

Malaysian Budget 2010



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A. Personal Tax

1. Reduction in individual tax rate
2. Increase in Personal Relief
3. Individual tax relief on broadband subscription fees
4. Tax relief on annuity scheme premium
5. Tax Incentive for knowledge workers working in specified Economic Region
6. Return of Remuneration by an Employer
7. Consequences on non-compliance of Employers' statutory obligations

B. Corporate Tax

1. Small and Medium Enterprises
2. Standardizing tax treatment for special purpose vehicle
3. Extending Tax Exemption on Profits From Non-Ringgit Sukuk
4. Extending tax incentive on expenditure to establish Islamic stock broking companies
5. Extension and expansion of tax incentives on issuance of Islamic securities
6. Tax exemption of interest income

C. Tax Incentives

1. Health Tourism
2. Expediting Investment for Selected Activities
3. Buildings obtaining Green Building Index certificate
4. Investment allowance for Services Sector
5. Extension of Tax Incentive Period to Promote Malaysia as an International Islamic Financial Centre (MIFC)
6. Extension and expansion of tax incentives for export of financial services

D. Tax Procedure

1. Estimate and installments for new company
2. Estimate and installments for companies
3. Penalty for failure to furnish return or give notice of chargeability

E. Real Property Gains Tax

1. Tax on the Disposal of Real Property

F. Petroleum Income Tax Act (PITA)

1. Upstream Petroleum Companies - Standardization of tax assessment System

G. Stamp Duty

1. Extension of Stamp Duty Exemption on Instruments of Islamic Financing
2. Penalty provision for stamp certificates
3. Stamp duty exemption for Syariah-based financing scheme
4. Amendment to person required to cancel adhesive stamps

H. Indirect Tax

1. Service tax on credit cards and charge cards

I. Others

1. Income tax rates of Co-operative Societies

A. Personal Tax

1. Reduction in individual tax rate

Proposed

-*Resident* - reduced 27% to 26% (CI group \geq RM100K)

-*Non-resident* - reduced 27% to 26%

Comment

Aligning the non-resident individual and co-operative tax rates with the reduced tax rate for resident individual.

Effective date - From YA 2010

2. Increase in Personal Relief

Proposed

-The self relief be increased from RM8,000 to RM9,000.

Comment

This proposal is aimed at increasing the disposable income of the rakyat.

Effective date - From YA 2010

3. Individual tax relief on broadband subscription fees

Proposed

-monthly bill under individual's name

-expended/deemed expended in basis year

-restrict to RM 500 for that basis year

Comment

This is aimed to further enhance the usage of broadband and life long learning.

Effective date - From YA 2010 to YA 2012

4. Tax relief on annuity scheme premium

Proposed

-EPF contribution and life insurance premiums or deferred annuity - RM 7,000 relief for resident individual.

-The additional RM1,000 reliefs is solely on annuity scheme premiums from insurance companies contracted on or after 1 January 2010

Comment

Recognizing the inadequacy of Malaysian's personal savings and compulsory pension, this is one of the Government's initiatives to encourage Malaysians to provide for their retirement through private schemes.

Effective date - From YA 2010

5. Tax incentive for knowledge workers working in specified Economic Region

Proposed

Employment income of a resident individual who is a "knowledge worker" for the following qualifying activities be taxed at the rate of chargeable income:-

- i. green technology;
- ii. biotechnology;
- iii. educational services;
- iv. healthcare services;
- v. creative industries;
- vi. financial advisory and consulting services;
- vii. logistics services; and
- viii. Tourism.

The incentive is for knowledge worker who apply and commence employment in Iskandar Malaysia between 24 October 2009 and 31 Dec 2015.

The rate of 15% is only *meaningful* to worker who earn annual chargeable income of at least RM106,136.

Effective date - From YA 2010

6. Return of Remuneration by an Employer

Proposed

Effective Y/A 2009, the employer is required, for **each year**, to furnish the prescribed form (Form E) **not later than 31 March** in the year following the basis year.

In addition, the proposed legislation also specifies that a **statement of remuneration (Form EA)** has to be prepared and rendered to employees **on or before the last day of February** in the year following the basis year.

Effective date - From YA 2009

7. Consequences on non-compliance of Employer's statutory

Proposed

The addition of this provision where an employer fails to comply with the requirements of Section 83 of the Act, the employer shall be liable to pay to the Director General the full amount of tax due from the employee: "tax shall be a *debt due from that employer to the Government* and shall be payable forthwith to the DG".

Comment

The proposed legislation merely strengthens the Director General's ability to recover from the employer any taxes due from the employee by way of civil proceedings

Effective date - Date of gazette of the Finance Act

B. Corporate Tax

1. Small and Medium Enterprise

Existing

Expenses incurred in Malaysia on the registration of **patents and trademarks** are **not tax deductible** as they are **capital in nature**.

However, companies resident in Malaysia are eligible to claim **double deduction** for registration of patents, trademarks and product licensing **overseas** for the purpose of promoting the exports of goods or agricultural products manufactured, produced, processed, graded or sorted and assembled in Malaysia.

Proposed

Expenses incurred by small and medium enterprise (SME) in the registration of patents and trademarks are **allowed** as tax deduction

The registration expenses include fees or payment made to patents and trademark agent registered under the patents Act 1983 & the Trade Marks Act 1976.

Deemed incurred when certificate is obtained.

Definition of an SME for purpose of this incentive:

- Companies as defined under paragraphs 2A and 2B, Schedule 1 of the Income Tax Act 1967
- Manufacturing industries, manufacturing related services industries and agro-based industries
 - Enterprise with full time employees not exceeding 150 persons or with annual sales turnover not exceeding RM25m

- Services industries, primary agriculture and information communication technology (ICT)
 - Enterprise with full time employees not exceeding 50 persons, OR with annual sales turnover not exceeding RM5m

Effective Date

From YA 2010 to YA 2014

Comments

This is to promote innovation and intellectual property development among SME

* *Paragraphs 2A and 2B, Schedule 1 of the Income Tax Act 1967: -*

Where the company has paid up capital of ordinary shares of RM2.5M or less at the beginning of the basis period of a YA were by such company does not control or is controlled directly or indirectly by another company which has a paid up capital more than RM2.5M of ordinary shares.

2. Standardizing tax treatment for special purpose vehicle (SPVs)

Existing

Special purpose vehicle (SPVs) established solely to channel fund for the purpose of issuance of Islamic securities approved by the Securities Commission are accorded the following tax treatment:

- Not subject to income tax and required to comply with administrative procedure under the Income Tax Act 1967; and
- Income received and cost incurred in the issuance of Islamic securities by the SPV are deemed as income and cost of the company establishing the SPV.
- Therefore the company establishing the SPV is subjected to Tax on that income and given deduction on such cost incurred.

SPVs established under the Offshore Companies Act 1990 and which have elected to be taxed under the income Tax Act 1967 do not enjoy the same tax treatment.

Proposed

The above tax treatment is extended to SPVs established under the *Offshore Companies Act 1990* which have elected to be taxed under the Income Tax Act 1967.

Effective Date

From YA 2010

3. Extending Tax Exemption on Profits from Non-Ringgit Sukuk

Existing

Profits from non-Ringgit sukuk approved by the Securities Commission and issued in Malaysia are given tax exemption from the YA 2008

Sukuk is the Arabic name for a financial certificate but can be seen as an Islamic equivalent of bond.

Proposed

The above tax exemption is to be extended to profits derived from the issuance of sukuk approved by the Labuan Offshore Financial Services Authority.

Effective Date

From YA 2010

Comments

This is to encourage the issuance of non-Ringgit Sukuk in Malaysia as part of the measures to further develop the Islamic financial system

4. Extending tax incentive on expenditure to establish Islamic stock broking companies

The incentive on tax deduction on **establishment expenditure** incurred is extended to application received by the Securities Commission (SC) by **31 December 2015** to establish Islamic stock broking companies provided the following conditions are fulfilled:

- Company must commence its business within a period of 2 years from the date of approval by the SC
- Applications received by the SC from **2 September 2006 until 31 December 2015**

5. Issuance of Islamic securities

Tax deduction incurred on expenditure on the issuance of Islamic securities is extended from YA 2003 until YA 2015 and also be extended to Islamic securities approved by Labuan Offshore Financial Services Authority (LOFSA) (from YA 2010 to 2015).

- Deduction from gross income
- Amount = expenditure on issuance of Islamic Securities (principle – mudharabah, musyarakah, ijarah & istisna')
- Approved by SC

6. Exemption of interest income

Interest or discount paid or credited to any individual, unit trust and listed closed – end fund in respect of the following is exempt from tax:

- Securities or bonds issued or guaranteed by the government
- Debentures, other than convertible loan stock, approved by the SC
- Bon Simpanan Malaysia issued by Bank Negara Malaysia
- Islamic securities approved by the SC

Effective date

YA 2010

C. Tax Incentive

1. Health Tourism

The health tourism affects healthcare service providers i.e. healthcare medical services and wellness aspects of healthcare services. In order to promote the medical tourism industry, the Government will enhance tax incentives for healthcare service providers who offer services to foreign health tourist. Currently, the income tax exemption rate on the value of increased exports is only 50%,

Proposed

The proposed income tax exemption will be increased to 100% on the value of increased exports (not exceeding 70% of statutory income) to foreign clients with restriction as follows;

Existing (50%)	Proposed	
50%	100%	50%
Company Incorporated or registered outside Malaysia	Company Incorporated or registered outside Malaysia	Non-Malaysian citizen holding a student pass and dependants
Non-Malaysian citizen without work permit	Non-Malaysian citizen without work permit	Non-Malaysian citizen participating in *MM2H
Non-resident Malaysian citizen living abroad		Non-resident Malaysian citizen living abroad

* "Malaysia My Second Home" Program

Effective Date:

YA2010 to YA2014

2. Expediting Investment for Selected Activities

Existing

A. Forest Plantation

- i. Investor company:
 - a. The company which invests in its subsidiary company engaged in forest plantation activities is granted tax deduction equivalent to the amount or investment made in that subsidiary; **OR**
 - b. The company which invests in its subsidiary company engaged in forest plantation activities is granted group relief on losses incurred by its subsidiary company before it records any profit.

- ii. Subsidiary company undertaking forest plantation activities:
 - a. The subsidiary company undertaking forest plantation activities is granted income tax exemption of 100% on its statutory income for 10 years commencing from the first year the company derive profits;
 - b. An existing forest plantation company that reinvest for purposes of expansion of the forest plantation project is granted income tax exemption of 100% on its statutory income for 5 years commencing from the first year the company derive profits.

This incentive is effective for applications received from 21 May 2003.

B. Consolidation of The Management of Smallholdings and Idle Land

- i. A company or individual or partnership or a co-operative society that invest in a wholly owned subsidiary company involved in the consolidation of management of smallholdings or idle land is allowed a deduction equivalent to the amount of investment;
- ii. A company or individual or partnership or a co-operative society undertaking the consolidation of management of smallholding or idle land is given tax exemption of 100% of statutory income for a period of 5 years; and
- iii. A wholly-owned subsidiary company undertaking the consolidation of management of smallholdings or idle land is exempted from service tax.

Incentive (i) and (ii) are given for applications received from 21 September 2002 and incentive (iii) is effective from 1 January 2003.

C. Knowledge Based Economy

- i. Companies participating in a strategic knowledge intensive activity is granted 'strategic knowledge based company' status and eligible for the following incentives:
 - a. Pioneer Status with income tax exemption of 100% of statutory income within a period of 5 years; or
 - b. Investment Tax Allowance of 60% on qualifying capital expenditure incurred within a period 5 years. The allowance to be set-off against 100% of statutory income for each year of assessment.
- ii. Expenditure incurred by a company for drafting the individual corporate knowledge based master plan is allowed as a deduction in the computation

of income tax. The deduction is claimed when the company begins to implement the corporate knowledge based master plan.

Incentive (i) is given for applications received from 21 September 2002 and incentive (ii) is effective from year of assessment 2003.

Proposed

To ensure investments in the above selected activities are expedited, it is proposed incentives (A), (B) and (C) be imposed an effective period. To qualify for the incentives, applications must be received not later than 31 December 2011.

3. Buildings obtaining Green Building Index certificate

Proposed

To promote Green technology, the Government proposed that;

Category	Incentives	Period	Other remarks
Owners of Building	Eligible to set off 100% of additional capital incurred to obtain first GBI certificate against statutory income	Awarded with GBI certificate between 24 October 2009 until 31 December 2014	Available for new buildings and upgrade of existing buildings
Buyers of buildings and residential properties	Stamp duty exemption on instruments of transfer of building ownership to the <u>first</u> owner	Sales & Purchase Agreement (SPA) executed between 24 October 2009 until 31 December 2014	Exemption limited to additional cost incurred to obtain the GBI certificate

Effective Date : Immediately

Comment

It is Malaysia’s first green rating tool on environmentally friendly buildings. The intention is to drive towards more energy efficient and environment friendly buildings. There are 2 separate tools – GBI Residential and GBI Non-Residential. Point rating system is based on a set of key criteria.

The key criteria are;

- Energy Efficiency;
- Water Efficiency;
- Indoor environment quality;
- Materials and resources;
- Sustainable Site and planning management; and
- Innovation.

The assessment procedure begins with Greenbuildingindex Sdn Bhd (GSB) issues provisional GBI certificate upon application and registration with GSB. Upon completion and verification of design assessment, final award of certification is given 1 year after the building is first occupied

4. Investment allowance for Services Sector

Proposed

The meaning of the word "incurred" under paragraph 46 and 55 of Schedule 3 is incorporated into Para 9 Schedule 7B.

New interpretation 'incurred'- same meaning s Para 46 & 55 Schedule 3

Para 46 - capital expenditure for P&M under hire purchase

Para 55 - capital expenditure for construction of building or provision of P&M

Effective date: From YA 2010

5. Extension of Tax Incentive Period to Promote Malaysia as an International Islamic Financial Centre (MIFC)

Existing

Expenses incurred in the promotion of MIFC are given double deduction from the YA 2008 until YA 2010. The expenses allowed (verified by the MIFC Secretariat) are expenses incurred on:

- i. market research and feasibility study;
- ii. preparation of technical information relating to type of services offered;
- iii. participation in an event to promote MIFC;
- iv. maintenance of sales office overseas; and
- v. publicity and advertisement in any media outside Malaysia.

Proposed

The double deduction incentive will be extended until the year of YA 2015.

Comments

This is to further develop Islamic financial services in Malaysia.

6. Extension and expansion of tax incentives for export of financial services

Existing

Taxation on banking, insurance and takaful sectors is based on worldwide income scope. This means that income from operations is subject to tax even if such income is not remitted back to Malaysia.

In the Budget 2007, banking institutions are given tax exemption on:

- i. Profits of newly established branches overseas; or
- ii. Income remitted by new overseas subsidiaries.

The incentives are subject to the following conditions:

- i. Applications to establish new branches or subsidiaries overseas must be submitted to Bank Negara Malaysia from 2 September 2006 until 31 December 2009; and
- ii. The branches or subsidiaries have to commence operations within a period of 2 years from the date of approval by Bank Negara.

The tax exemption is given for a period of 5 years from the commencement of the branches or subsidiaries.

Proposed

To further promote the export of services of the banking, insurance and takaful sectors, it is proposed that:

- i. The tax incentives given to banks be extended to insurance companies and takaful companies;
- ii. The effective period for the 5-year tax exemption be given flexibility to be deferred from the date of commencement of operations to begin no later than the third year of operations; and
- iii. The incentive is extended on condition that applications to establish new branches or subsidiaries overseas be received by Bank Negara Malaysia no later than 31 December 2015.

D. Tax Procedure

1. Estimate and installments for new company

The estimate of tax payable for a company, trust body or co-operative society (the entity) where it first commences operation in a YA:

Existing

- Shall be submitted to the IRB within 3 months from the date of commencement of operations.
- The first installments in the 6th month of basis period

Proposed

- Applicable for basis period in which operations first commence more than 6 months
- Director General may direct the installment for basis period less than 6 months

Effective date

YA 2011

2. Estimate and installments for companies

Existing

If the final tax payable exceeds the estimated tax payable and the excess is more than 30% of the final tax payable, a 10% penalty will be imposed on the difference between the excess and 30% of the final tax payable.

Proposed

Where:

- no tax estimate is furnished by the taxpayer
 - no directions to make payment by installments given by Director General
 - no prosecution in relation to failure to furnish such estimate
 - tax is payable on the submission of return
- The tax payable shall be increased by 10% and the increased equal to tax due and payable

Effective date

YA 2011

3. Penalty for failure to furnish return or give notice of chargeability

Existing

Where no prosecution is instituted against a taxpayer for failure to furnish a return or give notice of chargeability, the Director General may require the taxpayer to pay a penalty equal to treble the amount of tax.

Proposed

A new provision is inserted to clarify that the Director General is empowered to impose additional penalty for the above default.
wef Date of gazette of the Finance Act

E. Real Property Gains Tax (RPGT)

Proposed

- i. RPGT will be reintroduced w.e.f 1 January 2010
- ii. Gains on disposal of chargeable asset after 5 years will be charged at the rate of 5% regardless of the holding period of the property.
- iii. The RPGT return must be furnished within 60 days from the date of disposal. (Taxpayers can also e-file the RPGT returns)
- iv. The exemption enjoyed by an individual is increased to RM10,000 or 10% of the chargeable gain, whichever is greater.
- v. Allowable losses from disposal of Real Property allowable to set off against Chargeable gain on disposal of Real property
- vi. Any unutilized allowable loss can be carried forward until it is fully utilized.
- vii. Tax relief b/f prior to 1.04.2007 can be utilized against tax assessed from disposals after 31/12/09.
- viii. Interest paid on capital employed to acquire Real Property will no longer be regarded as part of incidental cost of acquisition or disposals
- ix. The acquirer shall retain a sum not exceeding 2% of the total consideration and remit the sum to the Director General within 60 days after the date of disposal. (Failure to comply will result in imposition of 10% penalty)

Comment

RPGT REintroduction.....a good thing?

There were no surprises for Malaysian Budget 2010 except the reintroduction of Real Property Gains Tax (RPGT). Although the rate sounds small but it's a total shift in principle. RPGT was used to curb speculation on property transactions hence, charging high rates if properties disposed in short period after purchase and lower as the period becomes longer. It penalizes a person who "trades" in property market and not long term investors and owners.

The recent reintroduction of RPGT has shifted from tax on capital gains (for the purpose of curbing speculation) to a revenue tax. It is worse when the interest element is now not considered as cost in the

calculation of the gain. For some, it's like taxing on your savings and many of us bought or buying properties as a method of saving.

Let me demonstrate a simple illustration as follows:

Mr. A bought a house 30 years ago at RM120,000 on RM100,000 loan. After struggling paying the bank of total RM250,000 during the tenure of the loan (calculated at approx 7% interest per annum), he now has to pay RPGT of RM6,500 (sale of RM250k - purchase of RM120k x 5% RPGT). Note that the tax he is paying is not for a gain but from the interests that he paid for over 30 years. The gain (so called) is actually his saving for the whole life.

The above illustration may be too simplistic but there are other issues like:

- a) How can he prove that he bought it for RM120,000 30 years ago? he is lucky if the bank keep the agreement but if nobody keeps it? or how can he prove that he spent RM30,000 for renovation 10 years ago in order to claim it. Tax laws say we need to keep records for only 7 years but, renovation of a house is not an expense that needs proof as its a cost people spend after they pay their taxes. What if the house was bought 60 years ago? Do we have another amendment on keeping of documents?
- b) As a buyer, I need to fork out at least 12% deposit (10% deposit and another 2% to be paid to the IRB for the RPGT) at the point of buying. Normally, 10% is enough as bank would finance the rest. Its a burden as its cash upfront that I need to have to get the deal done.
- c) there is a lot more work, documents, time to be spent and not to include hassles in handling property sale an purchase
- d) the fact that every body now has to pay RPGT has lessen the opportunity for individuals to reap more capital gains that we have been enjoying for the whole of our lives earlier is not a nice feeling.

However, not all are gloomy. There is sun shines for us and lucky we studied accounting became practicing accountants. Now there is another reason people need to see us and pay for that.

Cheers for all accountants!!!

YA 2010 based on income received in 2009 will be allowed to be paid by installments over 5 years.

Effective Date
From YA 2010

F. Petroleum Income Tax Act (PITA)

Existing

The tax assessment for upstream petroleum companies under the Petroleum (Income Tax) Act 1967 is under the official assessment system where tax is assessed based on income received in the preceding year.

Proposed

The assessment system to be changed to the:

- i. current year assessment system; and
- ii. self assessment system.

The income tax for YA 2010 based on income received in 2009 will be allowed to be paid by installments over 5 years.

Type	Act adopted	Tax assessment system		
		Old		Proposed (w.e.f YA2010)
Upstream	Petroleum Income Tax Act 1967	Preceding year - assessment done by IRB	Change to	Current year system - self assessment
Downstream	Income Tax Act 1967	Current year - self assessment		remain unchanged

Effective Date

From YA 2010

Comments

This is to standardize the nation's tax system and to ensure that the Government's cash flow reflects current economic performance

G. Stamp Duty

1. Extension of Stamp Duty Exemption on Instruments of Islamic Financing

The additional stamp duty exemption of 20% on instruments of Islamic financing approved by the Syariah Advisory Council of Bank Negara Malaysia or the Securities Commission is to be extended from 2 September 2006 until 31 December 2015.

2. Penalty relating to stamp certificates

Previously there is no specific penalty provision relating to "stamp certificate". It is proposed that where a person is guilty of specified offences in relation to stamp certificates, the person shall be liable on conviction to a fine not exceeding RM5,000.

Effective Date

1 January 2010

3. Stamp duty exemption on Syariah financing instruments

It is proposed that the exemption available on instruments executed pursuant to a scheme of financing which is in accordance with the principles of Syariah approved by Bank Negara Malaysia and Securities Commission is to be extended to schemes of financing which are in accordance with the principles of Syariah approved by the Labuan Offshore Financial Services Authority.

Effective Date

1 January 2010

4. Amendment to person required to cancel adhesive stamps

Previously there is no specific mention of the person required to cancel adhesive stamp for Articles of Association and Memorandum of Association of a Company. It is proposed that Registrar of Companies has now been prescribed as the person required to cancel the said adhesive stamp.

Effective Date

From 1 January 2010.

H. Indirect Tax

1. Service tax on credit cards and charge cards

Proposed

It is proposed that service tax be imposed on credit cards and charge cards including those issued free of charge as follows:

- (i) RM 50 per year on the principal card; and
- (ii) RM 25 per year on the supplementary card

Service tax will be collected on the date the card is issued or on the completion of each year or on the date of renewal.

Effective Date

1 January 2010

Comments

Card issuers who are currently not licensed for service tax must ensure that they are licensed by 1 January 2010

I. Others

Co-operative income tax rate for chargeable income above RM500,000 to be reduced from 27% to 26%.

Effective date

YA 2010