income from offshore trading such as offshore banking and insurance is taxed at 3% of net profit or at a flat rate of RM20,000, on election; and
- ii. income from offshore non-trading such as dividend, interest and royalty is exempted from tax.

Income from non-offshore activities is taxed at the current company's tax rate.

It is proposed that Labuan offshore companies be given the option for their income from offshore business activities be taxed under the Income Tax Act 1967 in addition to the existing option under Labuan Offshore Business Activity Tax Act 1990. This new option is final and irrevocable.

Effective date: Y/A 2008



Did Budget 2008 present us with the **expected goodies ...**



9. Extending the incentive to recipients of Export Excellence (Services) and Brand Excellence Awards

It is proposed that the full tax exemption on the value of increased export given to recipients of Export Excellence Award (Merchandise) be extended to recipients of Export Excellence Award (Services) and the Brand Excellence Award.

Effective date: Y/A 2008

10. Expediting investment for selected activities

- i. Chicken and duck rearers who reinvest for the purpose of shifting from opened house system to closed house system are currently given the following incentive:

Reinvestment Allowance of 60% on qualifying capital expenditure incurred with the allowance deducted in each year of assessment to be set-off against 70% of the statutory income for a period of 15 consecutive years.

- ii. Non-rubber plantation companies that plant at least 10% of the plantation with rubber wood trees are currently given the following incentive:

Accelerated Agriculture Allowance on capital expenditure incurred for land preparation, planting and maintenance of rubber wood cultivation fully written off within a period of 1 year.

- iii. Industrial Linkage Programme

- a. Small and Medium Industries (SMEs) that supply components, technology or R&D are currently given the following incentive:

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

- b. SMEs capable of achieving world class standard in terms of pricing, quality and capacity are currently given the following incentive:

Pioneer Status with income tax exemption of 100% of statutory income for a period of 10 years; or Investment Tax Allowance of 100% on the qualifying capital expenditure incurred within a period of 5 years. The allowance to be set-off against 100% of statutory income for each year of assessment.

To ensure investments in the selected activities are expedited, it is proposed that:

- a. incentives (i) and (ii) be effective until year of assessment 2010; and
b. incentives (iii)(a) and (iii)(b) be effective for applications received not later than 31 December 2010.

11. Rationalisation of incentive for Information and Communication Technology (ICT)

It is proposed that incentives for ICT activities including computer software development be rationalised as follows:

- i. Companies undertaking ICT activities including computer software development located outside Cybercities and Cybercentres be centralised in the Cybercities and Cybercentres and be given MSC Malaysia status company incentives:
- a. Pioneer Status with tax exemption of 100% of statutory income for a period of 10 years; or
b. Investment Tax Allowance of 100% on qualifying capital expenditure incurred for a period of 5 years. This allowance can be offset against 100% of statutory income for each year of assessment.
- ii. Incentives for companies undertaking ICT activities including computer software development located outside Cybercities and Cybercentres to be discontinued; and



... or were there any **unexpected surprises?**

- iii. MDeC to be the sole agency to process and recommend incentives for companies undertaking ICT activities including computer software development.

Effective date: 8 September 2007

12. Tax treatment for Small and Medium Enterprises (SMEs)

Currently, all companies already in operation including SMEs are required to submit their estimates of tax payable not later than 30 days before the beginning of the basis period. Estimates of the tax payable should not be less than 85% of the tax payable in the preceding year. Estimates of tax payable should be paid on a monthly instalment by the due date beginning from the second month of the basis period.

It is proposed that SMEs be exempted from submitting their estimates of tax payable as well as instalment payments. Full income tax payment be made only at the point of submission of income tax returns not later than 7 months from the date of closing of accounts. This exemption is given for 2 assessment years beginning from the date of commencement of operation.

Effective date: Y/A 2008

13. Income tax exemption for non-profit oriented schools

It is proposed that all income received by non-profit oriented Government assisted and private schools be given tax exemption. Non-profit oriented Government assisted and private schools include schools formed by a body of person, a trust body or a company limited by guarantee.

Effective date: Y/A 2008

14. Incentives for last mile network facilities provider for broadband

It is proposed that last mile network facilities provider be given:

- i. income tax exemption equivalent to 100% of the qualifying capital expenditure incurred for broadband infrastructure with the allowance to be set-off against 70% of statutory income for each year of assessment. The implementation of this exemption is similar to the Investment Allowance under Schedule 7B Income Tax Act 1967; and
- ii. import duty and sales tax exemption on broadband equipment and consumer access devices which are basic in providing the broadband services and not produced locally.

This incentive is effective for investment made and equipment purchased until 31 December 2010.

15. Tax incentive for renovation of workplace for disabled workers

It is proposed that the renovation cost of the work place for disabled workers by the employer be allowed as deduction for income tax purposes.

Effective date: Y/A 2008

16. Incentives for medical devices testing laboratory

It is proposed that companies investing in setting up a new laboratory or upgrading existing laboratory be given the following incentives:

- i. Company investing in a new testing laboratory for testing medical devices
 - a. Pioneer Status with income 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 a period of 5 years. The allowance can be set-off against 100% of the statutory income for each year of assessment.

- ii. Company upgrading an existing testing laboratory for testing medical devices

Investment Tax Allowance of 60% on the qualifying capital expenditure incurred within a period of 5 years. The allowance can be set-off against 100% of the statutory income for each year of assessment.

The proposal is effective for applications received by the Malaysian Industrial Development Authority from 8 September 2007 to 31 December 2012.

17. Tax deduction for community projects

It is proposed that expenses incurred in the provision of infrastructure that significantly benefit the public be allowed as deduction for income tax purposes. The facilities provided must be free of charge and must be approved by the Minister of Finance.

Effective date: Y/A 2008

18. Incentives for enhancing security control of goods

It is proposed that Accelerated Capital Allowance be given on the expenses incurred for:

- i. security control equipment installed in the factory premises of companies approved under the Industrial Coordination Act 1975; and
- ii. vehicle surveillance equipment installed in the container lorries bearing Carrier License A and general cargo lorries bearing Carrier License A and C.

The Accelerated Capital Allowance is to be fully written off within a period of 1 year and the eligible security and surveillance equipment to be approved by the Minister of Finance.

Effective date: Y/A 2008 to Y/A 2012



19. Enhancing tax incentives for the generation of renewable energy

Currently, tax incentives for companies generating renewable energy (RE) are as follows:

- i. Companies generating renewable energy
 - a. Pioneer Status with income tax exemption of 100% of statutory income for 10 years; or
 - b. Investment Tax Allowance of 100% on the qualifying capital expenditure incurred within a period of 5 years. The allowance can be set-off against 100% of statutory income for each year of assessment; and
 - c. Import duty and sales tax exemption on equipment used to generate energy that are not produced locally and sales tax exemption on equipment purchased from local manufacturers.

If any one of the companies from the same group has been granted the incentive in (a) or (b) above, other companies in the same group undertaking the same activities are not eligible for those incentives.

- ii. Companies generating renewable energy for own consumption

Accelerated Capital Allowance to be fully written off within a period of 1 year on equipment to generate energy.

It is proposed that the existing tax incentives be enhanced as follows:

- i. Companies generating renewable energy

Other companies in the same group be given the same incentives as (a) or (b) above even though one company in the same group has been granted the incentive.

- ii. Companies generating renewable energy for own consumption

Accelerated Capital Allowance be replaced with Investment Tax Allowance of 100% on the qualifying capital expenditure incurred within a period of 5 years. The allowance to be set-off against 100% of statutory income for each year of assessment.

The proposal is effective for applications received by the Malaysian Industrial Development Authority from 8 September 2007 until 31 December 2010.

20. Enhancing tax incentive for energy conservation

To further enhance the tax incentives for conservation of energy, it is proposed that:

- i. Companies providing energy conservation services
 - a. The level and period of Pioneer Status incentives be increased to 100% for 10 years; or
 - b. Investment Tax Allowance be increased to 100% of qualifying capital expenditure incurred within 5 years. The allowance to be set-off against 100% of statutory income for each year of assessment.

- ii. Companies which incur capital expenditure for energy conservation for own consumption

Investment Tax Allowance be increased to 100% of the qualifying capital expenditure incurred within 5 years. The allowance to be set-off against 100% of statutory income for each year of assessment.

The proposal is effective for applications received by the Malaysian Industrial Development Authority from 8 September 2007 until 31 December 2010.

21. Tax incentive for reduction of greenhouse gas emission

It is proposed that income derived from trading of Certified Emission Reductions certificates be given tax exemption.

Effective date: Y/A 2008 to Y/A 2010

STAMP DUTY, INDIRECT TAX & OTHERS

1. Abolishment of service tax threshold for professional, consultancy and management services

Currently, professional, consultancy and management service providers that have reached the threshold, i.e. sales turnover of RM150,000 within a period of 12 months or part thereof, are required to be licensed under the Service Tax Act 1975 and collect 5% service tax. Professional services that are subject to service tax are accounting, legal, engineering, architecture, survey, valuation, appraisal and real estate agency.

It is proposed that the threshold for professional, consultancy and management services be abolished.

Effective date: 1 January 2008

2. Composite customs forms

It is proposed that customs forms with similar information be combined. The customs forms involved are as follows:

Current forms	Proposed forms
<ul style="list-style-type: none"> - Sales Tax Return - Service Tax Return 	JKED No. 3 (Internal Tax Returns)
<ul style="list-style-type: none"> - Warehouse License - Manufacturing Warehouse License - Duty Free Shop License - License Under The Sales Tax Act – Manufacturing License - Certificate of Exemption From Sales Tax Licensing - Service Tax License - Manufacturing License (Excise Act) - Warehouse License (Excise Act) - Bottling and Movement of Intoxicating Liquors (Excise Regulation) 	JKED No. 4 (License / Certificate)
<ul style="list-style-type: none"> - Inward Manifest - Outward Manifest - Transshipment Manifest 	JKED No. 5 (Manifest)
<ul style="list-style-type: none"> - Permit To Go Alongside A Legal Landing Place Or Alongside An Ocean-Going Vessel Within The Port Limits - Permit To Carry Dutiable Or Prohibited Goods By Local Craft 	JKED No. 6 (Permit For Landing /Permit To Carry Goods)

Effective date: 1 January 2008

3. Payment of stamp duty using private valuation

Currently, assessment on the amount of stamp duty payable is only based on the official valuation by the Valuation and Property Services Department (JPPH).

It is proposed that private valuation be accepted as an alternative for the purpose of stamp duty payment. The payment must be made together with a bank guarantee that has a validity period of not less than 6 months and is computed based on the difference in stamp duties between JPPH valuation and the private valuation. JPPH valuation is deemed to be 35% higher than the private valuation for the purpose of determining the amount of bank guarantee. The amount of bank guarantee is determined based on a given formula.

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The actual amount of stamp duty will be assessed once the official valuation from JPPH is available. If the actual assessment is higher than the amount of stamp duty paid based on private valuation, additional duty has to be paid within 30 days from the date of notice. The bank guarantee will be claimed if additional duty has not been paid.

Effective date: 1 January 2008

4. Stamp duty exemption for mergers and acquisitions of listed companies

Currently, stamp duty and real property gains tax exemptions are given to companies listed on Bursa Malaysia that undertake mergers and acquisitions approved by the Securities Commission from 1 October 2005 until 31 December 2007.

It is proposed that stamp duty exemption on all instruments pertaining to mergers and acquisitions be extended for another 3 years.

The proposal is effective for mergers and acquisitions approved by Securities Commission until 31 December 2010 and such mergers and acquisitions must be completed not later than 31 December 2011.

5. Stamp duty exemption for mergers of Petronas vendors

It is proposed that stamp duty exemption be given on all instruments relating to mergers of Petronas vendors involved in upstream activities.

The proposal is for mergers completed not later than 31 December 2010.

6. Stamp duty exemption on purchase of residential property

It is proposed that instruments of transfer for purchase of a house not exceeding RM250,000 be given 50% stamp duty exemption. This exemption is granted to only one house per individual.

The proposal is effective for sale and purchase agreement executed from 8 September 2007 to 31 December 2010.

7. Stamp duty exemption on transfer of real property between husband and wife

It is proposed that the instruments for transfer of property between husband and wife on the basis of love and affection be exempted from stamp duty.

Effective date: 8 September 2007

8. Allowing tax agents to file income tax returns through e-filing on behalf of their clients

It is proposed that tax agents be allowed to file income tax returns through e-filing for their clients using Personal Identification Number assigned to the tax agents.

Effective date: Y/A 2008

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