MOORE Advent

TAX FLASH

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2020 Budget Highlights

With the release of the Finance Bill 2019, we provide you with the updates on the additional amendments contained therein besides those announced in the 2020 Budget Speech. The updated key amendments are outlined broadly into the following categories:-

A. Income Tax – Changes Affecting Individuals
B. Income Tax – Changes Affecting Companies and Unincorporated Businesses
C. Investment Incentives
D. Real Property Gains Tax
E. Petroleum Income Tax
F. Stamp Duty
G. Sales and Service Tax and Indirect Taxes
H. Others

Hyperlinks

- Moore Malaysia
- Moore Global
- Inland Revenue Board
- 2020 Budget Speech
- Appendices to Budget Speech
- Finance Bill 2019

Legend

ACA	=	Accelerated Capital Allowance
DGIR	=	Director General of Inland Revenue
DGCE	=	Director General of Customs and Excise
IRB	=	Inland Revenue Board
ITA	=	Investment Tax Allowance
ITA 1967	=	Income Tax Act 1967
LBATA 1990	=	Labuan Business Activity Tax Act 1990
LLP	=	Limited Liability Partnership
MIDA	=	Malaysian Investment Development Authority
MOF	=	Minister of Finance
PITA 1967	=	Petroleum (Income Tax) Act 1967
PS	=	Pioneer Status
PTPTN	=	*Perbadanan Tabung Pendidikan Tinggi Nasional*
R&D	=	Research and Development
RA	=	Reinvestment Allowance
REITs	=	Real Estate Investment Trusts
RPGT	=	Real Property Gains Tax
SC	=	Securities Commission
SME	=	Small and Medium Enterprise (as defined in ITA 1967)
SVA	=	Small Value Assets
WT	=	Withholding Tax
YA	=	Year of Assessment

A. Income Tax – Changes Affecting Individuals

1. Extension of WT Rate Applicable to Investors of REITs

- Please refer to Part B1 below

2. Expansion of Exemption on Withdrawals from Deferred Annuity and Private Retirement Scheme

- The scope of exemption on withdrawals from a deferred annuity and Private Retirement Scheme by an individual prior to attaining the age of 55 given by reason of permanent total disablement, serious disease, mental disability, death and permanently leaving Malaysia be expanded to include healthcare and housing
- The above withdrawals shall be in compliance with the criteria as set out in the SC guidelines
- Effective 1st January 2020

3. Rebate for Departure Levy Imposed on Outbound Air Passenger Performing *Umrah* and other Religious Pilgrimage

- Income tax rebate equivalent to the amount of departure levy paid be given for *umrah* and other religious pilgrimage (excluding Hajj) can be claimed twice in a lifetime
- Eligibility criteria:-
  - proof of boarding pass; and
  - in the case of *umrah* - visa issued by the embassy of the Kingdom of Saudi Arabia; or
  - in the case of other religious pilgrimage - a written verification by a religious body recognised by the Committee for the Promotion of Inter Religious Understanding and Harmony Among Adherents, Department of National Unity and Integration, Prime Minister's Department
- Effective YA 2019

4. Review of Tax Treatment on Donation

- Please refer to Part B4 below

5. Expansion of Scope of Tax Relief for Medical Expenses

- Relief of up to RM6,000 given on medical expenses for serious diseases for self, spouse and child be expanded to include expenses incurred on fertility treatment for self and spouse
- The claim has to be made by individual who is married and evidenced by a receipt and certification issued by a medical practitioner registered with the Malaysian Medical Council
- "Fertility treatment" is defined as intrauterine insemination or in vitro fertilization treatment or any other fertility treatment
- Effective YA 2020

6. Increase in Tax Relief for Fees Paid to Child Care Centres and Kindergartens

- Relief given to either parent of a child on fees paid to child care centres and kindergartens registered with the Department of Social Welfare or the Ministry of Education for child aged 6 and below be increased from RM1,000 to RM2,000
- Effective YA 2020

7. Removal of Additional Penalty on Balance of Unpaid Tax

- Please refer to Part B6 below

8. Review of Penalty for Furnishing an Amended Return

- Please refer to Part B7 below

9. No Time Bar for Raising Assessment in Consequence of a Mutual Agreement Procedure

- Please refer to Part B8 below

10. Time Limit to Apply for Extension of Time to Appeal Against an Assessment

- Please refer to Part B9 below

11. Increase in Individual Tax Rates

- Chargeable income band for resident individuals currently subject to maximum tax rate be broaden from RM1,000,001 to RM2,000,001
- Tax rate for resident individuals be increased by 2% for chargeable income band exceeding RM2,000,000
- A comparison is as shown below:-

Chargeable Income RM	Current Tax Rates %	Proposed Tax Rates %	Increase %
0 – 5,000	0	0	-
5,001 – 20,000	1	1	-
20,001 – 35,000	3	3	-
35,001 – 50,000	8	8	-
50,001 – 70,000	14	14	-
70,001 – 100,000	21	21	-
100,001 – 250,000	24	24	-
250,001 – 400,000	24.5	24.5	-
400,001 – 600,000	25	25	-
600,001 – 1,000,000	26	26	-
1,000,001 – 2,000,000	28	28	-
Exceeding 2,000,000	28	30	2

- Tax rate for non-resident individuals be increased from 28% to 30%
- Effective YA 2020

12. Extension of Tax Incentive for Angel Investor

- The application period for an Angel Investor to claim tax exemption equivalent to the amount of the investment made in the investee company ["IC"] be extended for another 3 years
- Qualifying criteria:-
  - Angel Investor
    - an individual who is a tax resident in Malaysia and whose income is not solely derived from business;
    - none of his family members makes any investment in the IC;
    - investment made in the IC shall not exceed 30% of its total paid-up share capital; and
    - the investment is solely for the purpose of financing the activities of the IC approved by the MOF
  - IC
    - incorporated under the Companies Act 2016 and a tax resident in Malaysia;
    - at least 51% of the issued share capital is directly owned by a Malaysian citizen (other than the Angel Investor); and
    - carries on the qualifying activities approved by the MOF
- Effective for application received by the MOF from 1st January 2021 to 31st December 2023

13. Extension of Exemption of Income for Women Returning to Work After Career Break

- Currently, tax exemption on employment income up to 12 consecutive months be given to female taxpayers who return to work after being on a career break for at least 2 years
- It is proposed that the application period for the above be extended for another 4 years
- Effective for application received by Talent Corporation Malaysia Berhad from 1st January 2020 to 31st December 2023

14. Merger of Special Commissioners of Income Tax and Customs Appeal Tribunal

- Please refer to Part B33 below

B. Income Tax – Changes Affecting Companies and Unincorporated Business

1. Extension of WT Rate Applicable to Investors of REITs

- The existing final WT rate of 10% applicable to both resident and non-resident individuals, foreign institutional investors and other entities (except for resident company and non-resident company) in respect of distribution of income from REITs listed on Bursa Malaysia be extended for another 6 years
- Effective YA 2020 to YA 2025

2. Expansion of Scope of Tax Deduction on Contribution to Charity and Community Projects

- Currently, tax deduction against the gross income from a business is given under Section 34(6)(h) of the ITA 1967 on expenditure incurred by a person on the provision of services, public amenities and contributions to a charity or community project pertaining to education, health, housing, conservation or preservation of environment, enhancement of income of the poor, infrastructure, and information and communication technology, approved by the MOF
- It is proposed that the scope of deduction under Section 34(6)(h) of the ITA 1967 be expanded to include a project for the maintenance of a building designated as a heritage site by the Commissioner of Heritage under the National Heritage Act 2005
- Effective YA 2020

3. Review of Tax Deduction Limit for Sponsorship of Arts, Cultural and Heritage Activities

- Tax deduction for sponsoring arts, cultural and heritage activities, approved by the Ministry of Tourism, Arts and Culture, be increased from RM700,000 to RM1,000,000 per year. Out of the RM1,000,000, the maximum deduction allowed for sponsoring foreign arts, cultural and heritage activities remains up to RM300,000 per year
- Effective YA 2020

4. Review of Tax Treatment on Donation

- Tax deduction for a person other than a company on cash donation or cost of contribution in kind made to the Government, approved institutions or organisations, approved sports activity as well as approved projects of national interest be streamlined and increased up to 10% of aggregate income, in line with the deduction rate accorded to a company
- A new Section 44(11D) of the ITA 1967 be introduced to expand the above tax deduction to include *wakaf* and endowment as follows:-
    - Cash *wakaf* contribution to any appropriate religious authority established under written law, or body established by that appropriate religious authority, or public university allowed by that appropriate religious authority, to receive *wakaf*; or
    - Cash endowment to public university
- The appropriate religious authority, body or public university has to be approved by the DGIR
- "Public university" is defined as a higher education institution having the status of a University established under the Universities and University Colleges Act 1971 and the Universiti Teknologi MARA established under the Universiti Teknologi MARA Act 1976
- Effective YA 2020

5. Appeal Procedure for Application of Approved Appropriate Religious Authority, Body or Public University Status

- A new Section 44(11D) be introduced to allow a deduction equal to any gift of money in the form of *wakaf* or endowment made to any appropriate religious authority, body established by that appropriate religious authority, or public university allowed by that appropriate religious authority, approved by the DGIR
- With the introduction of this new provision, it is proposed that the appropriate religious authority, body or public university which is aggrieved by the decision of the DGIR in respect of an application made under the new Section 44(11D) may, within thirty days after being informed of the decision by the DGIR, appeal to the MOF as in the case of the institution or organisation
- Effective YA 2020

6. Removal of Additional Penalty on Balance of Unpaid Tax

- Currently, Section 103 of the ITA 1967 provides that where any tax due and payable has not been paid by the due date, the amount unpaid will be increased by a sum equal to 10%. An additional increased sum of 5% on any amount of balance unpaid (including the 10% penalty) shall be imposed upon the expiry of 60 days from the due date without any further notice

- It is proposed that the additional increased sum of 5% be removed
- Effective 1st January 2020

7. Review of Penalty for Furnishing an Amended Return

- Currently, the tax payable or additional tax payable in the amended return furnished within 6 months from the due date of furnishing the tax return to the DGIR will include an increased sum as follows:-
  - 10% of the tax payable or additional tax payable if the amended tax return is submitted within 60 days from the due date
  - 15.5% of the tax payable or additional tax payable if the amended tax return is submitted after 60 days from the due date
- It is proposed that the increased sum be fixed at 10% of the tax payable or additional tax payable, regardless of the time the amended return is furnished (i.e. whether it is within or after 60 days from the due date)
- Effective 1st January 2020

8. No Time Bar for Raising Assessment in Consequence of a Mutual Agreement Procedure

- A new Section 91(7) of the ITA 1967 be introduced to empower the DGIR to raise an assessment or additional assessment for a year of assessment in respect of a person, at any time, in consequence of a mutual agreement procedure under a double taxation agreement
- Effective upon coming into operation of the Finance Act 2019

9. Time Limit to Apply for Extension of Time to Appeal Against an Assessment

- Currently, a person seeking to file an appeal against an assessment under Section 99(1) of the ITA 1967 may at any time apply to the DGIR for an extension of period allowed to file the appeal
- It is proposed that the above application can only be made within 7 years after the end of the period allowed to make an appeal pursuant to Section 99(1) of the ITA 1967
- Effective YA 2020

10. Recovery from Persons Leaving Malaysia

- The DGIR be empowered to issue a certificate to restrain a person from leaving Malaysia if he fails to pay the penalty for non-submission of estimate of tax payable under Section 107C(10A) of the ITA 1967
- Effective upon coming into operation of the Finance Act 2019

11. Approval or Renewal as Tax Agent

- Currently, MOF is authorised to approve or renew an approval for a person to act as a tax agent
- It is proposed that:-
  - the DGIR be empowered to approve or renew an approval for a person to act as a tax agent; and
  - if the person is aggrieved by the decision of DGIR in refusing to renew an approval or revoking an approval, he may appeal to the MOF against the decision within one month from the date he was notified of the decision
- Effective 1st January 2021

12. Increase in the Chargeable Income Limit at the Tax Rate of 17% for SME and LLP

- Currently, the preferential tax rate of 17% on chargeable income up to RM500,000 is accorded to the following entities:-
  - a SME [i.e. a company resident and incorporated in Malaysia with paid-up capital of not more than RM2.5 million and none of its related companies within the group (related by way of shareholding of more than 50%) is having paid-up capital exceeding RM2.5 million]
  - a LLP resident in Malaysia with total contribution of capital (whether in cash or in kind) of not more than RM2.5 million and it is not related to any company [by way of contribution of capital (whether in cash or in kind) or shareholding of more than 50%] having paid-up capital exceeding RM2.5 million
- It is proposed for the following:-
  - The chargeable income limit which is subject to 17% tax rate be increased from RM500,000 to RM600,000
  - In order to enjoy the preferential tax rate of 17%, the gross income of the SME/LLP from all business sources shall not exceed RM50 million for the basis period for that year of assessment
- Effective YA 2020

13. Review of Special Allowances for SVA

- The value of each asset for the purpose of claiming special allowance for SVA be increased from RM1,300 to RM2,000
- The maximum amount of total special allowance for SVA claimable for a year of assessment be increased from RM13,000 to RM20,000
- The above maximum amount of claim is not applicable to a SME having gross income from all business sources of not exceeding RM50 million for the basis period for the year of assessment
- Effective YA 2020

14. Review of Tax Treatment of Income Received by Appropriate Religious Authority

- Exemption of tax under Paragraph 13, Schedule 6 of the ITA 1967 is expanded to income received by an appropriate religious authority or a body or a public university approved for the purposes of the new Section 44(11D) in respect of any *wakaf* or endowment received including the income derived therefrom
- Effective YA 2020

15. Review of Tax Deduction for Secretarial and Tax Filing Fees

- Currently, secretarial fee and tax filing fee of up to RM5,000 and RM10,000 respectively are given tax deduction
- It is proposed that the tax deduction limit of secretarial fee and tax filing fee be combined and allowed up to RM15,000 for each year of assessment
- Effective YA 2020

16. Tax Deduction on Cost of Listing in Bursa Malaysia

- Tax deduction of up to RM1.5 million on the following listing costs be given to technology-based companies and small and medium enterprises which raise additional capital through listing in ACE Market or LEAP Market:-
  - fees to authorities;
  - professional fees; and
  - underwriting, placement and brokerage fees
- Effective YA 2020 to YA 2022

17. Tax Exemption for Religious Institution or Organisation Registered as a Company Limited By Guarantee

- Currently, tax exemption is given on all income received by a religious institution or organisation established for the purpose of religious worship or advancement of religion and registered under the Registrar of Societies Malaysia or under any written law governing the institution or organisation
- It is proposed that the above exemption be extended to religious institution or organisation registered as Company Limited By Guarantee ["CLBG"] with Companies Commission of Malaysia
- The exemption is subject to the income and profit received, and real property acquired is solely used in achieving the objective of the establishment for the purpose of religious worship or advancement of religion and not being operated or conducted primarily for profit and compliance with other requirements set by the IRB
- For CLBG approved by the IRB from YA 2020

18. ACA for New Locally Assembled Excursion Bus

- It is proposed that the qualifying expenditure incurred by licensed tour operators on new locally assembled excursion bus be allowed for the claim of ACA at the initial allowance rate of 20% and annual allowance rate of 40%
- Effective YA 2020 to YA 2021

19. Expansion of Scope of Tax Exemption for Organising Conferences in Malaysia

- Currently, tax exemption is given to companies, associations and organisations in Malaysia whose main activities are promoting and organising conferences, subject to the conference promoter bringing in at least 500 foreign participants annually
- The tax exemption be extended to include any entity whose main activities are not promoting and organising conferences provided that the entity brings in at least 500 foreign participants annually
- Effective YA 2020 to YA 2025

20. Tax Incentive for Organising Arts, Cultural, Sports and Recreational Activities in Malaysia

- In conjunction with *Visit Malaysia Year 2020*, it is proposed that tax exemption of 50% be given on statutory income of the company that organises:-
  - arts and cultural activities approved by the Ministry of Tourism, Arts and Culture; and
  - international sports and recreational competitions approved by Ministry of Youth and Sports
- Effective YA 2020 to YA 2022

21. Extension of Tax Incentive for Automation in Labour Intensive Industries

- ACA on automation expenditure be extended for another 3 years until YA 2023 to encourage automation in the following manufacturing sectors:-
  (i) First Category
    - for manufacturing companies which undertake qualifying project relating to rubber, plastic, wood, furniture and textile, 100% of ACA on the first RM4 million automation expenditure; and

  (ii) Second Category
    - for industries other than (i) above, 100% of ACA on the first RM2 million automation expenditure
- The scope of incentive for (ii) be expanded to services sector
- Extended for applications received by MIDA until 31st December 2023 for (i) and (ii)
- Effective for applications received by MIDA from 1st January 2020 to 31st December 2023 for services sector

22. Extension of Venture Capital Tax Incentives

- The current tax incentives given to the following be extended for a period of 4 years up to YA 2026:-
  - a venture capital management corporation ["VCMC"];
  - a venture capital company ["VCC"] investing in a venture company ["VC"]; and
  - tax deduction for a company or an individual with business income investing in a VC or VCC funds created by VCMC
- Effective for applications received by the SC from 1st January 2020 to 31st December 2023

23. Extension and Expansion of Scope of Double Deduction on Expenses Incurred on Structured Internship Programme

- The existing double deduction given on expenditure incurred by a company that implement Structured Internship Programme approved by Talent Corporation Malaysia Berhad be expanded to include students in all academic fields and be extended for a period of 2 years
- Effective YA 2020 to YA 2021

24. Extension of Tax Incentive for Company Participating in National Dual Training Scheme

- The current tax deduction given on expenses incurred by companies participating in the National Dual Training Scheme for Industry4WRD programmes approved by the Ministry of Human Resources be extended for another 2 years
- Effective for programmes approved by Ministry of Human Resources from 1st January 2020 until 31st December 2021

25. Extension of Deduction for Payment of PTPTN Educational Loan by Employers on Behalf of Employees

- The existing deduction given to an employer for the amount of PTPTN educational loan paid on behalf of his employee be extended for another 2 years
- Effective for payments made between 1st January 2020 and 31st December 2021

26. Extension of Deduction for Expenditure on Issuance of *Sukuk*

- Currently, deduction is given for expenditure incurred on issuance of *sukuk* based on *Ijarah* and *Wakalah* principles up to YA 2020
- It is proposed that the deduction for expenditure on issuance of *sukuk* based on *Wakalah* principle be extended for another 5 years
- Effective YA 2021 to YA 2025
- It is noteworthy that the deduction given for expenditure incurred on issuance of *sukuk* based on *Ijarah* principle is not extended

27. Extension of Further Deduction for Additional Costs Incurred on Issuance of Retail *Sukuk*

- Currently, further deduction is given for additional expenses incurred on issuance of retail *sukuk* based on *Ijarah* and *Wakalah* principles up to YA 2020
- The deductible additional expenses are:-
  - professional fee relating to due diligence, drafting and preparation of prospectus;
  - printing cost of prospectus;
  - advertisement cost of prospectus;
  - SC prospectus registration fee;
  - Bursa Malaysia processing fee and initial listing fee;
  - Bursa Malaysia new issue crediting fee; and
  - primary distribution fee
- It is proposed that the further deduction for additional expenses incurred on issuance of retail *sukuk* based on *Wakalah* principle be extended for another 5 years
- Effective YA 2021 to YA 2025
- It is noteworthy that the further deduction given for expenditure incurred on issuance of retail *sukuk* based on *Ijarah* principle is not extended

28. Extension of Deduction for Expenditure on Issuance of SRI *Sukuk*

- The current tax deduction given for expenditure incurred on issuance cost of *sukuk* that complies with the requirements of Sustainable and Responsible Investments ["SRI"] approved or authorised by, or lodged with the SC be extended for another 3 years
- Effective YA 2021 to YA 2023

29. Extension of Tax Exemption for Fund Management Services

- The existing tax exemption given to companies providing management services of conventional and *Syariah*-compliant SRI funds to foreign investors, local investors, business trusts and REITs in Malaysia approved by the SC be extended for 3 years
- Effective YA 2021 to YA 2023

30. Extension of Tax Exemption on Income from Managing *Syariah*-compliant Funds

- The existing tax exemption given to a company that provides *Syariah*-compliant fund management services approved by the SC to the following be extended for another 3 years:-
  - foreign investors in Malaysia
  - local investors in Malaysia
  - business trusts or REITs in Malaysia
- Effective YA 2021 to YA 2023

31. Tax Deduction on Contribution Made in Respect of Digital Social Responsibility

- It is proposed that tax deduction be given to companies making contributions to digital economic development, i.e. by way of improving the digital skills of the future workforce with initiatives such as technology scholarships, training and upskilling for digital skills for communities in need
- The effective date of this proposal is unknown, pending the gazette of the relevant legislations

32. Increased in Donation Reporting Threshold for Approved Institution or Organisation under Section 44(6) of ITA 1967

- Effective 5th September 2019, the donation reporting threshold was increased from RM5,000 to RM10,000 as per the Guidelines for Approval of DGIR under Section 44(6) of the ITA 1967
- It is proposed that the above threshold be increased to RM20,000
- Effective 1st January 2020

33. Merger of Special Commissioners of Income Tax and Customs Appeal Tribunal

- It is proposed that the Special Commissioners of Income Tax and Customs Appeal Tribunal be merged to a single tribunal called Tax Appeal Tribunal to improve efficiency of management of appeals
- Any taxpayer aggrieved by the decision of the DGIR or the DGCE may submit a tax-related appeal under all applicable tax laws to Tax Appeal Tribunal
- Effective year 2021

C. *Investment Incentives*

1. Special Investment Incentive for Electrical and Electronic Sector

- It is proposed that Electrical and Electronic companies that have exhausted the eligibility period to claim RA (15 consecutive years of assessment) and special RA (from YA 2016 to YA 2018) be given ITA of 50% on qualifying capital expenditure incurred within a period of 5 years. The ITA can be set-off against 50% of the statutory income for each year of assessment
- Effective for applications received by MIDA from 1st January 2020 to 31st December 2021

2. Tax Incentive for Development of Intellectual Property

- Currently, the following tax incentives are given to companies undertaking R&D activities:-
  - double deduction on in-house R&D expenditure approved by the IRB;
  - double deduction on R&D contributions to approved research institutions or expenditures for R&D services obtained from approved institutions or research companies;
  - tax deduction for cost of acquisition of proprietary rights;
  - income tax exemption for companies that commercialise resource based and non-resource based R&D findings; and
  - income tax exemption for R&D contract companies that provide R&D services
- It is proposed that income tax exemption of 100% up to 10 years be given on qualifying intellectual property ["IP"] income derived from patent and copyright software of qualifying activities
- In line with the Base Erosion and Profit Sharing initiatives introduced by Organisation for Economic Co-operation and Development, the Modified Nexus Approach will be adopted to ensure that only income derived from intellectual property developed in Malaysia is eligible for the tax exemption
- The Modified Nexus Approach aims to only allow a taxpayer to benefit from an IP regime to the extent that it can show that itself incurred expenditure, such as R&D, which gave rise to the IP income. Essentially, there must be a direct nexus between the IP income and the activity contributing to that income.
- Effective for applications received by MIDA from 1st January 2020 to 31st December 2022

3. Review of Green Technology Incentive

- Currently, the following tax incentives are given to encourage the development of green technology:-
  - ITA of 100% of qualifying capital expenditure on green assets to set off against 70% of statutory income for each year of assessment up to YA 2020
  - income tax exemption of 100% of statutory income for qualifying green services activity up to YA 2020
- It is proposed that the above incentives be extended for another 3 years until YA 2023
- A new tax incentive for solar leasing activities be introduced with income tax exemption of 70% of statutory income for a period of up to 10 years of assessment for solar leasing companies certified by Sustainable Energy Development Authority
- The extension of the ITA incentive is effective for applications received by MIDA up to 31st December 2023
- The income tax exemptions for green services activity and solar leasing activities are effective for applications received by MIDA from 31st January 2020 to 31st December 2023

4. Tax Incentives for Tourism Projects

- Currently, a company that undertakes new investment as well as reinvestment on expansion and modernisation of tourism project including theme park, holiday camp, recreational project and convention centre is given the following tax incentives:-
  - PS with tax exemption of 70% of statutory income for a period of 5 years; or
  - ITA of 60% on the qualifying capital expenditure incurred for a period of 5 years to be set off against 70% of statutory income for each year of assessment
- It is proposed that the tax incentives be expanded to include integrated tourism and sports tourism project
- In addition, the following enhanced tax incentives be given to new investment for international theme park:-
  - PS with tax exemption of 100% of statutory income for a period of 5 years; or
  - ITA of 100% on the qualifying capital expenditure incurred for a period of 5 years to be set off against 70% of statutory income for each year of assessment
- Effective for applications received by MIDA from 1st January 2020

D. Real Property Gains Tax

1. Retention Sum by Acquirer in Relation to Disposal of a Chargeable Asset by a Company not Incorporated in Malaysia

- The requirement for the acquirer to retain up to 7% of the total consideration value if the disposer is not a citizen and permanent resident be expanded to include disposer who is not a company incorporated in Malaysia
- Effective upon coming into operation of the Finance Act 2019

2. Determination of Acquisition Price of Real Properties for Malaysian Citizens and Permanent Residents

- Currently, for real properties acquired by Malaysian citizens and permanent residents prior to 1st January 2000, the market value as at 1st January 2000 is used as the acquisition price
- It is proposed that the market value as at 1st January 2013 be used as the acquisition price for real properties acquired by Malaysian citizens and permanent residents prior to 1st January 2013
- Effective 12th October 2019

3. Application of RPGT Rates to a Company Incorporated in Malaysia and a Trustee of a Trust

- It is proposed that the current RPGT rates of a company (as tabulated below) be applied to a company incorporated in Malaysia:-

Disposal	RPGT Rate
Within 3 years after date of acquisition	30%
In the 4th year after date of acquisition	20%
In the 5th year after date of acquisition	15%
In the 6th year after date of acquisition or thereafter	10%

- The same RPGT rates shall also be applied to a trustee of a trust
- Effective upon coming into operation of the Finance Act 2019

4. Application of RPGT Rates to a Company Not Incorporated in Malaysia

- It is proposed that the current RPGT rates of an individual who is not a citizen or permanent resident (as tabulated below) be applied to a company not incorporated in Malaysia:-

Disposal	RPGT Rate
Within 5 years after date of acquisition	30%
In the 6th year after date of acquisition or thereafter	10%

- Effective upon coming into operation of the Finance Act 2019

E. Petroleum Income Tax

1. No Time Bar for Raising Assessment in Consequence of a Mutual Agreement Procedure

- To mirror the changes made under the ITA 1967, a new Section 39(7) of the PITA 1967 be introduced to empower the DGIR to raise an assessment or additional assessment for a year of assessment in respect of a person, at any time, in consequence of a mutual agreement procedure under a double taxation agreement
- Effective upon coming into operation of the Finance Act 2019

2. Time Limit to Apply for Extension of Time to Appeal Against an Assessment

- Currently, a person seeking to file an appeal against an assessment under Section 43(1) of the PITA 1967 may at any time apply to the DGIR for an extension of period allowed to file the appeal
- To mirror the changes made under the ITA 1967, it is proposed that the above application can only be made within 7 years after the end of the period allowed to make an appeal pursuant to Section 43(1) of the PITA 1967
- Effective YA 2020

3. Review of Double Taxation Arrangements

- To mirror the changes made under the ITA 1967 in the Income Tax (Amendment) Act 2018, a new Section 65A(1A) of the PITA 1967 be introduced to include the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting or any other arrangement which modify any present arrangement between the Government of Malaysia and the government of any territory outside Malaysia
- Effective 28th December 2018

4. International Obligations

- To mirror the changes made under the ITA 1967 in the Income Tax (Amendment) Act 2018, a new Section 65AA of the PITA 1967 on international obligations be introduced to provide a new avenue for any bilateral or multilateral arrangement made by the Government of Malaysia with a view to give effect to Malaysia's international obligations in relation to tax under the PITA 1967 or any other written law
- Where any arrangements have effect by virtue of the new Section 65AA of the PITA 1967, Section 71 of the PITA 1967 shall not prevent the disclosure to a duly authorised servant or agent of the government with which the arrangements have been made of such information as is required to be disclosed under the arrangements
- Effective 28th December 2018

F. Stamp Duty

1. Review of Stamp Duty on Foreign Currency Loan Agreements

- Currently, conventional and *Shariah*-compliant loan agreements in foreign currencies are subject to stamp duty at *ad-valorem* rate of RM5 for every RM1,000 of the loan amount but the total stamp duty payable is capped at RM500
- It is proposed that the maximum stamp duty payable for foreign currency loan agreements be increased from RM500 to RM2,000
- Effective for loan agreements executed from 1st January 2020

2. Stamp Duty Exemption on Instruments of Transfer under RTO Scheme

- Stamp duty exemption be given on the instruments of transfer for the following under the Rent-To-Own ["RTO"] scheme:-
  - Transfer of residential property from housing developer to financial institution
    - Effective for sale and purchase agreements executed from 1st January 2020 to 31st December 2022
  - Transfer of residential property from financial institution to Malaysian individual buyer
    - Effective for rental agreements executed from 1st January 2020 to 31st December 2022
- The stamp duty exemption is only applicable to first residential property priced up to RM500,000 and is subject to the following conditions:-
  - the financial institutions regulated by Bank Negara Malaysia ["BNM"] that provide home financing under RTO scheme must obtain approval from BNM; and
  - housing developers collaborating with financial institutions that provide RTO scheme must be registered with National Housing Department, Ministry of Housing and Local Government

3. Review of Stamp Duty Remission for Transfer of Real Property by Way of Love and Affection

- It is proposed that the 50% remission of stamp duty chargeable on the instrument of transfer of real property from parents to children and vice versa be restricted to Malaysian citizen only
- Effective for instrument of transfer executed from 1st January 2020
- Pending the gazette of the statutory order, it is uncertain whether the above restriction will apply to the transfer between husband and wife

G. Sales and Service Tax and Indirect Taxes

1. Introduction of Approved Major Exporter Scheme under the Sales Tax Act 2018

- It is proposed that Approved Major Exporter Scheme be introduced under the Sales Tax Act 2018
- Through this scheme, the approved traders or manufacturers of exempted goods are eligible for full sales tax exemption on the taxable goods imported, transported from designated areas or special areas or purchased from a registered manufacturer provided that:-
  - the taxable goods shall be exported, or transported to designated areas or special areas; or
  - the taxable goods are used as raw materials, packing and packaging materials or components in the manufacturing of exempted goods, which subsequently shall be exported, or transported to designated areas or special areas
- The approved traders or manufacturers of exempted goods are not required to determine the quantity of goods to be exported at the time of importation, transportation from designated areas or special areas, or purchase of the goods
- Sales tax shall be paid for:-
  - the portion of trading goods or manufactured goods (which are exempted goods for sales tax purposes) that are not exported or that are sold in local market, based on a prescribed formula; and
  - waste or refuse of raw materials, components, packing and packaging materials used for the manufacturing of exempted goods that are disposed of or sold in the local market
- The annual export sales of the approved traders or manufacturers must be at least 80% of their annual sales
- Any person who has been granted an approval under this scheme shall record the amount of sales tax exempted on the importation, transportation or purchase of the taxable goods in the form and manner as may be determined by the DGCE
- Effective 1st July 2020, subject to the gazette of the relevant legislations

2. Excise Duty Exemption on the Purchase of New Locally Assembled Vehicles Used for Tourism Purposes

- It is proposed that licensed tour operators be given excise duty exemption of 50% on the purchase of new locally assembled vehicles used as tourism vehicles
- Effective for application received by MOF from 1st January 2020 to 31st December 2021

3. Review of Export Duty Rate on Crude Palm Oil

- It is proposed that the export duty rate on Crude Palm Oil ["CPO"] after taking into consideration of partial export duty exemption be revised as follows:-

CPO Market Price (FOB RM/tonne)	New Export Duty Rate (%)
< 2,250	-
2,250 – 2,400	3.0
2,401 – 2,550	4.5
2,551 – 2,700	5.0
2,701 – 2,850	5.5
2,851 – 3,000	6.0
3,001 – 3,150	6.5
3,151 – 3,300	7.0
3,301 – 3,450	7.5
> 3,450	8.0

- Effective 1st January 2020

4. Relaxation on Group Relief Facility under the Service Tax Regulations 2018

- It is proposed that the group relief be extended to a company which provides any taxable services specified in items (a), (b), (c), (d), (e), (f), (g), (h), or (i) in column (2) of Group G, First Schedule of the Service Tax Regulations 2018 to a third party who is not within the same group of companies
- This is subject to the condition that the total value of services provided to the third party does not exceed 5% of the total value of services provided by that company within 12 months
- Effective 1st January 2020

5. Service Tax Exemption on Provision of Training and Coaching Services for Disabled Person

- It is proposed that the service tax exemption be given to the training and coaching services provided by the following service providers to disabled persons with hearing, visual, physical, speech, mental and learning disabilities:-
  - training and coaching centres registered with Ministry of Health Malaysia or Department of Social Welfare; or
  - training and coaching centres endorsed by any national association for disabled persons registered with Registrar of Societies Malaysia
- Effective 1st January 2020

6. Deferred Payment Facility

- The DGCE will introduce a deferred payment facility to expedite the clearance process of cross border transactions in order to better facilitate trade movements through ports.

7. Merger of Special Commissioners of Income Tax and Customs Appeal Tribunal

- Please refer to Part B33 above

H. Others

1. Abolishment of Election by a Labuan Entity to be Taxed under LBATA 1990

- It is proposed that the effective date for the abolishment of election to be taxed at RM20,000 under LBATA 1990 to be amended from 1st January 2019 to YA 2020
- In line with the deferment of the effective date for the abolishment of election, the power given to the DGIR to direct the basis period of a Labuan entity carrying on a Labuan business activity which is a Labuan trading activity which does not have a basis period for a year of assessment is also deferred to effective YA 2020
- For further information, kindly refer to our Tax Flash – December 2018 (Special Edition) issue

2. Exemption of Entertainments Duty for Stage Performance

- In conjunction with the *Visit Malaysia Year 2020*, it is proposed that full entertainments duty exemption be given on admission tickets for stage performances that include concerts, singing, music, dances and theatres including cultural and artistic performance by local and international artists held at any venue in the Federal Territories of Kuala Lumpur, Labuan and Putrajaya which are approved by the relevant local authorities
- Effective 1st January 2020 to 31st December 2020

3. Grant for Digitalisation Measures Adopted by Small Medium Enterprise for Business Operations

- To build a Digital Malaysia, a 50% matching grant of up to RM5,000 per company will be provided for small medium enterprises adopting digitalisation measures such as electronic Point of Sale systems (e-POS), Enterprise Resource Planning (ERP) and electronic planning system
- This matching grant will be worth RM500 million over 5 years, limited to the first 100,000 small medium enterprises applying to upgrade their systems

4. Grant for Automation of Business Processes for Manufacturing and Services Companies

- A Smart Automation matching grant will be provided to 1,000 manufacturing and 1,000 service companies to automate their business processes
- This matching grant will be worth RM550 million and be given on a matching basis up to RM2 million per company

5. R&D Matching Grants

- A R&D matching grant of RM30 million to be allocated by the Government for collaborations with industry and academia to develop higher value added downstream uses of palm oil, specifically tocotrienol in pharmaceuticals and bio-jet fuel

6. Review of Minimum Wages

- It is proposed that the minimum wages be increased from RM1,100 per month to RM1,200 per month in major cities
- Effective year 2020

7. EPF Contributions for Contract Workers

- It is proposed to extend the coverage of Employees Provident Fund ["EPF"] contributions to include contract workers under Contract for Services and Professionals
- The proposal will start as a voluntary scheme for workers in the arts and entertainment industry via collaboration between EPF and the National Film Development Corporation Malaysia before extending the coverage to other sectors

8. Expansion of Self-Employment Social Security Scheme by SOCSO

- The current self-employment social security scheme by Social Security Organisation ["SOCSO"] will be broadened to enable contributions by other self-employed groups across 18 key sectors, such as fishermen, farmers, sole proprietors and partnerships

9. *i-Suri* for Spouse

- In August 2018, *i-Suri* programme was introduced to ensure single mothers, housewives, single women and widows below the age of 60 would be able to have a retirement fund
- All housewives registered with the e-Kasih System by 30th June 2018 are eligible to contribute to *i-Suri* programme provided that the following criteria are met:-
    - Malaysian citizens
    - not more than 60 years old
    - are wives to household heads (KIR)
    - are household heads (KIR), divorcees, single or widows
    - contribute RM5 monthly or RM60 yearly
- The *i-Suri* account holders are also able to enjoy the same benefits as other EPF members
- In year 2020, this programme will be expanded whereby husbands may voluntarily elect to contribute 2% from his 11% EPF employee contribution to his wife's EPF Account