Expert Review

Malaysia's 2018 Budget: Announced 27th Oct 2017

Implications on ACA, GST, Principal Hub, Personal Tax and more

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Implications on Corporate Tax

Accelerated Capital Allowance ("ACA") for Information and Communication Technology ("ICT")

It was proposed that capital allowances will be given 20 % for initial allowance and 20 % for annual allowance to the following expenditure:

- Purchase of ICT equipment and computer software packages.
  Effective date: from Year of Assessment ("YA") 2017.

- Expenditure incurred on the development of customised software comprising consultation fee, licensing fee, and incidental fee related to software development.
  Effective date: YA 2018.

ACA and Automation Equipment Allowance ("AE") for Manufacturing Companies

Currently, manufacturing companies are eligible for ACA and AE on purchase of automation equipment.

For Labour-Intensive Industry such as rubber, plastic, wood, and textile products, ACA of 100 % and AE of 100 % will be eligible on the first MYR 4 million qualifying capital expenditure ("QCE") incurred during the YA 2015 until YA 2020.

Effective date: applications received by MIDA from 1st January 2018 to 31st December 2020.

For other industries, ACA of 100 % and AE of 100 % will be eligible on the first MYR 2 million QCE incurred during the YA 2015 until YA 2020.

Expansion of Tax Incentives for Hiring the Disabled

Currently, employers who employ disabled persons certified by the Department of Social Welfare are eligible for further deduction on salary paid to the disabled persons.

Further deduction to be extended to employers that hire workers who were affected by accidents or critical illness and are certified by the Medical Board of the Social Security Organisation (SOCSO) that they are still fit to work was proposed.

Effective date: from YA 2018.

Implications on Taxes for Individuals

Individual Tax Rate

Based on the proposal, resident individuals will get an individual tax rate reduction of 2 % for the income tax band between MYR 20,000 to MYR 70,000 as described below:

- For MYR 20,001 to MYR 35,000, the tax rate is to be reduced from 5 % to 3 %
- For MYR 35,001 to MYR 50,000, the tax rate is to be reduced from 10 % to 8 %
- For MYR 50,001 to MYR 70,000, the tax rate is to be reduced from 16 % to 14 %

Effective date: from YA 2018.

Extension of Period for Resident Individuals' Income Tax Relief on Net Savings in the National Education Savings Scheme ("SSPN")

It was proposed that the period of tax relief up to a maximum of MYR 6,000 in respect of the net savings amount deposited into SSPN be extended for another 3 years.

Effective date: YA 2018 to YA 2020.

Tax Incentive for Women Returning to Work After Career Break

Women who return to the workforce after a career break of at least 2 years as at 27th October 2017 are proposed to be given tax exemption on employment income, up to a maximum of 12 consecutive months.

Eligible individuals must submit applications to Talent Corporate Malaysia Berhad from 1st January 2018 to 31st December 2019.

Effective date: for women who return to the workforce between the year of assessment of 2018 to 2020.

Tax Exemption on Rental Income from Residential Homes Received by Malaysian Resident Individuals

50 % income tax exemption will be given on rental income received by Malaysian resident individuals for a maximum period of 3 consecutive years of assessment, subject to the following conditions:

> The rental income received does not exceed MYR 2,000 per month for each residential home; and
> The residential home must be rented under a legal tenancy agreement between the owner and the tenant.

Effective date: YA 2018 to YA 2020.

Tax Incentives for Businesses

Extension of Tax Incentives for Principal Hub

The Principal Hub Incentive that was introduced in April 2015 applies to applications received by MIDA from 1st May 2015 until 30th April 2018.

An extension for the incentive was proposed, for another 3 years until 31st December 2020, adhering to the criteria of Forum on Harmful Tax Practices.

New companies enjoy a reduced corporate tax rate of 0 %, 5 %, or 10 % for a period of five years, with a possible extension of another five years. The applicable rate depends on whether the company qualifies as a "Tier 1", "Tier 2" or "Tier 3" Principal Hub.

For existing companies, including existing companies with approved operational headquarters ("OHQ"), international procurement centre ("IPC"), or regional distribution centre ("RDC") status, the Principal Hub incentive grants full tax exemption on Value Added Income, for a period of 5 years. Extension for another 5 years is not available to existing companies that have obtained approved IPC, OHQ or RDC status and have been granted IPC/OHQ/RDC incentives, but is available for the other existing companies.

To be eligible for the incentive, certain conditions must be met by the interested company.

Effective date: applications received by MIDA by 31st December 2020.

Tax Incentives for the Tourism Industry

Extension of incentives for new 4- and 5-star hotels

The following tax incentives available to hotel operators undertaking investments in new 4- and 5-star hotels will be extended for another 2 years:

> ***Peninsular Malaysia***:
(a) Pioneer status: 70 % exemption on statutory income for a period of 5 years; or
(b) Investment tax allowance: 60 % allowance on the qualifying capital expenditure incurred within a period of 5 years to be set-off against statutory income of up to 70 %.

> ***Sabah and Sarawak***:
(a) Pioneer status: 100 % exemption on statutory income for a period of 5 years; or
(b) Investment tax allowance: 100 % allowance on the qualifying capital expenditure incurred within a period of 5 years to be set-off against statutory income of up to 100 %.

Effective date: applications submitted to MIDA by 31st December 2020.

Extension of Tax Incentives for Tour Operating Companies

Currently, tour operating companies are given 100 % income tax exemption on statutory income derived from the following businesses from years of assessment 2007 to 2018:

> ***Operation of tour packages within Malaysia***:
≥ 1,500 local tourists per year
> ***Operation of tour packages to Malaysia***:
≥ 750 foreign tourists per year

It was proposed that the above incentives be extended for another 2 years.

Effective date: YA 2019 to YA 2020.

Extension of Tax Incentives for Medical Tourism

Currently, the tax incentive in the form of Investment Tax Allowance ("ITA") of 100 % of qualifying capital expenditure ("QCE") incurred within 5 years which can be used to set off 100 % of statutory income is available for private healthcare service providers carrying out new investments, expansions, modernisations or refurbishments in relation to medical tourism. The tax incentive is considered for applications submitted to the Malaysian Investment Development Authority ("MIDA") by 31st December 2017.
Extension of the application period for the tax incentive for another 3 years was proposed; i.e. for applications submitted to MIDA until 31st December 2020, subject to the following revised conditions (amongst other conditions):

> At least 10 % (currently 5 %) of the total number of patients receiving private healthcare services comprises of qualified healthcare travellers per year of assessment; and
> At least 10 % (currently 5 %) of the company's gross income is derived from qualified healthcare travellers for each year of assessment.

Effective date: applications submitted to MIDA from 1st January 2018 to 31st December 2020.

Expansion of Double Deduction Incentive for Expenses Incurred in Obtaining Certification for Quality Systems and Standards by Private Healthcare Services Providers

It was proposed that companies registered with Malaysia Healthcare Travel Council (MHTC) that provide dental and ambulatory healthcare services be given double deduction for expenses incurred in obtaining certification for quality systems and standards from the following bodies:

> ***Malaysia*** – Malaysian Society for Quality in Health
> ***USA*** – Joint Commission International
> ***UK*** – CHKS Accreditation Unit
> ***Australia*** – The Australian Council on Health Care Standard
> ***Canada*** – Accreditation Canada

Effective date: YA 2018 onwards.

Review of Tax Incentives for Export of Private Healthcare Services

It was proposed that the current level of tax exemption on income derived from the export of healthcare services to foreign clients either in Malaysia or from Malaysia be increased from 50 % to 100 % of the value of increased exports of services. Such exemption can be set-off against 70 % of the statutory income.

The tax incentive is subject to the following new conditions:

> At least 10 % of the total number of patients receiving private healthcare services are comprised of qualified healthcare travellers per year of assessment; and
> At least 10 % of the company's gross income is derived from qualified healthcare travellers for each year of assessment.

Effective date: YA 2018 to YA 2020.

Tax Incentives for Venture Capital

Review of Tax Incentives for Venture Capital ("VC")

Currently, there are tax incentives for VC Management Corporation ("VCMC"), VC Company ("VCC"), and Investments in a VC.

For VCMC, the tax incentives are as below:

> **Existing**: Income tax exemption on statutory income derived from share of profits received on investment made by VCC.

> **Proposal**: Income which is exempted from tax be expanded to include income received from management fees and performance fees in managing VCC funds.

For VCC and VC, the tax incentives are as below:

> **Existing**:
- Income tax exemption is given for 10 years or according to the life of the fund established for investment in the VC, whichever is shorter. The VCC must invest at least 70 % of seed, start-up and early stage funds in VC or at least 50 % in the form of seed capital.
- Companies or individuals with business income that make an investment in a VC are given a tax deduction on the amount of investment made in the VC at the adjusted income level.

> **Proposal**:
- Investment limit in VC at the seed, start-up and early stage be reduced from 70 % to 50 % and the 50 % balance is allowed for other investments.
- Companies or individuals with business income investing in to VCC funds created by VCMC be given tax deduction on the amount of investment made, restricted to a maximum of MYR 20 million per year for each company or individual.

Tax exemption will be given for 5 years from year of assessment 2018 to 2022.
Existing date: applications received by the SC from 1st January 2018 until 31st December 2018.

Extension of Period for Tax Incentives for Angel Investors

At present, angel investors who invest in investee companies in the form of ordinary shares are entitled for tax exemption equivalent to the amount of investments made in the investee companies for applications submitted to the Ministry of Finance by 31st December 2017.

It is proposed that the application period for tax incentive for angel investors be extended for another 3 years.

Effective date: 1st January 2018 to 31st December 2020.

Tax Incentives for Green Sustainable and Responsible Investment ("Green SRI") Sukuk Grant

Tax Exemption on Green SRI Sukuk Grant

It was proposed that income tax exemption be given to each recipient of the Green SRI sukuk grant to finance the external review expenditure in line with the guidelines set out by the Securities Commission Malaysia ("SC").

Effective date: applications received by the SC from 1st January 2018 to 31st December 2020.

Tax Exemption on Management Fee for Sustainable and Responsible Investment ("SRI") Funds

Currently, companies providing management services of Shariah-compliant approved by the SC are exempted from tax on the following:

- Statutory income from fund management services provided to foreign investors in Malaysia;
- Statutory income from fund management services provided to local investors in Malaysia; and
- Statutory income from fund management services provided to business trust or real estate investment trust in Malaysia.

To further promote fund management activities, it was proposed that tax exemption also be extended to management fee income from management of conventional and Syariah-compliant SRI funds approved by the SC.

Effective date: YA 2018 to YA 2020.

Goods and Services Tax ("GST")

GST Treatment for Local Authorities

Services provided by local authorities will not be subjected to GST (i.e. out of scope supply). Thus, local authorities will not be liable to be registered for GST in the future, and will need to notify Customs accordingly.

As the local authorities will not be eligible to claim input tax credit, relief will be given on acquisition of goods by them except for petroleum, commercial building or land and importation of motor cars.

Effective date: 1st April 2018 or 1st October 2018, as determined by the local authorities.

GST Treatment for Reading Materials

Reading materials comprising all types of magazines, journals, periodicals, and comics will be treated as zero rated supplies.

Effective date: from 1st January 2018.

GST Treatment for Cruise Operators

Cruise ship operators are given relief from paying GST on handling services provided by sea port operators in Malaysia.

Effective date: 1st January 2018 to 31st December 2020.

GST Treatment for Constructions of School Buildings and Houses of Worship

Constructions of school buildings and houses of worship which are funded through donations are given GST relief. The eligibility of relief is conditional on:

- Approval from Ministry of Finance ("MOF");
- Invoices not issued prior to the grant of the relief;
- Obtaining an approval for the construction fund under Section 44(6) of the Income Tax Act ("ITA") 1967;
- Obtaining approvals for development / constructions from the relevant authorities;
- The school premise constructed is directly used for teaching and learning purposes;
- The construction contract is signed on or after 1st April 2017.

The relief does not apply to the purchase of commercial buildings.

Effective date: applicants to MOF from 27th October 2017.

GST Treatment on Importation of Goods under Lease Agreements from Designated Areas ("DA")

Imports of oil and gas related equipment under a lease agreement supplied to customers in Malaysia by companies in DA namely Labuan, Langkawi, and Tioman are given GST relief.

Effective date: from 1st January 2018.

GST Treatment on Importation of "Big Ticket" Items

Imports of big ticket items such as aircraft, shipping by airlines, and shipping companies registered in Malaysia are given GST relief. GST relief are also given to companies in the oil and gas industry, importing oil rigs or floating structure.

Effective date: from 1st January 2018.

GST Treatment on Management and Maintenance Services of Stratified Residential Buildings

The management and maintenance services of stratified residential buildings supplied by the Joint Management Body ("JMB") and management corporations are not subject to GST. This treatment is expanded to cover the management and maintenance services provided by housing developers.

Effective date: from 1st January 2018.

Organisation for Economic Cooperation and Development ("OECD") Taxation Initiatives

Malaysia's Participation in the OECD Taxation Initiatives

To ensure the competitiveness of the tax system while at the same time maintaining taxing rights, Malaysia is currently committed to adhere to the internationally agreed standards on exchange of information for tax purposes.

Among the initiatives undertaken by Malaysia include:

> **Participation in the OECD initiatives**:

- Base Erosion and Profit Sharing ("BEPS") Associate under the Inclusive Framework to implement BEPS Action Plan;
- Member of the Forum on Harmful Tax Practices ("FHTP");
- Member of the Global Forum on Transparency and Exchange of Information for Tax Purposes;
  - Party to the Convention on Mutual Administrative Assistance on Tax Matters;
- Party to the Multilateral Competent Authorities Agreement on Country-by-Country Reporting;
- Party to the Multilateral Competent Authority Agreement on Common Reporting Standards; and
- Ad hoc Member of the Multilateral Instrument Framework.

> **Implementation of the Automatic Exchange of Information ("AEOI") on tax matters effective September 2018.**

> **Streamline tax incentives to be in line with FHTP criteria. Amendment to the relevant legislations will be gazetted before 1st January 2019.**

Since 2009, Malaysia has participated in the OECD initiatives to enhance compliance on the international standards relating to exchange of information on tax matters to support foreign direct investments.

In the 2018 Budget, Malaysia's commitment to fulfil the OECD BEPS Action Plan Initiative was proposed.

Implementation of Earning Stripping Rules to Replace Thin Capitalisation Rules

Malaysia's participation in various initiatives of the OECD included the implementation of the Thin Capitalisation Rules ("TCR"), which aims to curb aggressive tax planning between related companies.

During Malaysia's 2009 Budget, TCR was introduced to ensure the deduction on interest payment for loans between related companies does not exceed the threshold as specified TCR. In order to provide taxpayers with adequate timeline for its implementation, the enforcement of TCR has been deferred until 31st December 2017.

As measures to prevent tax evasion and avoidance as well as profit shifting at international levels continues to improve, the OECD has introduced a new method to control excessive deductibility of interest expense on loans between related parties, known as the Earning Stripping Rules ("ESR").

Under ESR, the interest deduction on loans between related companies within the same group will be limited to a ratio as determined by a country's tax authority, ranging from 10 % to 30 % of the company's profit before tax by either using the Earning Before Interest and Taxes ("EBIT") or the Earning Before Interest, Tax, Depreciation, and Amortisation ("EBITDA").

To address tax leakages due to excessive interest claims on loans made between related companies and to comply with the transfer pricing guidelines, it is proposed that ESR be implemented to replace TCR.

Effective date: from 1st January 2019.

Stamp Duty

Stamp Duty Exemption on Contract Notes for Trading of Exchange Traded Funds ("ETF") and Structured Warrants ("SW")

Currently, stamp duty is charged at the rate of MYR 1 for every MYR 1,000 and part thereof on contract notes for the trading of shares of listed companies on Bursa Malaysia, subject to a cap of MYR 200 per contract note.

To further promote the development and competiveness of Malaysia's capital market at international level, it is proposed that stamp duty exemptions be given on the contract notes for the trading of ETF and SW by investors.

Effective date: for trading of ETF and SW executed from 1st January 2018 to 31st December 2018.

Extension of Period for Stamp Duty Exemption to Revive Abandoned Housing Projects

To further ease the financial burden of the original house purchasers and to encourage the involvement of rescuing contractors to revive abandoned housing projects, it is proposed that the existing stamp duty exemptions be extended for another 3 years.

For Loan Agreements:

- ***Rescuing Contractors***: To finance the revival of abandoned housing projects.
- ***Original House Purchasers in the Abandoned Projects***: For additional financing.

For Instruments of Transfer:

- ***Rescuing Contractors***: To transfer the title for land houses in abandoned housing projects.
- ***Original House Purchasers in the Abandoned Projects***: To transfer the houses in the abandoned housing projects.

Effective date: for loan agreements and memorandum of transfers executed from 1st January 2018 to 31st December 2020 for abandoned housing projects certified by the Ministry of Urban Wellbeing, Housing and Local Government.

Others

Pulau Pangkor to be Designated as a Duty-Free Island

It was proposed that Pulau Pangkor in Perak be designated as a Duty-Free Island. However, the duty-free status would not apply to alcoholic beverages, tobacco products and motor vehicles.

Effective date: To be determined.

Development of a Special Border Economic Zone (including Free Industrial Zone) in Bukit Kayu Hitam, Kedah

Currently, Bukit Kayu Hitam is a Free Commercial Zone (FCZ) for trading activities only. It was proposed that a Special Border Economic Zone, which includes a Free Industrial Zone, will be developed in Bukit Kayu Hitam, Kedah.

Effective date: To be determined.

Women and Family Wellbeing

It is proposed that maternity leave for the private sector to be increased from 60 days to 90 days as implemented by the public sector. The Government is pleased to announce 2018 as the Women Empowerment Year.

Talent and Careers

Private companies awarded with Government contracts are mandated to allocate 1 % of their total project value to Skim Latihan 1Malaysia or 1 Malaysia Training Scheme (SL1M).

Expansion of e-Visa Regional Hub

It is proposed that there is an expansion of e-Visa regional hub by facilitating Visa application worldwide, especially for expatriates, foreign students, and Malaysia My Second Home Programme ("MM2H").

Effective date: To be determined.

Foreign Domestic Helper

For a start, the Government will allow employers to hire foreign domestic helpers from 9 selected countries directly without any agents. The 9 countries are Indonesia, Thailand, Cambodia, The Philippines, Sri Lanka, India, Vietnam, Laos and Myanmar.

Subsequently, employers may apply for foreign domestic helpers' visa via online from the Immigration Department of Malaysia with the current levy and processing fees.

Conclusion

In conclusion, the speech on Malaysia's 2018 Budget aims to develop and enhance the quality and extensiveness of Malaysia's infrastructure.

We hope that this comprehensive review has provided you with a more thorough insight on what is to come in the upcoming years, and its implications on you and your business in Malaysia.

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