

Growing strategically

News Flash Malaysia

Latest news on law, tax and business in Malaysia

Issue: February 2018 · www.roedl.com/malaysia

Read in this Issue:

- > Amendments to the Income Tax Act 1967
- > Amendments to the Real Property Gain Tax Act 1976
- > Amendments to Goods and Services Tax Act 2014

On 29th December 2017, the Finance (No.2) Act 2017 ("the Act") was enacted to incorporate the 2018 Budget proposals into the relevant legislation. The Act amends provisions in the Income Tax Act 1967, Real Property Gain Tax Act 1976, Goods and Services Tax Act 2014 and the Finance Act 2013.

The salient points to note on the changes of the Act are shown as follows:-

Amendments to the Income Tax Act ("ITA") 1967

> Individual Tax

Individual income tax rates reduction

Individual income tax rates is reduced by 2 % for the following 3 chargeable income bands effective from Year of Assessment ('YA') 2018:

Chargeable Income band	Tax rate
RM20,001 to RM35,000	5 % to 3 %
RM35,001 to RM50,000	10 % to 8 %
RM50,001 to RM70,000	16 % to 14 %

> Corporate Income Tax

Due Date for Notification of Change in Accounting Period

A company, limited liability partnership, trust body or co-operative society shall notify the Director General of any change in its accounting period before a specified due date:

a. Where the new accounts are made up before the year end	30 days before the end of the new accounts
b. Where the new accounts are made up ending after the original year-end	30 days before the end of the original year end

Notification is to be provided by way of Form CP204B.

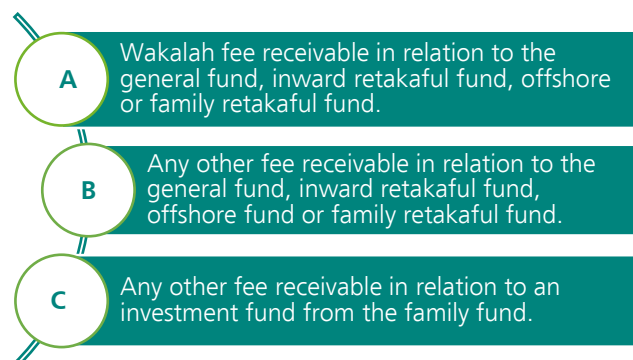
This ruling takes effect from YA 2019.

Tax treatment of takaful business reviewed

Currently shareholders fund of resident takaful operator subject to wakalah fee and any other fee receivable from general fund, inward retakaful fund, offshore or family retakaful fund are taxed as gross income.

However, only management expenses incurred in relation to wakalah fee from general business is tax deductible. Similar situation applies to shareholders fund of the non-resident takaful operator.

The scope of deduction for management expenses is now extended to the following:-



A new formula has been introduced for the computation of deduction under items (B) and (C). The above tax treatment takes effect from YA2018.

> Interest on excessive financial assistance

Budget 2009 introduced Thin Capitalisation Rules ('TCR') where subsequently Section 140A was inserted into the ITA. The Ministry of Finance, however deferred the implementation of TCR to 1 January 2018.

The OECD has introduced the Earning Stripping Rules ('ESR') in order to address tax leakages due to excessive interest claims on loans made between related companies.

ESR replaces TCR with effect from 1 January whereby interest deduction on loans between related companies within the same group will be limited to a ratio to be determined.

Change in determination of Residual expenditure ('RE') of an asset classified as held for sale ('HFS')

In the past, once an asset is classified as HFS in accordance with generally accepted accounting principles, the asset is deemed disposed under the ITA in the following basis period. This applies to situations where the asset is sold, and where the asset is not sold in the following basis period. Upon disposal or deemed disposal of the asset, balancing charge or balancing allowance has to be computed as the difference between the disposal value and RE as prescribed under the ITA. The total qualifying expenditure shall be reduced by:

"An amount of annual allowance ("AA") which would have been made to him for that following basis period as if the asset had been used in that following basis period for the purpose of a business of his".

Under the recent amendment which is effective from 29 December 2017, residual expenditure is determined as follows:-

Total qualifying expenditure less:

any initial allowance made to that person in relation to that asset for any YA;

any AA made to that person in relation to that asset for any YA; and

an amount of AA which would have been made for the basis period in which the asset was classified as HFS as if the asset had been used in that basis period for the purpose of a business

Amendments to the Real Property Gain Tax ("RPGT") 1976

Increase in retention sum by acquirer on disposal of real property by non-citizen and non-permanent resident

Previously, where the sales consideration is wholly or partly in monetary form, the acquirer is required to retain the whole sum or 3 % of the total value of the sales consideration, whichever is lesser, and remit to the Inland Revenue Board within 60 days from the date of disposal.

Effective 1 January 2018, the retention sum by the acquirer is increased from 3 % to 7 % of the total value of the consideration in the case where the disposer is not a citizen and not a permanent resident.

Applicable RPGT rate on executor of the estate of a deceased person who is not a citizen and not a permanent resident

Part III of Schedule 5 of the RPGT Act provides the rate of tax in the case of an individual who is not a citizen and not a permanent resident as follows:

- a) 30 % for disposal of chargeable asset within 5 years
- b) 5 % for disposal of chargeable assets in the 6th year onwards

Effective from 1 January 2018, the above rate of tax is applicable to an executor of estate of a deceased person who is not a citizen and not a permanent resident.

Change in scope of conditional contracts

Previously, where a disposal / acquisition of real property requires governmental approval (i.e. approval by the Government or a State Government or an authority or committee appointed by the Government or a State Government), the date of disposal / acquisition shall be the date of such approval.

Effective from 1 January 2018, the scope of the above governmental approval be limited to approval by Government or a State Government only.

> Amendments to the Goods and Services Tax ("GST") Act 2014

Amendment on Power to Assess under Section 43 the GST Act 2014

The amendment to Section 43 allows the Director General to assess GST or invoke penalties on any non-taxable person, where the non-taxable person has failed to make the required GST declaration or furnished an incomplete / incorrect GST declaration, under Section 42 of the GST Act 2014. The time bar for this assessment is 6 years from when GST was due and payable, except in cases of fraud or willful default, where there is no time bar.

This ruling takes effect on a date to be appointed by the Minister of Finance by notification in the Gazette.

Growing strategically

"The development of a business requires careful planning. We support you in making strategic, meaningful investment decisions towards the long-term profitable growth of your business."

Rödl & Partner

"When building a tower, we also pursue a strategy that is always reviewed and continuously improved, with sustainable self-development in mind."

Castellers de Barcelona



"Each and every person counts" – to the Castellers and to us.

Human towers symbolise in a unique way the Rödl & Partner corporate culture. They personify our philosophy of solidarity, balance, courage and team spirit. They stand for the growth that is based on own resources, the growth which has made Rödl & Partner the company we are today. „Força, Equilibri, Valor i Seny“ (strength, equilibrium, valour and common sense) is the Catalan motto of all Castellers, describing their fundamental values very accurately. It is to our liking and also reflects our mentality. Therefore Rödl & Partner embarked on a collaborative journey with the representatives of this long-standing tradition of human towers – Castellers de Barcelona – in May 2011. The association from Barcelona stands, among many other things, for this intangible cultural heritage.

Imprint News Flash Malaysia, issue February 2018

Publisher: **Roedl Consulting Sdn Bhd**
Menara Tan & Tan, Office M-03
207, Jalan Tun Razak
50400, Kuala Lumpur

Responsible for the content:
Jonas Bley – jonas.bley@roedl.pro

Responsible for the layout
Priya Selvanathan – Priya.Selvanathan@roedl.com

This Newsletter offers non-binding information and is intended for general information purposes only. It is not intended as legal, tax or business administration advice and cannot be relied upon as individual advice. When compiling this Newsletter and the information included herein, Rödl & Partner used every endeavour to observe due diligence as best as possible, nevertheless Rödl & Partner cannot be held liable for the correctness, up-to-date content or completeness of the presented information.

The information included herein does not relate to any specific case of an individual or a legal entity, therefore, it is advised that professional advice on individual cases is always sought. Rödl & Partner assumes no responsibility for decisions made by the reader based on this Newsletter. Should you have further questions please contact Rödl & Partner contact persons.