

Budget 2011 Highlights

Executive Summary

The 2011 Budget was presented by our honourable Prime Minister, YAB Dato' Sri Mohd. Najib Tun Abdul Razak, who is also the Finance Minister, on Friday 15 October 2010.

The theme for the 2011 Budget speech was Transformation Towards A Developed And High-Income Nation and it was centred on the following four key strategies:

- First: Reinvigorating Private Investment;
- Second: Intensifying Human Capital Development;
- Third: Enhancing Quality of Life of the Rakyat; and
- Fourth: Strengthening Public Service Delivery.

The 2011 Budget emphasized the efforts to transform the nation into a developed and high-income economy with inclusive and sustainable development which would be spear headed by the private sector. The Budget also focused on the well being of the rakyat.

The following is a brief snapshot of the changes which were introduced in this year's budget highlights:-

1. Discount from issuance of bond which is not set off in full against the source from that discount may be set off against other business sources;
2. Tax incentive for issuance of Islamic securities under the principles of *Murabahah* and *Bai' Bithaman Ajil* based on *tawarruq* be given a deduction for the purposes of income tax computation;
3. Withholding tax – DG is empowered to impose penalty under Section 113(2) where a payer fails to deduct and remit withholding tax.
4. Entitlement to double deduction for insurance premiums for export credit based on *takaful* concept purchased from approved *takaful* operators;
5. Application period for tax incentives for companies generating energy from renewable sources or providing energy conservation is extended to 31 December 2015;
6. Tax exemption period for income from the sales of Certified Emission Reductions is extended to Year of Assessment (YA) 2012;
7. Application period for tax incentives for food production activities is extended to 31 December 2015;
8. Import duty and excise duty exemptions for new completely-built-up hybrid cars are extended to applications received until 31 December 2011;
9. Sales tax exemption is accorded for mobile phones;
10. Service tax on all taxable services is increased from 5% to 6%;
11. Service tax at 6% is imposed on paid television broadcasting services;
12. 50% stamp duty exemption on transfer instruments and loan agreements are accorded for purchase of first residential property priced at RM350,000 and below;
13. Existing income tax relief of up to RM6,000 for contributions to the Employees Provident Fund is extended to contributions made to the Private Pension Fund to be launched; and
14. The Income Tax Act, 1967 (the Act) is amended to allow the Inland Revenue Board (IRB) to utilize excess tax paid under the Act against taxes arising under the Petroleum (Income Tax) Act, 1967 (PITA) or Real Property Gains Tax Act, 1976 (RPGTA). The PITA and RPGTA will also have similar provisions.

We have outlined the key changes to the Budget in the following pages.

CORPORATE TAX

1. Tax Deduction on Discounts

It is proposed that in a case where discount from the issuance of bond is incurred as an expense to the company and the expenses could not be given a deduction in full to the source of that discount, such expenses may be deducted from the gross income of that company from any source consisting of a business. This proposed change is targeted at companies which are non-financial institutions.

However, the proceeds from the issuance of such bond must be used wholly for the production of gross income from that source consisting of a business and the bond is not the stock in trade of the company.

2. Withholding Tax

It is proposed that where a payer fails to deduct and remit tax in accordance with section 107A, 109, 109B or 109F of the Act but made a claim for deduction on the payment that is subject to such tax in a return, the DG may impose penalty under subsection 113(2) of the Act regardless that the withholding tax together with the increase for such failure is subsequently paid to the DG.

This proposal will take effect from 1 January 2011.

3. Tax Installments

It is proposed that the Director General may direct a company, trust body or co-operative society to make payments by installments for a YA on account of tax which is or may be payable. Such tax shall be deemed to be the revised estimate of tax payable for the purpose of determining the thirty per cent excess between the deemed revised estimate of tax payable and the tax payable for that YA. Where the direction is made before the ninth month of the basis period for that YA, a revised estimate of tax payable may be furnished in the ninth month.

This proposal will take effect in YA2012

4. Investment Holding Company – Income from Unit Trust

Income distributed by a unit trust (which includes Real Estate Investment Trust) is deemed to be dividend income for the purposes of computing the amount of deductible permitted expenses of investment holding companies, close-end fund companies and unit trusts

PERSONAL TAX

1. Medical Expenses for Parents

Currently relief of RM5,000 is claimable by a resident individual taxpayer for treatment in clinics and hospitals, treatment in nursing homes, treatment in nursing homes and dental care excluding cosmetic dental treatment.

It is proposed that the above expenses be extended to include expenses relating to care and special needs for parents.

The proposed expenses for the claim are as follows:-

- i. treatment and medical expenses supported with receipts issued by registered medical centres, pharmacies or licensed medical stores; or
- ii. expenses for care of parents supported by receipts or written certification by carers (does not include the taxpayer claiming the relief, the spouse and the children) certifying that the care was provided and the total payment involved. Foreign hired carers are required to possess a valid visa/special work permit for the care of parents of taxpayers; or
- iii. expenses on special needs for parents certified by a qualified medical practitioner and supported by receipts as proof of purchase.

The above proposal is effective from YA2011.

2. Transfer of Residential Property

To encourage ownership of the first residential property and to reduce the cost of home ownership, it is proposed that instruments of transfer and loan agreements executed for the purchase of residential property not exceeding RM350,000 be given a 50% stamp duty exemption. This exemption is granted on the first residential property purchased by a Malaysian citizen and can be claimed once only within the exemption period.

The proposal is effective for instruments executed from 1 January 2011 to 31 December 2012.

3. Time Bar for Raising Assessment or Additional Assessment on Executor

The Director General of Inland Revenue [“DGIR”] will be empowered to raise assessment or additional assessment not later than the end of the third YA following the YA in the basis year in which the DGIR is informed by the executor of the death of the individual via a prescribed form

Effective upon coming into operation of the Finance (No. 2) Act 2010

INVESTMENT INCENTIVES

1. **Export Credit Insurance Premium Based on *Takaful* Concept**

Currently, conventional insurance premium in respect of export credit insurance with a company approved by MOF is given a double deduction.

To grant equal tax treatment between conventional insurance and takaful, it is proposed that a double deduction be given on premium for export credit insurance based on the takaful concept and insured with takaful operators approved by MOF.

The proposal is effective from YA 2011.

2. **Extension of Application Period for Tax Incentives for the Generation of Energy from Renewable Sources and Energy Conservation**

- i. Currently, companies generating renewable energy or providing energy conservation services are eligible for the following incentives:
 - a. pioneer status with an 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 which can be set off against 100% of statutory income; and
 - c. import duty and sales tax exemption on energy generating equipment or energy conservation equipment provided that the equipment is not produced locally and sales tax exemption on equipment purchased from local manufacturers.

Other companies in the same group are also eligible for the above incentives even though a company in the group has already been granted the above incentives.

Companies which incur capital expenditure for generating renewable energy or for energy conservation for their own consumption are entitled to:

- a. investment tax allowance of 100% on the qualifying capital expenditure incurred within a period of 5 years which can be set off against 100% of statutory income; and
- b. import duty and sales tax exemption on energy generating equipment or energy conservation equipment provided that the equipment is not produced locally and sales tax exemption on equipment purchased from local manufacturers.

INVESTMENT INCENTIVES (Con't)

Currently, the above incentives are given for the applications received by the Malaysian Industrial Development Authority (MIDA) until 31 December 2010.

It is proposed that the above incentives be extended for applications received until 31 December 2015.

- ii. Companies importing or purchasing equipment for third party consumption are eligible for:
 - a. import duty and sales tax exemption on the following equipment:
 - i. solar photovoltaic system equipment; and
 - ii. energy efficient equipment such as high efficiency motors and insulation materials.
 - b. sales tax exemption on the purchase of the following equipment produced by local manufacturers:
 - i. solar heating system equipment; and
 - ii. energy efficient consumer goods such as refrigerator, air conditioner, lightings, fan and television.

Currently, the above incentives are given for applications received by MIDA until 31 December 2010.

It is proposed that the above incentives be extended for applications received until 31 December 2012.

- iii. Currently, resident companies with investment in reduction of greenhouse gas emission from Clean Development Mechanism projects approved by the Ministry of Natural Resources and Environment, enjoy income tax exemption in respect of income received from the trading of Certified Emission Reduction certificates.

Currently, the above incentive is available from YA 2008 until YA 2010.

It is proposed that the above incentive be extended for another 2 years for YA 2011 and YA 2012.

INVESTMENT INCENTIVES (Con't)

3. Extension of Tax Incentive Period for Food Production

Currently, tax incentives are granted, subject to conditions, to

- i. a company that invests in its subsidiary company engaged in food production activities; and
- ii. the subsidiary company that undertakes the food production activities.

Presently, these incentives are available for applications received by the Ministry of Agriculture and Agro-based Industry until 31 December 2010.

To ensure continuous development in the agro-food and agro-based industry, the current incentives are proposed to be extended for another 5 years and will be effective for applications received until 31 December 2015.

4. Extension of Incentives for Last Mile Network Facilities Provider for Broadband

Currently, the following incentives are given to companies investing in last mile broadband infrastructure:

- i. income tax exemption equivalent to 100% of the qualifying capital expenditure incurred for broadband infrastructure for a period of 5 years with the allowance to be set-off against 70% of statutory income for each YA. The application for the tax incentive is to be submitted to the MOF; and
- ii. import duty and sales tax exemption on broadband equipment and consumer access devices which are basic in providing the broadband services and which are not produced locally. The application for exemption is to be submitted to the MIDA.

The above incentives are currently given for applications received until 31 December 2010.

To encourage further investment in broadband services infrastructure, it is proposed that the application period for tax incentives to companies that invest in last mile broadband infrastructure be extended for another 2 years i.e. for applications received until 31 December 2012.

INDIRECT TAX

1. Increase in Service Tax Rate

It is proposed that the rate of service tax be increased from 5% to 6%. The scope of tax will also be extended to cover television broadcasting services.

The proposals are effective from 1 January 2011.

2. Excise Exemption on Hybrid Cars

It is proposed that the import duty and excise duty exemption of 100% and 50% respectively given to franchise holders of new completely-built-up ["CBU"] hybrid cars be increased to full exemption. The above 100% exemption of import duty and excise duty be extended to electric cars, hybrid motorcycles and electric motorcycles.

Effective for applications made to the MOF from 1st January 2011 until 31st December 2011.

3. Exemption on Sales Tax on Mobile Phones

Currently, ordinary mobile phones are subject to sales tax of 10% whereas Personal Digital Assistants (PDAs) with Global System Mobile (GSM) which may also function as mobile phones are given sales tax exemption.

In order to harmonize the tax treatment of PDAs with GSM and ordinary mobile phones, it is proposed that mobile phones be exempted from sales tax.

The proposal is effective from 4.00 p.m. on 15 October 2010.

4. Abolishment of Import Duty on Tourism Products and Daily Used Product

To promote further Malaysia as the leading shopping destination, it is proposed that:

- i. import duty of between 5% and 30% currently imposed on handbags, wallets, suitcases, briefcases, apparel, footwear and hats be abolished;
- ii. import duty of between 5% and 20% currently imposed on jewellery, costume jewellery and ornaments be abolished; and
- iii. import duty of between 5% and 20% currently imposed on toys such as dolls and small scale recreational models be abolished.

To reduce the burden of the rakyat on the cost of daily use products, it is proposed that:

- i. import duty of between 10% and 20% currently imposed on talcum powder, face powder and shampoo be abolished; and
- ii. import duty of between 10% and 20% currently imposed on bedspreads, blankets, curtains and table cloths be abolished.

These proposals are effective from 4.00 p.m. on 15 October 2010.

OTHER TAX MATTERS

1. Reinvestment Allowance

Para 7(a) of Schedule 7A has been amended by inserting the words “the basis period” to replace the words “the period”. This amendment is aimed at clarifying that a company which has been granted pioneer status or pioneer certificate will not be eligible to claim reinvestment allowance during that period.

2. Utilisation of Tax Paid in Excess

The proposed amendment provides that the Director General is empowered to use any amount of excess tax paid by a person under the PITA to pay any amount of tax due and payable under the Act or the RPGTA. Similar provisions are proposed in respect of Income Tax and Real Property Gains Tax.

The proposals are effective on the coming into operations of the Finance Act.

3. Tax Information Exchange Arrangements

As part of its commitment to implementing the internationally agreed tax standard on transparency and exchange of information, the Government may enter into an arrangement with the government of any territory outside Malaysia for the purpose of exchange of information. However, this arrangement is only made if there is no Double Taxation Agreement in force.

CONTACT US

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