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Tax incentives in Budget 2013

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Deloitte Tax Max 38th Series – 9 October 2012 @ One World Hotel

Important deadlines:
Due date for 2013 tax estimates for companies with November year-end (31 October 2012)

6th month revision of tax estimates for companies with April year-end

9th month revision of tax estimates for companies with January year-end

Statutory filing of 2012 tax returns for companies with March year-end

Tax Espresso

10/2012
October 2012 (Special edition)

Tax developments – Highlights in Budget 2013

Tax incentives

The following are the proposed incentives announced in Budget 2013 by the Minister of Finance of Malaysia:

(a) **Commercialisation of public sector research and development (R&D) findings**

The present tax incentive for the commercialization of resource-based R&D findings of public research institutions for an investor company and subsidiary company has been extended to the commercialization of non-resource based R&D findings.

Non-resource based activities / products are subject to the list of promoted activities/ products under the Promotion of Investment Act 1986.

The incentive is effective for applications received by the Malaysian Investment Development Authority from 29 September 2012 till 31 December 2017.

(b) **Deduction for investment in a venture company (VC)**

Investment made by an angel investor in a venture company is allowed as a deduction against all of the angel investor's business or non-business income. The qualifying criteria for the deduction includes the following:-

Angel investor

i. An individual who is not associated with the VC prior to investing;

ii. A tax resident with an annual income of not less than RM180,000;

iii. Holds at least 30% of the shares in the VC for a period of at least 2 years; and

iv. All the shares of the angel investor must be paid in cash.

VC

i. 51% shares in the company are owned by Malaysians;

ii. Qualifying activities of the VC are approved by the Minister of Finance; and

iii. Accumulated profit is not more than RM5 million and the VC has a track record of less than 3 years (based on the latest financial report at the time of application).

The incentive is effective for applications received by the Ministry of Finance from 1 January 2013 to 31 December 2017.

(c) **Tax incentives for tour operators**

The present tax incentives for tour operators has been reintroduced with the following revisions:

i. 100% tax exemption on statutory income derived from group inclusive tours participated by not less than 750 inbound foreign tourists per year; or

ii. 100% tax exemption on statutory income derived from domestic tours participated by not less than 1,500 local tourists per year

The above incentives are effective for the year of assessment 2013 to 2015.

(d) **Tax incentives for child care centres**

The present tax incentive for employers who provide for a child care centre to their employees has been enhanced as follows:-

i. Double deduction on expenditure for the provision and maintenance of child care centres; and

ii. Double deduction on child care allowance given to employees

For operators of new and existing private child care centres, the tax incentives given are as follows:-

i. Tax exemption at the statutory level on all income for a period of 5 years; and

ii. Industrial Building Allowance at an annual rate of 10% for buildings used as child care centres

The operators of new and existing private child care centres must be registered with the Social Welfare Departments.

The above incentives are effective for the year of assessment 2013.

(e) **Tax incentive for pre-school education operators**

The following tax incentives are proposed for operators of pre-schools:

i. Tax exemption at the statutory income level on all income for a period of 5 years; and

ii. Industrial Building Allowance with an annual rate of 10% on buildings used by the pre-school operator.

New and existing private pre-schools must be registered with the State Education Department to qualify for the above tax incentives.

The above incentives are effective for the year of assessment 2013.

(f) **Reintroduction of the incentive to acquire a foreign company**

Malaysian owned companies which acquire foreign owned companies for the purposes of acquiring high technology for production within the country or for acquiring new export markets for local products are allowed a deduction equivalent to 20% of the acquisition cost of the investment over 5 consecutive years.

The effective date of the above proposal is to be determined at a later date.

Corporate Tax

(a) **Interest Income**

Interest income shall only be treated as business income if the debenture, mortgage or other source to which the interest relates forms part of the stock in trade of a business of a person or the interest is receivable by a person from the business of lending money and that business is one which is licensed under any written law. The proposal is with effect from the year of assessment 2013.

(b) **Double deduction for 1Malaysia Training Scheme**

A double deduction will be given on training expenses incurred by government-linked companies (GLCs) and private companies that participate in the 1 Malaysia Training Scheme Programme (SL1M). The type of qualifying expenses that qualify for the double deduction are:-

i. the payment of the monthly allowance (minimum of RM1,000) for each trainee for a maximum of 12 months;

ii. soft skill training to the trainees; and

iii. payment to training providers to enhance the skills and to increase employability of the trainees.

For items (ii) and (iii), the total training expenses that qualify for double deduction is restricted to RM5,000 for each trainee per year of assessment.

The incentive is effective for applications made between 1 June 2012 and 31 December 2016.

(c) **Tax treatment of limited liability partnerships (LLP)**

The following tax treatment of a LLP is similar to that of a company, trust body or co-operative society:-

i. Determination of basis period;
ii. Due date for filing of tax return and payment of balance of tax payable;
iii. The furnishing of the estimate of tax payable and payment of tax instalment;
iv. Tax rate including preferential tax rate on the first RM500,000 of the chargeable income;
v. Profits paid, credited or distributed by a LLP to its partners are exempted from tax; and
vi. The applicability of the control transfer provisions.

The tax treatment of a LLP is effective upon the coming into operation of the Limited Liability Partnerships Act 2012.

(d) **Tax treatment of a business trust (BT)**

To promote the development and investment of BT in Malaysia, it is proposed that:-

i. BT be given income tax, stamp duty and real property gains tax treatments similar to those of a company with effect from year of assessment 2013;
ii. BT be given stamp duty exemption on instruments of transfer of businesses, assets or real properties acquired for instruments executed from 1 January 2013; and
iii. The disposer of real properties or shares in a real property company to a BT be given real property gains tax exemption from 1 January 2013.

For the incentives (ii) and (iii) mentioned above, the incentives are provided on a one-off basis at the initial stage of the establishment of the BT.

(e) **Tax incentive for security control and surveillance equipment**

The existing accelerated capital allowance on security control and surveillance equipment has been extended from year of assessment 2013 to year of assessment 2015 and enhanced as follows :-

i. Extended to companies that install security control and surveillance equipment in residential areas; and
ii. Include equipment such as safety mirrors and panic buttons.

The above incentive has also been extended to housing developers.

(f) **Treatment of assets classified as assets held for sale**

An asset that has been classified as “assets held for sale” in accordance with the Malaysian Financial Reporting Standard 5 shall be deemed to have been disposed by a business .

(g) **Deduction for expenditure on treasury shares**

A “treasury share” is defined as a share of a company that was previously issued but was repurchased, redeemed or otherwise acquired by the company and not cancelled. It has been proposed that:-

i. A deduction is given to a company having business source income on the cost of acquiring treasury shares which are transferred to its employees under an employees’ equity-based remuneration scheme.

ii. A deduction shall be made in the basis period for a year of assessment where the employee exercises his rights to acquire the treasury shares. The amount to be deducted will be the cost of acquiring the treasury shares , reduced by any amount payable by the employee for the treasury shares;

iii. In the case where the amount payable by the employee exceeds the cost of the treasury shares incurred by the company, no deduction is allowed to the company.

iv. Instead, the surplus will be credited into an account for the purpose of applying the surplus to reduce the cost of the treasury shares which will be transferred to its employees in future.

v. The cost of acquiring the treasury shares which are transferred to the employee shall be determined on the basis that the treasury shares acquired by the company at an earlier point in time are to be transferred first, i.e. first-in-first- out basis.

vi. A holding company transferring its treasury shares to the employees of its subsidiary companies will not be allowed a deduction on the cost incurred by the holding company in acquiring the treasury shares.

vii. In the event that the holding company recovers the cost of acquiring the treasury shares from its subsidiary company for the transfer of the treasury shares, the subsidiary company will be allowed a deduction for the amount paid or payable to its holding company, reduced by an amount payable by its employees.

viii. A transfer of treasury shares is effected when the employee acquires legal and beneficial interest in the treasury shares.

(h) **Exemption on annuity fund**

A tax exemption has been extended to the income received from a deferred annuity scheme established in accordance with the Retirement Savings Standards approved by Bank Negara Malaysia by life insurer or takaful companies.

Individuals

(a) **Reduction in income tax rates for residents**

The chargeable income bands of RM2,501 to RM50,000 of a resident individual has been reduced by 1%.

(b) **Increase in tax relief for amount deposited into Skim Simpanan Pendidikan Nasional**

The relief given to a tax payer for deposits in a Skim Simpanan Pendidikan Nasional account established under the Perbadanan Tabung Pendidikan Tinggi Nasional Act has been increased from RM3,000 to RM6,000.

(c) **Increase in child relief for tertiary education**

The child relief given to a resident individual taxpayer for each unmarried child above the age of 18 years who is studying at tertiary level at a recognised local institution of higher learning at diploma level and above /recognized institution of higher learning abroad at degree level and above has been increased from RM4,000 to RM6,000.

(d) **Withdrawal of contribution made to a private retirement scheme (PRS)**

Where withdrawal of contributions from a PRS by an individual is made before the age of 55, the withdrawal will be taxed at a rate of 8%. The PRS provider is required to withhold and remit the tax to the Malaysian Inland Revenue Board.

Real Property Gains Tax (RPGT)

The following RPGT matters and related exemptions have been proposed:

(a) The effective RPGT rate for disposal of real properties be increased from 10% to 15% for disposal within 2 years and from 5% to 10% for disposal between 2 to 5 years. The existing rate of 0% for disposal made after 5 years will remain unchanged. The new rate will apply from 1 January 2013.

(b) RPGT exemption shall be given to disposal of real properties or shares in a real property company to a business trust. The exemption is given for disposals from 1 January 2013.

(c) A new provision is introduced to provide that the acquirer is not required to retain and remit 2% of the total value of the consideration or the whole sum of money to Director General if a notice of non-chargeability is served to that acquirer within 60 days after the date of disposal of a chargeable asset.

(d) Where the acquirer fails to withhold and remit the RPGT and the reason for the failure is due to incorrect or wrong notification furnished to the acquirer by the disposer, a penalty of 10% of the tax payable would be imposed on the disposer.

(e) The time period to raise assessments and additional assessments is reduced from 6 years to 5 years. However, the 5 years limitation does not apply in cases of fraud or wilful default. This comes into operation on 1 January 2014.

Stamp duty

The following stamp duty matters have been proposed:

(a) **Purchase of first residential property**

It is proposed that the 50% stamp duty exemption given on the sales and purchase agreement for the purchase of the first residential property be extended to 31 December 2014 and the ceiling price for the residential property is increased to RM 400,000 This incentive is applicable for sale and purchase agreements executed from 1 January 2013 to 31 December 2014.

(b) **Issuance of retail sukuk and retail bonds**

It is proposed that full stamp duty exemption to be given on instruments relating to subscription of retail sukuk and retail bonds executed by individual investors to encourage participation of individual investors in the capital market. This incentive is for instruments executed from 1 October 2012 to 31 December 2015.

(c) **Revival of abandoned housing projects**

It is proposed that full stamp duty exemptions be given to the following parties involved in the revival of abandoned housing projects:

A. Rescuing contractor / developer

i. Loan agreements to finance the revival of the abandoned housing project; and

ii. Instruments of transfer of land or houses in the abandoned housing project.

B. Original house purchaser in the abandoned housing project

i. Loan agreements for additional financing; and

ii. Instruments of transfer of the house.

The above incentives are applicable for sale and purchase agreements executed from 1 January 2013 to 31 December 2015.

Labuan

The following incentives have been proposed in order to meet the global demand for liquefied natural gas (LNG):

a) **Labuan International Commodity Trading Company (LITC)**

It is proposed that a LITC set up as a liquefied natural gas trading company would be entitled to a 100% income tax exemption on the statutory income for the first 3 years of operation.

b) **The Global Incentive for Trading (GIFT) Programme**

Commodity trading approved under GIFT will also be extended to other commodities such as agricultural products, refined raw materials, base materials and chemicals.

The effective dates for the above incentives will be announced in due course.

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