



Finance Bill 2020 Highlights



KPMG in Malaysia

17 November 2020

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Business Tax



Tai Lai Kok
Executive Director
Head of Tax and Head of
Corporate Tax

Key Message

“Several new incentives which have been introduced are now being legislated. It is vital to know how to employ the incentives in a manner that best positions your business for growth.

Monitoring the compliance requirements also plays an important role in obtaining the incentive approval.”

Income Tax

1 Special tax rates under the Approved Incentive Scheme (“AIS”)

New sections have been proposed to be included in the Finance Bill 2020 to provide for special tax rates for the following persons:

Category	Tax rate
A person who carries on business in respect of a qualifying activity under an incentive scheme approved by the Minister of Finance (“MOF”) (AIS)	≤20% (to be prescribed by the MOF and subject to conditions)
An individual resident who is not a citizen, having and exercising employment in a company which carries on business in respect of a qualifying activity under the AIS	

A qualifying activity under the AIS (“AIS activity”) is defined to include any high technology activity in the manufacturing and services sectors, and any other activities which would benefit the economy of Malaysia. The Inland Revenue Board (“IRB”) has indicated that the special tax rates for the AIS activity are applicable to incentives for principal hub, global trading centre, companies relocating their operations to Malaysia and companies manufacturing pharmaceutical products as announced under the National Economy Recovery Plan (“PENJANA”) and in the 2021 Budget.

The business from the AIS activity shall be treated as a separate and distinct business and source of the person. Any unabsorbed losses from the AIS activity can only be utilised against income from the AIS activity of the company and are not deductible against income from a non-AIS activity. The unabsorbed losses from the AIS activity at the end of the AIS period (to be specified by the MOF) are subject to the 7-year carry forward rule.

The company must also maintain a separate account for the income derived from the AIS activity.

The Director General of Inland Revenue (“DGIR”) may, within 5 years after the expiration of the tax incentive period, make an additional assessment if the person fails to comply with the prescribed conditions.

The above proposal is effective from Year of Assessment (“YA”) 2021.

2 Tax rebate for Small and Medium Enterprise (“SME”)



It was proposed in the PENJANA that an SME which is established and commences operations between 1 July 2020 and 31 December 2021 will be given an annual income tax rebate of up to RM20,000 for its first 3 YAs. It is now proposed that the rebate be given to limited liability partnerships (“LLPs”) as well.

An SME refers to a company or LLP resident and incorporated or registered in Malaysia which:

- a) has a paid-up capital in respect of ordinary shares or contribution of capital of RM2.5 million and less at the beginning of the basis period for a YA; and
- b) has a gross income from source or sources consisting of a business not exceeding RM50 million for the basis period for that YA.

The amount of the rebate to be given will be equivalent to the operating or capital expenditure incurred or RM20,000, whichever is lower. Where the tax rebate exceeds the income tax charged for a YA, the excess shall not be refunded or be available as a credit to set off against the tax liability for a YA. Where the SME fails to fulfil any specified conditions in a YA, the rebate shall not be granted for that YA and subsequent YAs.

The legislation to effect the above proposal is contained in the Finance Bill 2020.

The above proposal is effective from YA 2021.

3 Special Reinvestment Allowance (“RA”)

Currently, RA is available for 15 consecutive YAs for existing companies engaged in manufacturing and selected agricultural activities that reinvest for the purposes of expansion, automation, modernisation or diversification, subject to meeting the prescribed conditions.

To encourage reinvestment by companies which have exhausted their eligibility to claim RA, a special RA had previously been given to companies whose RA incentive period has expired and who continue to reinvest up to YA 2018.

It is proposed that a second round of special RA be given to qualifying companies that reinvest in YA 2020 to YA 2022 in the following manner:-

YA in which the existing RA incentive period ended	YA in which capital expenditure incurred qualifies for the special RA
YA 2019 and before	YA 2020 to YA 2022
YA 2020	YA 2021 and YA 2022
YA 2021	YA 2022

The above proposal is effective from YA 2020 to YA 2022.

4 Review of Research and Development (“R&D”) expenditure

Currently, a person is allowed to claim:

- A tax deduction on R&D expenditure (excluding capital expenditure or expenditure for the acquisition of any rights in or over any property) which is incurred in relation to the business of the person [Section 34(7) of the Income Tax Act 1967 (“ITA”)];
- A double tax deduction on cash contributions made to an approved research institute or payment for the use of services of an approved research institute or approved research company [Section 34B of the ITA]; and
- A double tax deduction in respect of expenditure (excluding capital expenditure or expenditure for the acquisition of any rights in or over any property) incurred by the person on R&D activities approved by the MOF [Section 34A of the ITA].

The term “person” presently does not preclude a non-resident from being eligible for the above benefits.

It is proposed that the above incentives [items (a) to (c)] would only be granted to a person resident in Malaysia.

For item (c), the current tax legislation also does not restrict double deduction claims on R&D expenditure incurred outside Malaysia though this is provided in the IRB's Public Ruling. It is now proposed that the tax deduction claim is subjected to the following restrictions, where there are R&D expenses incurred outside Malaysia in the basis period for a YA:-

- a) A double deduction if the R&D expenses incurred outside Malaysia is less than or equal to 30% of the total R&D expenses i.e. total R&D expenses will qualify for double deduction; and
- b) A single deduction if the R&D expenses incurred outside Malaysia is more than 30% of the total R&D expenses i.e. total R&D expenses will qualify for a single deduction only.

The above proposals are effective on the coming into operation of the Finance Act 2020.

5 Group relief: Determination of related companies

Currently, the surrendering company and claimant company are considered related under the group relief provision if at least:-

- a) 70% of the paid-up ordinary share capital of the surrendering company is directly or indirectly (through the medium of other companies resident and incorporated in Malaysia) owned by the claimant company [Section 44A(3)(a) of the ITA]; or
- b) 70% of the paid-up ordinary share capital of the claimant company is directly or indirectly (through the medium of other companies resident and incorporated in Malaysia) owned by the surrendering company [Section 44A(3)(b) of the ITA]; or
- c) 70% of the paid-up ordinary share capital of the surrendering company and claimant company is directly or indirectly owned by another company resident and incorporated in Malaysia [Section 44A(3)(c) of the ITA].

A proposed amendment has been made to Section 44A(3)(c) of the ITA to clarify that for a surrendering company and claimant company to be related companies for group relief purposes, 70% of the paid-up ordinary share capital of the surrendering company and claimant company that is held indirectly must be owned through the medium of a company resident and incorporated in Malaysia.

The above proposal is effective from YA 2022.

6 Definition of plant for claiming capital allowances

Currently, "plant" is not defined in the ITA. Whether an asset qualifies as "plant" for claiming capital allowances, is therefore determined by reference to the facts and case law.

It is proposed that "plant" be defined for ITA purposes as "an apparatus used by a person for carrying on his business but does not include a building, an intangible asset, or any asset used and that functions as a place within which a business is carried on".

The above proposal is effective from YA 2021.

7 Withholding tax on distribution of income from Real Estate Investment Trusts (“REITs”) or Property Trust Funds (“PTFs”)

Currently, the withholding tax deducted at REITs/PTFs level in respect of the income distributed to the unit holders is generally regarded as a final tax where unit holders are not required to declare the income distribution in their tax returns based on the IRB’s current practice except in the following circumstances: -

- a) in the case of resident corporate unit holders where the withholding tax provisions under Section 109D of the ITA are not applicable; and
- b) REITs/PTFs that are not exempted from tax under Section 61A(1) of the ITA and the income distributed carries a tax credit.

A proposed amendment to the provision in the ITA has been made to give effect to the IRB’s practice of regarding the withholding tax deducted from the income distributed by REITs/PTFs as a final tax. In this respect, the income of unit holders which is subject to withholding tax is disregarded for the purpose of ascertaining the chargeable income of the unit holders.

The above proposal is effective from YA 2021.

8 Restriction on tax deductions for payments made to a Labuan Company



Currently, tax deductions are restricted on payments made by a resident person in Malaysia to a Labuan company that complies with the substantial activity requirements as stipulated under the Labuan Business Activity Tax (Requirements for Labuan Business Activity) Regulations 2018 (“Labuan Regulations”). The tax deduction disallowed is equivalent to 97% of the payment made except for interest and lease rental payments where the percentage disallowed is 33%.

It is proposed that the said restriction on tax deduction will be extended to include all Labuan entities regardless of whether the substantial activity requirements have been complied with.

The above proposal comes into operation on 1 January 2021.



Ong Guan Heng
Executive Director
Corporate Tax

Key Message

“Previously, “chargeable profits” only appears in the charging section for a Labuan entity carrying on a Labuan trading activity. “Chargeable profits” is now being defined in the LBATA covering Labuan entity carrying on a Labuan non-trading activity as well. As the definition does not exclude foreign sourced income and capital gains, such income and gains would be taxed at 24% under the LBATA for Labuan entities that fail to meet the substantial activity requirements. It is certainly worth considering whether there is a need to continue maintaining a Labuan entity or whether it would be more tax efficient for it to be taxed under the ITA.”

Labuan Tax

1 Definition of ‘chargeable profits’ for a Labuan non-trading activity

With effect from YA 2020, a Labuan entity carrying on a Labuan business activity listed in the Labuan Regulations which fails to comply with the prescribed substantial activity requirements would be taxed at the rate of 24% upon its chargeable profits.

Currently, there is no specific definition of “chargeable profits” in the Labuan Business Activity Tax Act 1990 (“LBATA”).

It is proposed that the “chargeable profits” be defined in the LBATA as the “net profits as reflected in the audited accounts”, in line with the charging section for a Labuan trading activity. This would suggest that income such as foreign sourced income and capital gains derived by a Labuan entity carrying out investment holding activity are also covered under “chargeable profits”.

The above proposal is effective from YA 2020.



2 Control and management requirements for a Labuan non-trading activity



Currently, a Labuan entity undertaking pure equity holding activities is exempt from complying with the requirement for an adequate number of full time employees in Labuan. Based on the pronouncements issued by the Labuan Financial Services Authority, the said Labuan entity is required to comply with the control and management requirements as well as having a minimum annual operating expenditure of RM20,000.

It is proposed that other than the requirements relating to the number of full time employees and annual operating expenditure in Labuan, the MOF may prescribe by regulation any conditions in relation to control and management in Labuan for a Labuan entity carrying on a Labuan non-trading activity.

The above proposal is effective from 1 January 2021.

3 Right of appeal against additional assessment

Currently, a person aggrieved by an assessment made on him under the LBATA may appeal to the Special Commissioners of Income Tax ("SCIT") against the assessment in the same manner as an appeal against an assessment made under the ITA.

It is proposed that a right similar to the above also be given for an appeal against an additional assessment.

The above proposal is effective from YA 2020.

4 Irrevocable election to be taxed under the ITA

A Labuan entity carrying on a Labuan business activity may make an irrevocable election to be taxed under the ITA, instead of the LBATA, within 3 months after the beginning of the basis period for a YA.

It is proposed that the DGIR be empowered to give extension of time in respect of the submission of the prescribed form (Form LE3) for an irrevocable election.

The above proposal is effective on the coming into operation of the Finance Act 2020.

5 Penalty for breach of confidentiality



Any return of profits, statutory declaration or information made or received for the purposes of the LBATA, shall be treated as confidential and shall not be communicated or disclosed to any person except for the purposes of the LBATA. The confidentiality clause, however, shall not prevent the disclosure of information to the DGIR, a duly authorised servant or agent of a government outside Malaysia in respect of a double taxation arrangement, tax information exchange arrangements or mutual administrative assistance arrangement.

Any person having an official duty under, or employed in carrying out, the provisions of the ITA who, whether during his employment or thereafter, contravenes the confidentiality clause shall be guilty of an offence. Upon conviction, he be liable to a fine not exceeding RM1million or to imprisonment for a term not exceeding 2 years or both.

Currently, the LBATA does not provide a minimum fine on the breach of confidentiality. It is proposed that a minimum fine of RM20,000 be imposed upon conviction.

In addition, it is also proposed that a similar penalty be imposed on any person who uses, produces or discloses any return of profits, statutory declaration or information which is communicated or disclosed to him in contravention of the confidentiality clause in the LBATA.

The above proposals are effective from 1 January 2021.

Transfer Pricing



Bob Kee

Executive Director
Head of Transfer Pricing

Key Message

“With the proposed introduction of new provisions in the ITA relating to transfer pricing, the IRB is sending a strong message to taxpayers that transfer pricing compliance is not an option anymore. Comply with the requirements of Section 140A or face the possibility of severe penalties.”

1 Failure to furnish contemporaneous transfer pricing documentation

Currently, there is no specific provision in the ITA that penalises a taxpayer who fails to furnish contemporaneous transfer pricing documentation on time, typically within 30 days of a written notice of request from the IRB.

A new section is proposed to impose the following penalties for failure to furnish transfer pricing documentation on time:

	Proposed Penalty
Section 113B(1) <i>On conviction</i>	<ul style="list-style-type: none"> Penalty of RM 20,000 to RM 100,000 or prison term of up to 6 months or both; and Furnish transfer pricing documentation within 30 days or any other period decided by the Court
Section 113B(4) <i>If no prosecution</i>	<ul style="list-style-type: none"> Penalty of RM 20,000 to RM 100,000
Section 113B(5)	<ul style="list-style-type: none"> Taxpayer may appeal to the SCIT if served with a notice in writing under subsection (4)

The proposed new section re-emphasises the importance of transfer pricing compliance. If it wasn't clear before, it is now clear that transfer pricing documentation is a mandatory document and taxpayers need to put greater effort to ensure that it is prepared on time to avoid the imposition of penalties.

The above proposal comes into operation on 1 January 2021.

2 Power to disregard structure in a controlled transaction

Rule 8 of the Income Tax (Transfer Pricing) Rules 2012 is now proposed to be inserted in the ITA under new subsections which empower the DGIR to disregard and recharacterise any structure adopted by a person in a controlled transaction if:

- a) the economic substance of the transaction differs from its form; or
- b) the form and substance are the same but the arrangement when viewed in totality differs from those which would have been adopted by independent persons behaving in a commercially rational manner and the actual structure impedes the DGIR from determining an appropriate transfer price.

Where the DGIR disregards any structure, the DGIR shall make adjustments to the structure to reflect the structure that would have been adopted by an independent person dealing at arm's length having regard to the economic and commercial reality.

The inclusion of the new subsections is to ensure consistency between the Income Tax (Transfer Pricing) Rules 2012 and the ITA. This will avoid potential disputes on whether the ITA empowers the DGIR to disregard and recharacterise structures adopted in controlled transactions.

The above proposal comes into operation on 1 January 2021.

3 Surcharge on transfer pricing adjustment

Currently, a penalty is imposed where a transfer pricing adjustment made during a tax audit results in additional tax payable. The penalty will be applied on the amount of additional tax payable. However, in cases where a transfer pricing adjustment does not result in additional tax payable, penalties could not be imposed. It is now proposed that new subsections be inserted in the ITA to allow the IRB to impose a surcharge of not more than 5% on any transfer pricing adjustment made on all tax audit and investigation cases, whether taxable or not.



The introduction of this surcharge is yet another strong message from the IRB on the importance of ensuring that controlled transactions are carried out on an arm's length basis. Up until now, taxpayers who are enjoying tax incentives or have significant amounts of unutilised allowances or business losses may not have paid serious attention to whether their controlled transactions are at arm's length as any transfer pricing adjustment is sheltered by the incentive, allowances or losses.

The above proposal comes into operation on 1 January 2021.

Personal Tax



Long Yen Ping

Executive Director
Head of Global Mobility
Services

Key Message

“In these trying times due to the COVID-19 pandemic, the government has come out with incentives which will benefit taxpayers with the hope of easing their financial hardship. Nevertheless, attention is needed when making a claim for reliefs to ensure that the expenses incurred qualify for the deduction and are supported by relevant receipts.”

1 Reduction in personal income tax rate

It is proposed that the personal income tax rate for resident individuals at the chargeable income band of RM50,001 to RM70,000 be reduced by 1% as shown below:

	Chargeable Income (RM)	Current Tax Rate (%)	Tax Payable (RM)	Proposed Tax Rate (%)	Tax Payable (RM)	Tax Saving (RM)
First	5,000	0	0	0	0	-
Next	15,000	1	*150	1	*150	-
First	20,000		*150		*150	-
Next	15,000	3	*450	3	*450	-
First	35,000		600		600	-
Next	15,000	8	1,200	8	1,200	-
First	50,000		1,800		1,800	200
Next	20,000	14	2,800	13	2,600	
First	70,000		4,600		4,400	200
Next	30,000	21	6,300	21	6,300	
First	100,000		10,900		10,700	200
Next	150,000	24	36,000	24	36,000	
First	250,000		46,900		46,700	200
Next	150,000	24.5	36,750	24.5	36,750	
First	400,000		83,650		83,450	200
Next	200,000	25	50,000	25	50,000	

First Next	600,000 400,000	26	133,650 104,000	26	133,450 104,000	200
First Next	1,000,000 1,000,000	28	237,650 280,000	28	237,450 280,000	200
First Next	2,000,000 Every next RM	30	517,650	30	517,450	200

* Before tax rebate of RM400 for chargeable income up to RM35,000

The reduction in income tax rate will result in a tax saving of up to RM200 for those in the chargeable income band above RM50,000.

The above proposal is effective from YA 2021.

2 Expansion of scope, increase in relief limit and introduction of new reliefs

It is proposed that the following existing reliefs and relief limits be expanded or increased and new reliefs be introduced:

Type of Tax Relief	Tax Relief Amount (Current) RM	Tax Relief Amount (Proposed) RM	Proposed Changes and Effective Period
Lifestyle relief: - i. Purchase of books, journals, magazines, printed daily newspaper and other similar publications (excluding banned publications); ii. Purchase of personal computer, smartphone or tablet; iii. Internet subscription; iv. Gym membership fee; and v. Sports equipment.	2,500	-	This relief is expanded to include subscriptions paid for electronic newspapers. (Effective from YA 2021)
Sport related expenses	-	500	The relief of RM500 is for the cost of purchasing sports equipment, entry/rental fees for sports facilities and participation fees in sports competitions. (Effective from YA 2021)
Special tax relief	-	2,500*	In addition to the existing lifestyle relief, another new relief known as "special tax relief" with a limit of up to RM2,500 is also claimable for the purchase of a smartphone, personal computer, or tablet

			incurred from 1 June 2020 to 31 December 2020. (Effective for YA 2020 only)
Expenses on medical treatment, special needs or carer incurred for own parents certified by medical practitioner	5,000	8,000	Increase in relief (Effective from YA 2021)
Medical expenses for taxpayer, spouse and children on serious diseases and the cost of fertility treatment (include full medical check-up)	6,000 (include up to RM500 on full medical check-up)	8,000	The limit of relief for a full medical check-up is increased to RM1,000. Scope of medical treatment is expanded to include expenses incurred for the following vaccination up to RM1,000: - a) Pneumococcal; b) Human Papillomavirus (HPV); c) Influenza; d) Rotavirus; e) Varicella; f) Meningococcal; g) TDAP combination (tetanus-diphtheria-acellular-pertussis); and h) Coronavirus Disease 2019 (COVID-19). (Effective from YA 2021)
Disabled spouse (further deduction)	3,500	5,000	Increase in relief (Effective from YA 2021)
Self-education fees	7,000	7,000	It is expanded to cover fees for attending any up-skilling and self-enhancement courses that are conducted by a body recognised by the Department of Skills Development, Ministry of Human Resources. The tax relief is however limited to RM1,000 per year. (Effective for YA 2021 and YA 2022)
Fees paid to registered child-care centres or kindergartens for child aged 6 years and below	2,000	3,000*	The incremental relief of RM1,000 is effective for YA 2020 and YA 2021.

Expenses related to domestic tourism	-	1,000*	The new relief is given on the following expenses incurred on local travelling from 1 March 2020 to 31 December 2021: - a) payment for accommodation at premises registered under the Tourism Industry Act 1992; and b) entrance fees to tourist attractions. (Effective for YA 2020 and YA 2021)
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*Note: The proposals were announced by the Government on 5 June 2020 under the PENJANA.

Taxpayers are reminded to retain documentary evidence to support their claims for relief. In the event of a tax audit, the absence of documentary evidence could result in a disallowance of the relief and attract penalties of up to 100 percent of the tax under-paid.

3 Increase in the limit of income tax exemption on compensation for loss of employment

The current income tax exemption for compensation for loss of employment with the same employer or companies within the same group, is RM10,000 for each full year of service.

It is proposed that an additional sum of RM10,000 for each full year of service is allowed for an individual who has ceased employment on or after 1 January 2020 but not later than 31 December 2021.

This proposal has effect for YA 2020 and YA 2021.

4 Extension of period for contributions to Private Retirement Scheme ("PRS") and net savings in Skim Simpanan Pendidikan Nasional ("SSPN")

It is proposed that the period for claiming reliefs on contributions made to a PRS and net savings in the SSPN be extended as below:

Type of Tax Relief	Tax Relief Amount (RM)	Period for Tax Relief (Current)	Period for Tax Relief (Proposed)
Contribution to PRS	3,000	Up to YA 2021	Extended to YA 2025
Net Savings in SSPN	8,000	Up to YA 2020	Extended to YA 2022

A taxpayer must be able to produce the PRS / SSPN statement to substantiate the net amount contributed / deposited in the year concerned.

The above proposals are effective on the coming into operation of the Finance Act 2020.

Real Property Gains Tax ("RPGT")

1 Remission of tax penalty

Currently, the acquirer of Malaysian real property or shares in Real Property Companies is required to retain part of the purchase consideration and remit the retention sum to the IRB within a stipulated deadline. Failure to withhold and remit the above retention sum due to an incorrect or wrong notification furnished by the disposer may result in the imposition of a penalty equivalent to 10% of the tax payable by the disposer. The 10% penalty shall be included in the RPGT assessment made in respect of the disposer.

It is proposed that the DGIR be given power to remit the whole or any part of the above penalty and refund any penalty that has been paid in relation to the above remission.

The above proposal comes into operation on 1 January 2021.

2 Payment of retention sum

Currently, the retention sum to be retained by the acquirer of Malaysian real property or shares in Real Property Companies is the lower of the whole amount of the money received or 7% of the total value of the purchase consideration if the disposer is a non-citizen, a non-permanent resident of Malaysia or not a company incorporated in Malaysia.

It is proposed that the 7% retention sum be extended to an executor of the estate of a deceased person who is not a non-citizen nor a permanent resident of Malaysia.

The above proposal comes into operation on 1 January 2021.

3 Filing of RPGT Returns through electronic medium

Currently, there are no specific provisions to allow tax agents, advocates or solicitors to furnish RPGT Returns on behalf of taxpayers in an electronic medium or by way of an electronic transmission.

It is proposed that tax agents, advocates or solicitors be allowed to file RPGT Returns on behalf of taxpayers in an electronic medium or by way of an electronic transmission.

The above proposal comes into operation on 1 January 2021.

4 Review of RPGT rates

Currently, gains from disposal of real property and shares in Real Property Companies are subject to RPGT at the rates of 5% to 30%, depending on the category of the disposer and the period of ownership: -

Disposal	RPGT Rates		
	Part I	Part II	Part III
	Individual – Citizen and Permanent Resident	Company incorporated in Malaysia or trustee of a trust	Individual who is Non-Citizen and Non-Permanent Resident / Company not incorporated in Malaysia
Within 3 years	30%	30%	30%
In the 4th year	20%	20%	30%
In the 5th year	15%	15%	30%
In the 6th and subsequent years	5%	10%	10%

It is proposed that the category of disposer for Part II be extended to include a society registered under the Societies Act 1966.

The above proposal comes into operation on 1 January 2021.

5 Recovery from a director of a company

It is proposed that a director of a company could be prevented from leaving Malaysia where any RPGT or any debt payable by the company under the Real Property Gains Tax Act 1976 ("RPGT Act"), has not been paid.

The above proposal is effective from 1 January 2021.

Stamp Duty

1 Digital stamping

Currently, the Stamp Act 1949 (“Stamp Act”) does not specifically provide for stamping of instruments through an electronic medium or in the form of digital stamping.

It is proposed that the following amendments be made in the Stamp Act to cater for digital stamping:-

Sections	Proposed Provision
Section 7 - Mode of paying and denoting duty	The denoting of duty to include by means of an impressed stamp or digital stamping
Section 12 - Duplicate and counterparts	The stamping of duplicate and counterparts to include digital stamping
Section 48 - Denoting penalty	The denoting of penalties to include by means of digital stamping

It is also proposed that the definition of “duly stamped” as applied to an instrument is to include a stamp certificate for the proper amount attached to the instrument if the instrument is stamped through an electronic medium or the instrument is stamped by means of digital stamping for the proper amount.

The above proposal comes into operation on 1 January 2021.

2 Power of DGIR to remit stamp duties

Currently, only the MOF has the power to exempt, reduce or remit stamp duties.

It is proposed that the following power be given to the DGIR:-

- a) To remit duty paid or payable wholly or in part, on grounds of poverty; and
- b) To refund any duty that has been paid, which relates to the above remission.

The above proposal comes into operation on 1 January 2021.

Administrative Matters

1 e-Filing for LLP

Presently, a LLP can submit its tax return either by way of manual filing or electronic filing to the DGIR.

It is proposed that a LLP shall file its tax return to the DGIR in the prescribed form on an electronic medium or by way of electronic transmission.

The above proposal is effective from YA 2021.

2 Notifications by employer

It is proposed that the current legislation on the notification deadlines in the ITA be amended as follows: -

Subject Matter	Notification Form	Current Legislation	Proposed Legislation
Where an employer commences to employ an individual	Form CP22	Submit the written notice not later than 1 month after the date of commencement	Submit the prescribed form not later than 30 days after the date of commencement
Where an employer is about to cease to employ an individual	Form CP22A / Form CP22B	Submit the written notice not less than 1 month before the relevant date	Submit the prescribed form not less than 30 days before the relevant date
Where an employee is to leave Malaysia for more than three months	Form CP21		

Further, it is proposed that an employer is required to submit a prescribed form to the IRB within 30 days after being informed of the death of the employee.

Subject Matter	Notification Form	Current Legislation	Proposed Legislation
Death of employee	Form CP22A	Not stated under the ITA	Submit the prescribed form not more than 30 days after being informed of the death of the employee

The above proposal is effective from 1 January 2021.

3 Payment of taxes



It is proposed that where a taxpayer has instigated any proceedings against the Government or DGIR under any other written law, it shall not relieve the taxpayer from payment of any tax or any debt that is due and payable by him.

The above proposal would apply to taxes and debt payable under the ITA, RPGT Act, Petroleum (Income Tax) Act 1967 and LBATA and is effective from 1 January 2021.

4 Certificate and request preventing a person leaving Malaysia

Presently, the DGIR may issue a certificate containing particulars of the tax, sums and debts to a Commissioner of Police or Director of Immigration seeking assistance to prevent a taxpayer from leaving Malaysia unless all the tax due and payable is settled.

It is proposed that the notification of the certificate to Commissioner of Police or Director of Immigration may be issued through an electronic medium or by way of electronic transmission.

The above provision will be inserted in the ITA, RPGT Act and Stamp Act.

The above proposal is effective from 1 January 2021.

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