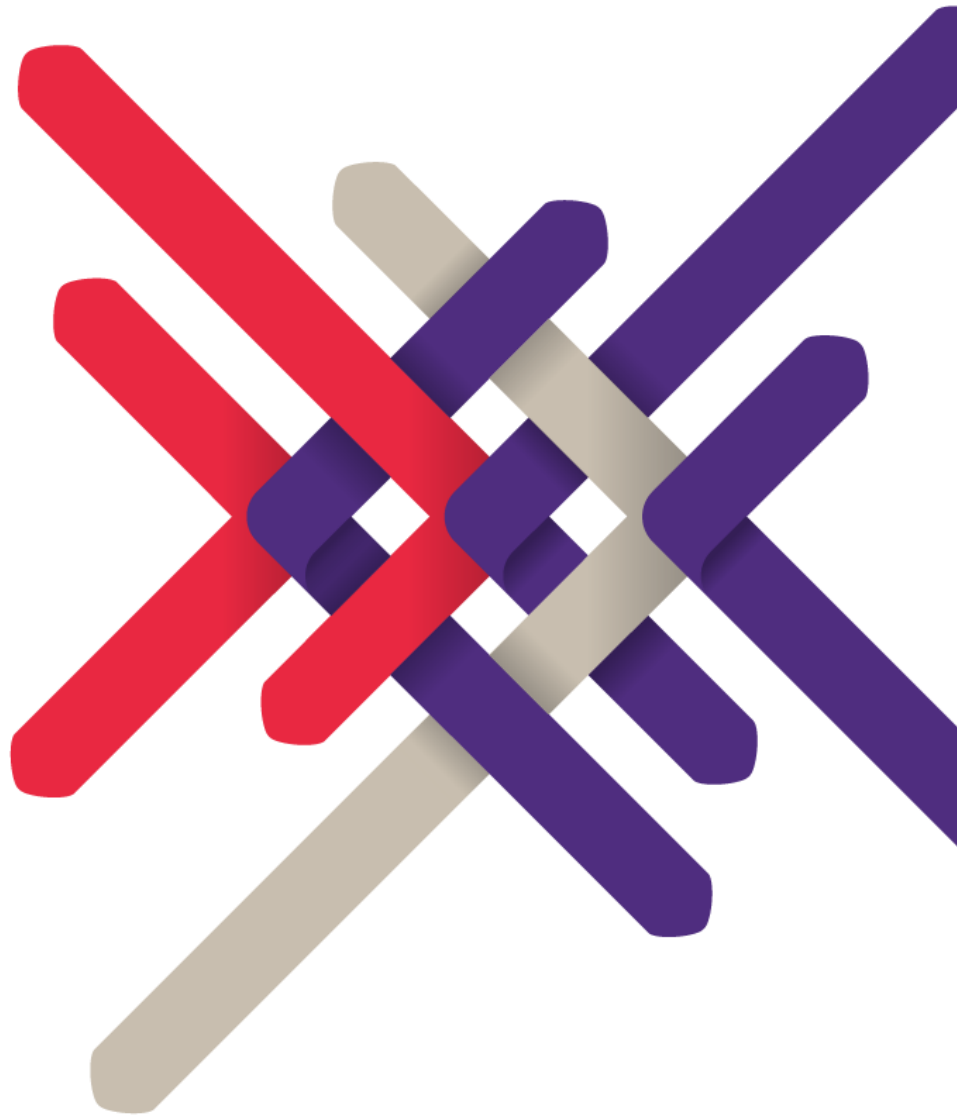


Malaysia Budget 2020

This Budget Adviser provides updates on the additional tax measures that were included in the Finance Bill 2019.

21 October 2019



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Corporate tax

1. Extension of scope of appeal by approved institutions under Section 44(6) or organisation

Currently, any institution and organisation that is aggrieved by the Director General's decision in respect of an application made for approved status, may within 30 days after being informed of the decision, appeal to the Minister of Finance (MOF) and the MOF may make any decision as he considers fit.

It is proposed that the scope of the above appeal to be extended to include appropriate religious authority, body or public university that is aggrieved by the Director General's decision in respect of an application made for approved status.

Effective date : From the year of assessment 2020 and subsequent years of assessment

2. Review of tax exemption of approved institutions

Currently, income of the following institutions is exempted from tax under Schedule 6 of the Income Tax Act 1967:

- a) An institution, organisation or fund approved for the purposes of Section 44(6) so long as the approval remains in force; or
- b) A religious institution or organisation in respect of any contribution received for charitable purposes in the basis year for a year of assessment provided such institution or organisation is not operated or conducted primarily for profit and is established in Malaysia exclusively for the purposes of religious worship or the advancement of religion.

It is proposed that the above tax exemption be extended to include appropriate religious authority, a body or public university approved for the purposes of Section 44(11D) in respect of gift of money in the form of *wakaf* or endowment received.

Effective date : From year of assessment 2020



Corporate tax

3. Assessments and additional assessments for Mutual Agreement Procedure cases

Currently, the Director General can raise an assessment or additional assessment within 5 years after that year of assessment or within 7 years for transfer pricing cases. However, the Director General's power to raise an assessment or additional assessment does not cover cases for Mutual Agreement Procedure (MAP) as provided in double taxation arrangements.

It is proposed that the Director General be empowered to raise assessment and additional assessment for MAP cases at any time, i.e. without time bar.

Effective date : Coming into operation of the Finance Act

4. Extension of time for appeal

Currently, a person may at any time apply for extension of time to lodge an appeal (i.e. filing of Form N) against a notice of assessment or additional assessment to the Director General under subsection 100(1) of the ITA 1967.

It is proposed that the application for extension of time to lodge an appeal must be made within a period of 7 years from the service of the notice.

Effective date : From year of assessment 2020

5. Taxation on withdrawal of contributions made to a deferred annuity or a private retirement scheme

Currently, withdrawal of contributions from a deferred annuity or a private retirement scheme by an individual before reaching the age of 55 for the following reasons is exempted from withholding tax rate at 8%:

- i) permanent total disablement;
- ii) serious disease;
- iii) mental disability;
- iv) death; or
- v) permanently leaving Malaysia.

It is proposed that the scope of withdrawal for the exemption be widen to include reason of healthcare or housing and such withdrawal shall be in compliance with the criteria as set out in the relevant guidelines of the Securities Commission.

Effective date : From 1 January 2020

Corporate tax

6. Removal of further penalty of 5% under Section 103

Currently, any tax due and payable from an assessment for a year of assessment that includes the following:

- i) executors of a deceased individual
- ii) income tax return / notice of assessment
- iii) recovery from persons leaving Malaysia
- iv) recovery by suit

that is not paid by the due date is subject to the following penalties:

- i) 10% penalty on the amount of tax due and payable remains unpaid, within 60 days; and
- ii) further 5% penalty on the amount of tax due and payable remains unpaid after 60 days.

It is proposed that the further 5% penalty imposed on the amount of tax due and payable remains unpaid after 60 days be removed.

Effective date : From 1 January 2020

7. Prevention to leave Malaysia under Section 104

Currently, the Director General is empowered to restrain a person from leaving Malaysia if the person fails to pay the following:

- i) late payment penalty imposed on instalments payable by companies; and
- ii) under-estimation penalty of the estimate of tax payable by companies.

It is proposed that a person may also be prevented to leave Malaysia if he has not paid the penalty imposed for non-submission of estimate of tax payable.

Effective date : Upon coming into operation of the Finance Act

Real Property Gain Tax

1. Extension of requirement of retention sum on the disposal of a chargeable assets

Currently, for the disposal of a chargeable asset by a disposer who is not a citizen and not a permanent resident, the acquirer shall retain the whole of that money or a sum not exceeding 7% of the total value of the consideration whichever is the less, and (whether or not the amount is so retained) he shall within sixty days after the date of such disposal pay that amount to the Director General.

It is proposed that the requirement of retention sum of 7% to be extended to include company not incorporated in Malaysia.

Effective date : Upon coming into operation of the Finance Act



Real Property Gain Tax

2. Expansion of categories of disposer under the Real Property Gain Tax Act 1976

The current categories of disposer under the Real Property Gain Tax (RPGT) Act 1976 are as follows:

Date of disposal	Categories of disposer	
	Companies	Individual (Non-Citizen / Non-Permanent Resident)
Within 3 years from date of acquisition	30%	30%
In the 4 th year	20%	30%
In the 5 th year	15%	30%
In the 6 th year and subsequent year	10%	10%

It is proposed that the categories of disposer be expanded as follows:

Date of disposal	Categories of disposer	
	Companies incorporated in Malaysia or a trustee of a trust	Individual (Non-Citizen / Non-Permanent Resident) and Company not incorporated in Malaysia
Within 3 years from date of acquisition	30%	30%
In the 4 th year	20%	30%
In the 5 th year	15%	30%
In the 6 th year and subsequent year	10%	10%

Effective date : Upon coming into operation of the Finance Act

Labuan Business Activity Tax Act

1. Amendment to the commencement date for abolishment of election to be taxed at RM20,000 under the Labuan Business Activity Tax Act 1990

Currently, the commencement date for abolishment of election to be taxed at RM20,000 for a Labuan entity is 1 January 2019. However, it is not clear whether the commencement date will affect the tax filing for the year of assessment 2019 (for a Labuan entity with basis period falls in between 1 January 2019).

It is proposed that the commencement date for the abolishment of election to be taxed at RM20,000 be changed to year of assessment 2020 and subsequent years of assessment.

Effective date : 1 January 2019



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