



JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

Date: 17 December 2024

Prepared by:

Chartered Tax Institute of Malaysia;

Malaysian Institute of Accountants;

The Malaysian Institute of Certified Public Accountants; and

**The Malaysian Institute of Chartered Secretaries and
Administrators.**

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

Contents

Issues	Page No.
A 2025 Budget Speech and Appendices, Finance Bill 2024 & Measures for the Collection Administration and Enforcement of Tax Bill 2024	3
1. Dividend Tax	3
2. Gains or Profits from Disposal of Capital Assets	10
3. Global Minimum Tax	14
4. Other Proposed Amendments to the Income Tax Act 1967	16
5. Proposed Amendments to the Real Property Gains Tax Act 1976	18
6. Proposed Amendments to the Stamp Act 1949	19
7. Personal Tax	37
8. Tax Incentives	43
B Labuan Business Activity Tax (Amendment) (No.2) Bill 2024	56
C Outstanding Gazette Orders – 2019 to 2024 Budgets	61

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

A. 2025 Budget Speech and Appendices, Finance Bill 2024 & Measures for the Collection Administration and Enforcement of Tax Bill 2024

1. Dividend Tax

1.1 Appendix 10 of the 2025 Budget Speech - Imposition Of Tax On Dividends Received By Individual Shareholders

It is proposed a Dividend Tax of 2% be introduced on annual dividend income exceeding RM100,000 for:

- (i) dividend income received by individual shareholders for dividends paid, credited or distributed from company profits; and
- (ii) individual shareholders consist of resident individuals, non-residents and individuals who hold shares through nominees.

Exemption from Dividend Tax is as follows:

- i. dividend income from abroad;
- ii. dividend income distributed from the profits of companies that received pioneer status and reinvestment allowances;
- iii. dividend income paid, credited or distributed from the profits of shipping companies that is exempted from tax;
- iv. dividend income distributed by cooperatives;
- v. dividend income declared by closed-end funds;
- vi. dividend income received by residents from Labuan entities; and
- vii. any exemption given on dividend income at shareholder level.

Comments:

- a. It is noted that the list of exemptions are not part of the Finance Bill. Given the 1 January 2025 implementation date, we urge the relevant gazette orders for exemption to be gazetted at the earliest to facilitate compliance.

Maklum balas MOF:

Draf Perundangan subsidiari berhubung pengecualian dividen sedang disemak semula oleh LHDNM selepas perbincangan lanjut bersama Kementerian Kewangan.

- b. Given that the tax is imposed on chargeable income which includes adjusted income arising from the dividend source, kindly confirm our understanding that all expenses that meet the criteria under Section 33 are deductible against dividend income.

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

Maklum balas LHDNM:

Ya, perbelanjaan yang dilakukan kesemua dan semata-mata dalam menghasilkan pendapatan dividen di bawah subseksyen 33(1) ACP adalah terpakai seperti perbelanjaan faedah atas pembiayaan untuk memperoleh saham syarikat yang membayar dividen.

- c. [Where there is exempt and taxable dividend income, we view it as a single source of income. Kindly clarify the treatment of deductible expenses for an individual who receives both exempt and taxable dividend income.](#)

Maklum balas LHDNM:

Perbelanjaan yang dilakukan perlu diasingkan (apportion) antara perbelanjaan dalam menghasilkan pendapatan dividen yang dikecualikan dengan pendapatan dividen boleh dicukai.

Hanya perbelanjaan yang dilakukan dalam menghasilkan pendapatan dividen boleh dicukai sahaja boleh ditolak dalam menentukan pendapatan berkanun dividen manakala perbelanjaan dalam menghasilkan pendapatan dividen yang dikecualikan perlu diabaikan.

- d. [In the spirit of the exemption proposed under item \(vii\), this should include the second tier exemption as provided under the law \(for example, Income Tax \(Exemption\) \(No. 7\) Order 2021\) \[P.U. \(A\) 283/2021\].](#)

Maklum balas LHDNM:

Berdasarkan Lampiran 10 Ucapan Belanjawan 2025, pengecualian Cukai Dividen turut diberikan ke atas mana-mana pengecualian yang telah diberi ke atas pendapatan dividen di peringkat pemegang saham individu sepertimana yang ditetapkan oleh Menteri Kewangan.

Oleh itu, pengecualian yang akan diberikan oleh Menteri akan diperjelaskan dengan lebih lanjut dalam perundangan subsidiari yang akan diwartakan kelak.

- e. [For Labuan entities that need to file tax returns under the Income Tax Act 1967 \(“ITA 1967”\) due to activities carried out not falling within the list of economic substance requirements, or those that do not meet economic substance requirements, kindly clarify if the dividend declared qualifies for exemption. If it still qualifies for exemption, kindly confirm that the exemption is provided under Income Tax \(Exemption\) \(No. 22\) Order 2007 \[P.U. \(A\) 437/2007\].](#)

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

Maklum balas MOF:

Selaras dengan dasar yang dipersetujui dalam Belanjawan 2025, pengecualian ke atas agihan pendapatan dividen kepada benefisiari di bawah P.U. (A) 437/2007 akan terus diberikan.

Walau bagaimanapun, pengecualian ini diberikan secara bertempoh bagi membolehkan kajian pelaksanaan dari semasa ke semasa di mana perundangan subsidiari P.U. (A) 437/2007 telah dibatalkan dan digantikan dengan Perintah Cukai Pendapatan (Pengecualian) 2025 [P.U. (A)59/2025]. P.U. (A)59/2025 ini telah diwartakan pada 13 Februari 2025 dan berkuat kuasa mulai tahun taksiran 2023 sehingga taksiran 2027.

Di bawah P.U. (A) 59/2025, pengecualian cukai pendapatan sepenuhnya telah diberikan dari agihan dividen yang diterima oleh individu daripada suatu syarikat Labuan yang dibayar, dikredit atau diagihkan daripada pendapatan yang diperolehi daripada aktiviti perniagaan Labuan atau pendapatan yang dikecualikan daripada cukai.

Syarikat Labuan terlibat boleh menikmati pengecualian cukai pendapatan sepenuhnya sama ada ia membayar cukai pendapatan di bawah LBATA 1990 atau di bawah ACP 1967. Oleh itu, pematuhan syarat substantif adalah tidak berbangkit di bawah P.U. (A) 59/2025.

- f. [Kindly confirm our understanding that bonus issue of shares should not be regarded as a dividend as this represents a fresh issuance of shares by the company as opposed to a payment or transfer of asset in specie.](#)

Maklum balas LHDNM:

Dividen yang dikenakan cukai adalah berdasarkan pengagihan keuntungan oleh syarikat kepada pemegang saham individu sama ada dalam bentuk wang atau selain wang seperti hartanah, saham dan lain-lain. Penentuan nilai dividen dalam bentuk selain wang (sama ada dalam bentuk baucar, cek atau lain-lain) hendaklah bersamaan dengan nilai pasaran bagi dividen yang diterima dalam bentuk selain wang oleh pemegang saham.

Merujuk kepada saham bonus, ianya tidak diklasifikasikan sebagai dividen dan tidak dianggap sebagai pendapatan kepada pemegang saham.

Namun demikian, sekiranya saham bonus yang diberikan kepada pemegang saham merupakan suatu bentuk dividen yang dibayar, diagih atau dikreditkan dalam bentuk selain wang, maka saham bonus tersebut adalah tertakluk kepada Cukai Dividen.

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

1.2 Proposed Section 6(1)(r), Amended Section 108, Amended Sch 6 Para 12B & Proposed Sch 1 Part XXII

Proposed Section 6(1)(r)

“(r) notwithstanding anything contrary to this Act or any other written law, income tax shall be charged for each year of assessment upon the income of an individual, who is a shareholder of a company, either through direct shareholding or a nominee, which consists of dividend paid, credited or distributed, whether in monetary form or otherwise, by the company, and the dividend is deemed by virtue of section 14 to be derived from Malaysia, at the appropriate rate as specified under Part XXII of Schedule 1.”

Amended Section 108

15. Section 108 of the principal Act is amended—

(a) by renumbering the existing section as subsection (1); and

(b) by inserting after the renumbered subsection (1) the following subsection:

“(2) Where a dividend is paid, credited or distributed, whether in monetary form or otherwise, by a company to any of its shareholders which is an individual, either through direct shareholding or a nominee, and the dividend is deemed by virtue of section 14 to be derived from Malaysia, the company shall, upon paying, crediting or distributing the dividend, furnish the shareholders with a certificate setting forth in respect of the dividend—

(a) the gross amount; and

(b) the amount paid or credited or where the dividend consists of property other than money, the amount of the market value of that property at the time of the distribution of the dividend.”

Amended Sch 6 Para 12B

17. Paragraph 12B of Schedule 6 to the principal Act is amended—

(a) by renumbering the existing paragraph as subparagraph (1);

(b) in the renumbered subparagraph (1), by inserting after the words “to any person” the words “other than an individual”; and

(c) by inserting after the renumbered subparagraph (1) the following subparagraph:

“(2) Any dividend paid, credited or distributed to an individual, whether in monetary form or otherwise, amounting to one hundred thousand ringgit or less where the company paying such dividend is not entitled to deduct tax under this Act and any deduction in relation to such dividend shall be disregarded for the purpose of ascertaining the chargeable income of the individual.”

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

Proposed Sch 1 Part XXII

16. Schedule 1 to the principal Act is amended by inserting after Part XXI the following part:

“PART XXII

1. Notwithstanding Part I, income tax shall be charged upon the income of an individual which consists of dividend paid, credited or distributed, whether in monetary form or otherwise, by a company, and the dividend is deemed by virtue of section 14 to be derived from Malaysia, in excess of one hundred thousand ringgit at the rate of 2 per cent on every ringgit of the chargeable income in respect of such dividend.
2. In this Part, where the individual has income from a source other than dividend referred to in paragraph 1, the chargeable income of the individual referred to in that paragraph, shall be as prescribed by the Minister.”

Comments:

- a. Kindly confirm that for RM100,000 threshold determination, dividend income which is exempted from Dividend Tax (e.g. dividend income from Labuan, abroad, etc.) need not be taken into account.

Maklum balas LHDNM:

Ya. Penentuan pendapatan kasar dividen yang diterima oleh individu yang tertakluk kepada Cukai Dividen adalah tidak termasuk dividen yang dikecualikan.

- b. We refer to the proposed Section 6(1)(r) in relation to dividend received by an individual through a nominee. The following situations may exist:
 - (i) the shareholder is an individual and the nominee is a company; and
 - (ii) the shareholder is a company and the nominee is an individual.

Please confirm that Dividend Tax only applies in scenario (i), and not in (ii) above.

Maklum balas MOF:

Ya. Pengeanaan cukai dividen hanya terpakai kepada pemegang saham individu sahaja. Oleh itu, hanya terpakai pada senario (i). Senario (ii) tidak tertakluk kepada cukai dividen.

- c. Please confirm that the term “individual” in the proposed Section 6(1)(r) refers to a natural person only.

Maklum balas LHDNM:

Ya, takrifan individu merujuk kepada ‘natural person’ di bawah seksyen 2 ACP.

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

d. Since the introduction of the single-tier system of dividend taxation in 2008, companies may have stopped maintaining exempt income accounts. With the introduction of the 2% tax on dividends, please confirm that:

- (i) companies which had previously ceased maintaining / updating their exempt income accounts will now need to review their prior year tax returns and update their exempt income accounts; and

Maklum balas LHDNM:

Syarikat dikehendaki untuk mengemaskini Akaun Pengecualian.

- (ii) companies can update their exempt income account balances in the current-year tax return and, as a concession for the administrative ease of taxpayers and the IRB, such companies will not be required to revise their prior years' tax returns to reflect the updated exempt income balance in each year.

Maklum balas LHDNM:

Syarikat tidak perlu meminda semula Borang C yang telah dikemukakan sebelum ini. Bagi syarikat yang tidak mengemaskini Akaun Pengecualian sejak sistem satu peringkat dilaksanakan, syarikat dibenarkan untuk memasukkan baki bawa hadapan Akaun Pengecualian yang betul semasa pengemukaan Borang C bagi tahun taksiran 2025.

e. For any foreign sourced dividend received by a tax resident company on or after 1 January 2022 which is tax exempt pursuant to the Income Tax (Exemption) (No. 6) Order 2022 [P.U. (A) 235/2022], please confirm that the taxpayer would be able to regard it as part of the exempt account to pay dividends to its shareholders without the proposed 2% dividend tax. Such a policy is important for neutrality given that an individual shareholder directly receiving dividends from a foreign company is exempt from dividend tax.

Maklum balas MOF:

Secara dasarnya, Cukai Dividen dikecualikan ke atas pendapatan dividen yang diterima syarikat tempatan dari luar negara. Seterusnya apabila syarikat tempatan mengagihkan dividen kepada pemegang saham individu, maka dividen yang diterima oleh pemegang saham individu tertakluk kepada Cukai Dividen. Ini kerana ia dianggap sebagai pengagihan dividen dalam negara.

f. Before 1 January 2022, any foreign sourced income ("FSI") received in Malaysia by a tax resident person (other than those carrying on the business of banking, insurance or sea or air transport) is exempted from tax. Paragraphs 5 and 6 of Schedule 7A shall apply mutatis mutandis to the exempt income.

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

Effective from 1 January 2022, the blanket income tax exemption for tax resident person has been repealed. Consequently, the provision on the application of Paragraphs 5 and 6 of Schedule 7A has also been removed.

From a policy viewpoint for equitable treatment, we are of the view that tax resident companies that declare dividends out of the tax-exempt account which is made up of FSI received in Malaysia before 1 January 2022 should be entitled to utilize the exempt account as at 31 December 2021. Please confirm.

Maklum balas LHDNM:

Apa-apa dividen yang dibayar, dikredit atau diagihkan mulai 1 Januari 2025 termasuk juga pendapatan dividen daripada syarikat yang dikecualikan FSI akan tertakluk kepada Cukai Dividen di tangan pemegang saham individu.

- g. Kindly clarify the mechanism for tax compliance for non-tax residents who may not have a practical nexus to Malaysia and may not be aware of the requirements to file a Malaysian income tax return.

Maklum balas LHDNM:

Pembayar cukai bukan pemastautin perlu mengemukakan Borang Nyata Cukai Pendapatan bagi bukan pemastautin (Borang M) bagi melaporkan pendapatan dividen yang diterima. Tindakan sewajarnya akan diambil oleh LHDNM bagi memastikan pembayar cukai bukan pemastautin mengetahui kewajipan pelaporan pendapatan yang diterima serta dapat meningkatkan pematuhan.

2. Gains or Profits from Disposal of Capital Assets

2.1 Amended Section 15C (wef 1 January 2025)

*15C. (1) Subject to subsection (2) **and (2A)**, gains or profits accruing to a company, limited liability partnership, trust body or co-operative society in a year of assessment on the disposal of capital asset which is a share of a controlled company (hereinafter referred to as the “relevant company”) incorporated outside Malaysia shall be deemed to be derived from Malaysia where the relevant company owns real property situated in Malaysia or shares of another controlled company or both.*

*(2) Subsection (1) shall apply where at the date of acquisition of the shares of the relevant company **by the company, limited liability partnership, trust body or co-operative society**—*

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

- (a) *the defined value of the real property situated in Malaysia (including any right or interest thereof) owned by the relevant company is not less than seventy-five per cent of the value of its total tangible asset;*
- (b) *the defined value of shares of another controlled company owned by the relevant company is not less than seventy-five per cent of the value of its total tangible asset;*
or

~~*Provided that the defined value of the real property situated in Malaysia (including any right or interest thereof) owned by another controlled company, is not less than seventy-five per cent of the value of its total tangible asset; or*~~

- (c) *the defined value of real property situated in Malaysia and shares of another controlled company referred to in paragraphs (a) and (b) owned by the relevant company is not less than seventy-five per cent of the value of its total tangible asset:*

Provided that subsection (1) shall continue to apply notwithstanding that at the time of disposal of shares of the relevant company the defined value referred to in paragraph (a), (b) or (c) is less than seventy-five per cent of the value of its total tangible asset;

Provided further that where at any date the relevant company disposes of the real property or the shares of another controlled company, or both, whereby the defined value of the real property or the shares of another controlled company, or both, owned at the date of disposal and thereafter is less than seventy-five per cent of the value of its total tangible assets, that relevant company shall not be regarded as a relevant company under subsection (1) as from that date of disposal.

(2A) Where the relevant company is a real property company as defined under subparagraph 34A(6) of Schedule 2 to the Real Property Gains Tax Act 1976 prior to 1 January 2024, the date of acquisition of shares of the relevant company shall be deemed to be the date of acquisition of those shares as determined in accordance with subparagraph 34A(2) of Schedule 2 to that Act.”;

- ~~*(3) The shares of the relevant company in this section shall be deemed to be acquired—*~~
~~*(a) on the date the defined value of real property or shares or both owned by the relevant company is in accordance with subsection (2); or*~~
~~*(b) on the date of acquisition of the shares of the relevant company.*~~

(3) Where, on the date of acquisition of the shares of the relevant company, the defined value referred to in paragraphs (2)(a), (b) and (c) is less than seventy-five per cent of the value of its total tangible asset and the relevant company subsequently acquires real property or shares of another controlled company, or both, resulting in the defined value of the real property or shares, or both, owned on the date of acquisition by the relevant company being not less than seventy-five per cent of the value of its total tangible asset (hereinafter referred to as the “subsequent

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

acquisition date”), the shares of the relevant company shall be deemed to be acquired on the subsequent acquisition date.

(4) For the purposes of this section, the acquisition price of shares of the relevant company shall—

(a) where **subsection (3)** applies, be deemed to be equal to a sum determined in accordance with the **following** formula:

$A/B \times C$

where A is the number of shares of the relevant company **disposed by a company, limited liability partnership, trust body or co-operative society;**

B is the total number of issued shares in the relevant company at the **subsequent acquisition date;** and

C is the defined value of the real property or shares or both owned by the relevant company at the **subsequent acquisition date;**

(b) where **subsection (2)** applies, be determined in accordance with paragraph 65E(2)(b) or subsection 65E(8).

(4A) Where subsection (2A) applies, the acquisition price of the real property company as determined under subparagraph 34A(3) of Schedule 2 to the Real Property Gains Tax Act 1976 prior to 1 January 2024 shall be deemed to be the acquisition price of the shares of the relevant company.

(5) For the purposes of this section—

“defined value” means the market value of real property or the acquisition price of shares of another controlled company as determined under subsection (4);

“another controlled company” means a controlled company which owns real property situated in Malaysia (including any right or interest thereof) or shares in another controlled company, or owns both, where the defined value of the real property or shares, or both, is not less than seventy-five per cent of the value of its total tangible asset;

“value of its total tangible assets” **in relation to the relevant company or another controlled company,** means the aggregate of the defined value of real property (including any right or interest thereof) or shares of another controlled company or both and the value of other tangible assets.”.

Comments:

a. The existing proviso for Section 15C(2) reads as follows:

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

“Provided that subsection (1) shall continue to apply notwithstanding that at the time of disposal of shares of the relevant company the defined value referred to in paragraph (a), (b) or (c) is less than seventy-five per cent of the value of its total tangible asset.”

A further proviso to Section 15C(2) is proposed in the Finance Bill 2024.

By reading both provisos together, please refer to the scenario below:

1 January 2025 – Company A acquires shares in Company B which is incorporated outside Malaysia. At the point of acquisition, Company B meets the 75% threshold test. Thus, Company A is deemed to acquire Section 15C shares on 1 January 2025.

1 February 2025 – Company A disposes of the shares in Company B to Company Z. During the 1-month holding period, Company B has not disposed of any real property or shares in another controlled company. However, at the point of acquisition of shares in Company B by Company Z i.e. on 1 February 2025, the 75% threshold is not met by Company B (due to the increase of other tangible assets of Company B).

In view of the above, kindly confirm that:

- (i) Company A would still be regarded as disposing of Section 15C shares and be subject to Capital Gains Tax (“CGT”); and

Maklum balas LHDNM:

Ya. Keuntungan pelupusan saham Co. B oleh Co. A kepada Co. Z pada 1 Februari 2025 tertakluk kepada seksyen 15C.

- (ii) Company Z would not be deemed to acquire Section 15C shares, as at the time of acquisition of shares in Company B, the 75% condition is not met.

Maklum balas LHDNM:

Pemerolehan saham oleh Co. Z merupakan pemerolehan saham syarikat relevan. Apa-apa peningkatan dalam nilai aset ataupun pelupusan aset selain harta tanah/saham syarikat terkawal lain tidak menyebabkan status sesebuah syarikat relevan berubah. Berdasarkan proviso baharu, perubahan status syarikat relevan hanya berlaku sekiranya terdapat pelupusan harta tanah, saham atau kedua-duanya yang menyebabkan nilai tertentu harta tanah, saham atau kedua-duanya berbanding jumlah aset ketara kurang daripada 75%.

- b. Please confirm the *“another controlled company”* status is to be performed only upon acquisition of real property or shares and is not to be carried out as and when there is a change in the value of real property owned by a company.

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

Maklum balas LHDNM:

Ya.

- c. Please confirm that the mechanism under the proposed second proviso to subsection (2) similarly applies to determine when “another control company” ceases to be an “another control company”.

Maklum balas LHDNM:

Ya. Mekanisma dalam proviso kedua subseksyen 15C(2) ACP adalah terpakai dalam menentukan status “another control company”.

- d. Please confirm that since subsection (5) only comes into effect from 1 January 2025, for the period from 1 January to 31 December 2024 subsection (5) cannot apply.

Maklum balas LHDNM:

Peruntukan ini berkuat kuasa mulai 1 Januari 2025. Bagi pelupusan yang berlaku dalam tempoh 1 Januari 2024 sehingga 31 Disember 2024, peruntukan di bawah subseksyen 15C(2) dan (3) adalah terpakai.

- e. Since the proposed subsections (2A) and (4A) come into effect from 1 January 2025, at which date should the 75% threshold test be applied for disposals prior to 1 January 2025? If it is found to exceed the 75% threshold on an appropriate date, what is the mechanism to determine the acquisition price and the acquisition date?

Maklum balas LHDNM:

Penentuan status syarikat relevan sebelum 1 Januari 2025 hendaklah ditentukan sebagaimana peruntukan subseksyen 15C(2) dan 15C(3) ACP.

3. Global Minimum Tax (“GMT”)

3.1 Amended Section 164 - Use of local accounting standard for purposes of Domestic Top-up Tax (“DTT”) computation

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

(c) in section 164—

- (i) by renumbering the existing section as subsection (1); and
- (ii) by inserting after the renumbered subsection (1) the following subsections:

“(2) For the purposes of the Domestic Top-up Tax, the Financial Accounting Net Income or Loss of a Constituent Entity which is a member of a Multinational Enterprise Group and located in Malaysia but not being a Permanent Establishment of a Main Entity shall be determined based on the financial statement of the Constituent Entity if—

(a) all of the Constituent Entities of the Multinational Enterprise Group which are located in Malaysia have the same Financial Year as the Ultimate Parent Entity of the Multinational Enterprise Group; and

(b) each of the Constituent Entities prepares its own financial statements and the financial statements—

(i) are required to be kept or used under any written law of Malaysia; or

(ii) are audited by an approved company auditor.

(3) Where a Constituent Entity located in Malaysia is a Permanent Establishment of a Main Entity, subsection (2) shall apply to the Constituent Entity if, in addition to meeting the requirements in paragraphs 2(a) and (b), the Main Entity prepares separate financial statements for the Constituent Entity.

(4) For the purposes of this section, “approved company auditor” and “financial statement” have the meanings assigned to them in subsection 2(1) of the Companies Act 2016.”;

Comments:

- a. Kindly confirm that, if the conditions provided under the proposed subsection 164(2) are not met, e.g. the financial year of a constituent entity (“CE”) in Malaysia is not similar to that of the ultimate parent entity (“UPE”), the Financial Accounting Net Income or Loss (“FANIL”) of the CE in Malaysia must be determined based on the UPE’s accounting standard for DTT computation purposes.

Maklum balas LHDNM:

Ya. Bagi tujuan pengiraan DTT, jika mana-mana syarat seperti yang disenaraikan di bawah subseksyen 164(2) ACP tidak dipenuhi, FANIL CE mestilah disediakan berdasarkan piawaian perakaunan UPE.

- b. If in a Financial Year, a MNE group acquires a proposed subsidiary in Malaysia with a different year end, is there a relief for the MNE group to still use local Financial Statement of the CE in Malaysia for the purpose of DTT (provided that all other conditions are met by all other CEs in Malaysia)?

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

Maklum balas LHDNM:

Kami mengambil maklum isu penggunaan piawaian perakaunan tempatan untuk tahun pertama pengambilalihan ke atas entiti yang baharu yang mana tahun kewangan entiti tersebut berbeza dengan UPE. LHDNM akan memberikan maklumat terkini berkaitan isu ini berdasarkan garis panduan lanjut yang akan dikeluarkan OECD kelak.

- c. If local Financial Statement is used for GloBE calculation, please confirm that there is no need to “push down” any consolidation adjustments done (for FANIL purpose) at UPE level to CEs in Malaysia.

Maklum balas LHDNM:

Ya. Tiada “push down” untuk sebarang pelarasan penyatuan (consolidation adjustment) yang dilakukan di peringkat UPE kepada CE di Malaysia.

3.2 Marketable Transferable Tax Credit (“MTTC”)

Comments:

For the avoidance of doubt, the interpretation of “related party” and “net present value of the tax credit” for purposes of the MTTC in the OECD commentary to the GloBE Rules should also be inserted in the Bill.

Maklum balas LHDNM:

Agreed Administrative Guidance - AAG (July 2023) telah memberikan panduan jelas bagi penentuan “related party” dan “net present value”. Garis panduan tersebut juga telah tersedia di Portal Rasmi LHDNM. Buat masa ini, LHDNM tidak bercadang untuk memasukkan dua tafsiran tersebut ke dalam ACP.

4. Other Proposed Amendments to the Income Tax Act 1967 (“ITA 1967”)

4.1 Paragraph 184 of 2025 Budget Speech – Income tax exemption for FSI received by resident individual

Income tax exemption for Foreign Sourced Income (FSI) received in Malaysia by a resident individual is proposed to be extended for another 10 years, until 31 December 2036.

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

Comments:

The exemption for foreign-sourced dividend income received by companies, LLPs, trust bodies and co-operative societies was gazetted at the same time in 2022 and has a sunset on 31 December 2026. Concerns and uncertainty arise due to the absence of an extension for this exemption.

The FSI exemption should not be regarded as an incentive but instead as a feature of the taxation system and hence it should not be subject to a sunset effective 31 December 2026. Uncertainty over tax treatment beyond 2026 is a major stumbling block in promoting Malaysia as a regional headquarters or regional holding company location. Extending the exemption will continue to encourage the growth of the economy and greater inflow of funds into the country. Ideally exemptions of this nature should be part of the ITA 1967 (e.g. in Schedule 6) instead of a separate PU Order.

Maklum balas MOF:

MOF mengambil maklum pandangan yang dikemukakan. Tujuan pengecualian FSI diberikan secara bertempoh adalah bagi membolehkan Kerajaan menilai keberkesanan sesuatu pelaksanaan dasar pengecualian baharu dalam tempoh tertentu. Di dalam masa yang sama, pengecualian FSI ini berhubung rapat dengan status “*grey list*” yang dikenakan oleh EU Code of Conduct Group (EU COCG) ke atas Malaysia sebelum ini yang berpunca kerana Malaysia memberi pengecualian FSI secara *blanket*. Justeru, sebarang keputusan Kerajaan untuk melanjutkan pengecualian FSI untuk syarikat akan dipertimbangkan secara teliti sebelum tempoh pengecualian 31 Disember 2026 tamat. Perundangan subsidiari mempunyai ‘force of law’ yang sama seperti di dalam Akta.

4.2 Amended Section 34(6)(h) and 34(6)(ha)

It is proposed that for project valued RM300,000 and below, project and contribution approval can be obtained from relevant Government Authority (“RGA”) and for project valued above RM300,000, contribution approval can be obtained from RGA but project approval remain with the MOF.

Comments:

It is recommended that the specific RGA responsible for certifying contributions be clearly identified. Additionally, it would be helpful to provide a comprehensive list of these authorities for reference.

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

Maklum balas LHDNM:

Garis Panduan bagi permohonan kelulusan potongan di bawah perenggan 34(6)(h) yang dikeluarkan oleh MOF akan dipinda dengan mengemaskini prosedur permohonan serta memasukkan senarai RGA yang berkaitan dengan projek amal atau komuniti.

5. Proposed Amendments to the Real Property Gains Tax Act 1976 (“RPGTA 1976”)

5.1 Amended Section 13

Amendment of section 13

II. The Real Property Gains Tax Act 1976, which is referred to as the “principal Act” in this Part, is amended in section 13—

(a) by substituting for subsection (4) the following subsection:

“(4) Where a person makes a return under this Act, the return shall be furnished to the Director General in the prescribed form in an electronic medium or by way of electronic transmission in accordance with section 57A.”;

(b) by inserting after subsection (6) the following subsection:

“(6A) The notification referred to in subsection (6) shall be furnished to the Director General in an electronic medium or by way of electronic transmission in accordance with section 57A.”; and

The electronic filing for Real Property Gains Tax (“RPGT”) returns and notifications comes into operation on 1 January 2025.

Comments:

For avoidance of doubt, kindly confirm that the electronic filing requirement is applicable to the disposal made on or after 1 January 2025, as well as disposal made before 1 January 2025 but the RPGT return is not submitted to the IRB by 31 December 2024. Would late submissions of RPGT returns for disposals before 1 January 2025 (e.g. a taxpayer disposes of real property on 1 September 2024 but inadvertently misses the RPGT filing deadline and seeks to submit the RPGT return in January 2025 instead) also need to be made electronically or can these be made via a physical return form?

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

Maklum balas LHDNM:

Semua borang CKHT perlu dikemukakan secara penghantaran elektronik melalui e-CKHT mulai 1 Januari 2025 tanpa mengambilkira tarikh pelupusan.

5.2 Amended Section 21 – Payment of RPGT by the disposer

Amendment of section 21

22. Section 21 of the principal Act is amended—

(a) in subsection (1A)—

(i) by deleting the words “or additional tax”;

Finance 19

(ii) by substituting for the words “sixty days” the words “ninety days”; and

(iii) by deleting the words “or additional assessment”;

Comments:

Please confirm that taxpayers are only required to remit the balance of RPGT payable (net of retention sum, if received by the IRB). This will minimise administrative work and free up cashflow of disposers.

Maklum balas LHDNM:

Bayaran oleh pemeroleh di bawah seksyen 21B ACKHT merupakan sebahagian daripada bayaran cukai yang telah dibuat bagi pihak pelupus dan hendaklah diremit dalam tempoh 60 hari dari tarikh pelupusan. Baki cukai kena dibayar oleh pelupus wujud apabila amaun bayaran di bawah seksyen 21B kurang daripada jumlah cukai yang kena dibayar. Sehubungan itu, pelupus perlu menjelaskan baki cukai kena dibayar dalam tempoh 90 hari dari tarikh pelupusan aset.

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

6. Proposed Amendments to the Stamp Act 1949

6.1 Appendix 18 of 2025 Budget Speech - Implementation Of Self-Assessment System For Stamp Duty

In order to ensure the stamping and self-payment system is more efficient and further enhance compliance, it is proposed the self-assessment stamp duty system (“STSDS”) be implemented in phases based on the types of instruments or agreements.

STSDS requires duty payers or appointed agents to upload information in STAMPS and undertake self-assessment of the value of stamp duties for the instruments or agreements, and subsequently make payments within the specified timeframe.

No.	Phase	Effective Date	Types of Instruments
1.	Phase 1	From 1 January 2026	Instruments or agreements related to rental or lease, general stamping and securities
2.	Phase 2	From 1 January 2027	Instruments of transfer of property ownership
3.	Phase 3	From 1 January 2028	Instruments or agreements other than stated in Phase 1 and Phase 2

Comments:

- a. The implementation in phases is welcome. As always, we are prepared to contribute in consultations throughout to achieve a smooth and inclusive implementation.

Maklum balas LHDNM:

LHDNM mengambil maklum atas komitmen yang diberikan.

- b. In respect of the scope for Phase 1, we put forward that:

- (i) Instruments or agreements related to “*general stamping*” should be excluded because its scope could be very broad. Such instruments or agreements should be defined / clarified and covered in subsequent phases.

Instruments related to “*securities*” should be defined / clarified.

Maklum balas LHDNM:

Secara umumnya, penyeteman am adalah dikenakan duti tetap tanpa mengambil

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

kira balasan atau amaun yang dinyatakan dalam sesuatu surat cara. Penerangan lanjut berkenaan jenis surat cara yang dikategorikan di bawah penyeteman am dan sekuriti akan dijelaskan dalam Garis Panduan yang akan dikeluarkan dari semasa ke semasa.

- c. In order to increase the compliance/accuracy of the stamp duty to be remitted to the IRB and to avoid unnecessary penalties burdening the taxpayers, we hope for the First Schedule to be revisited (for example, categories of instruments chargeable with duty to be reduced) before Phase 3 is implemented.

Maklum balas LHDNM:

LHDNM mengambil maklum.

- d. Given stamp duty has been under the official assessment system and most taxpayers may not be familiar with the legislation, it is hoped that the IRB will conduct ample awareness and education sessions to equip duty payers with sufficient knowledge to ensure compliance under the self-assessment system. It is also hoped that under the self-assessment system, the IRB will ensure there are avenues for taxpayer consultation, for example where the stamp duty position is unclear.

Maklum balas LHDNM:

LHDNM akan melaksanakan libat urus dengan pemegang taruh antaranya agensi kerajaan, CTIM, Majlis Peguam, Persatuan Bank-bank, Persatuan Insurans, MEF, REHDA, IPTA dan IPTS. Kenyataan media turut akan dikeluarkan pada pertengahan tahun.

- e. Based on Section 20 – Commencement of amendments to the Stamp Act 1949 and the various proposed amendments in the Stamp Act as set out in the Measures for the Collection, Administration and Enforcement of Tax Bill 2024, it appears that the effective date for STSDS is 1 January 2026 for all types of instruments chargeable with duty.

- (i) Please advise whether the implementation based on a phased approach as set out in Appendix 18 of the 2025 Budget Speech will be legislated via a gazette order. In particular, we note the amendments to Section 36 of the Stamp Act will take effect on 1 January 2026 (which would effectively remove the provisions for the existing adjudication process).

Maklum balas LHDNM:

Pindaan Seksyen 36 melalui Akta 863 mengambil kira penyeteman secara formal dan STS. Bagi surat cara yang tidak terlibat dalam Fasa 1 STS, penyeteman masih tertakluk kepada adjudikasi dan taksiran formal di bawah subseksyen 36(1)(b). Hebahan berkenaan pelaksanaan STS mengikut fasa telah dibuat dan akan dimaklumkan dari semasa ke semasa.

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

- (ii) Please confirm that the effective date of 1 January 2026 refers to the date of execution of the instrument as there is no express provision of what this date refers to.

Maklum balas LHDNM:

Tarikh 1 Januari 2026 adalah merujuk kepada tarikh pengemukaan penyata untuk tujuan penyeteman tanpa mengambilkira tarikh surat cara disempurnakan.

6.2 Proposed Section 35A - Return

Return

35A. (1) Every person, other than an authorized person under section 9, shall furnish to the Collector a return in the prescribed form together with an instrument which is executed and chargeable with duty by an electronic medium in accordance with section 77A.

(2) For the purposes of this section, a return for a year of assessment shall—

- (a) specify the description of instrument and the amount of duty with which the instrument is chargeable; and
- (b) contain such particulars as may be required by the Collector.

Comments:

- a. The term “person” is not defined in the Stamp Act 1949 (“Stamp Act”). Please clarify whether the person who is responsible for filing the stamp duty return under the proposed Section 35A is the person who is liable to pay stamp duty in the Third Schedule of the Stamp Act

Maklum balas LHDNM:

Secara umumnya, penyeteman boleh dilaksanakan oleh pihak-pihak yang terlibat dalam perjanjian menurut Jadual Ketiga Akta Setem 1949. Walau bagaimanapun, pihak yang bertanggungjawab memfailkan penyata tidak dihadkan kepada pihak yang bertanggungjawab membayar duti. Pihak yang bertanggungjawab membayar duti adalah pihak yang disenaraikan di bawah Jadual Ketiga Akta Setem 1949.

- b. There should also be a mechanism in place to facilitate where the person who is responsible for filing the stamp duty return seeks to authorise another person to submit the return on his behalf (akin to tax agents for corporate income tax returns and lawyers

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

/ tax agents for RPGT returns). If required, we are prepared to contribute further on the operational aspects to achieve a smooth and inclusive implementation.

Maklum balas LHDNM:

Bagi tujuan pengemukaan penyata dan surat cara untuk penentuan duti, peruntukan sedia ada telah membenarkan mana-mana pihak yang memohon kepada Pemungut untuk mengemukakan penyata melalui medium elektronik. LHDNM dalam proses mengemas kini dan menambah baik mekanisma bagi memastikan kelancaran pelaksanaan STSDS.

- c. For B2C transactions, for example where a service provider provides services to individual customers, the individual customer is the person liable to pay duty on the executed instrument under the Stamp Act.

If the person who is required to furnish a return under the proposed Section 35A is the person who is liable to pay duty (in the current example, individual customers), it will be challenging to enforce this proposed requirement on individual customers.

Will the MOF issue a stamp duty exemption order to exempt individuals from filing stamp duty returns and stamp duty payment if the individual procures services for personal consumption and not for his business? The MOF has issued an Income Tax (Exemption) (No. 4) Order 2019 [P.U. (A) 147/2019] to exempt a person not tax resident in Malaysia from the payment of income tax in respect of income derived from Malaysia in relation to certain software received from an end user who is an individual tax resident in Malaysia who purchases software or acquires any right to use software for personal usage and not for usage in his business.

Maklum balas LHDNM:

Buat masa ini, tiada pengecualian diberikan kepada surat cara penyediaan perkhidmatan bagi kegunaan sendiri.

- d. It is not expressly stated when the stamp duty return is due for filing. For example, Section 77A of the ITA 1967:

77A. (1) Every company, ... shall for each year of assessment furnish to the Director General a return in the prescribed form within seven months from the date following the close of the accounting period

Following the above, when is the deadline to furnish a return under the proposed Section 35A?

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

Maklum balas LHDNM:

Seksyen 47 Akta Setem 1949 menyatakan bahawa surat cara hendaklah disetamkan dalam tempoh 30 hari daripada tarikh surat cara disempurnakan sekiranya disempurnakan di dalam Malaysia ataupun dalam tempoh 30 hari daripada tarikh ianya diterima di Malaysia jika surat cara disempurnakan di luar Malaysia.

- e. The proposed Section 35A(2) states that “*For the purpose of this section, a return for a year of assessment shall...*”.

The term “year of assessment” (“YA”) is not defined in the Stamp Act. Please provide clarification on what a return for a YA means. Further, stamp duty returns would be submitted in respect of an instrument chargeable with duty and there may be multiple stamp duty returns which would be required to be submitted in a calendar year, hence it is not clear whether the concept of a “year of assessment” would be relevant under the Stamp Act.

Maklum balas LHDNM:

LHDNM mengambil maklum. Tindakan sewajarnya akan diambil dengan mengambil kira pelaksanaan STSDS bermula 1 Januari 2026.

- f. Kindly advise if the details required would be similar to the information required to be completed in the current STAMPS portal. Otherwise, kindly advise what are the additional information required under self-assessment system.

Maklum balas LHDNM:

Butiran dalam penyata adalah sama seperti dalam sistem sedia ada tertakluk kepada pindaan.

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

6.3 Amended Section 36 - Mode of adjudication as to proper stamp

(b) by substituting for subsection (1) the following subsection:

“(1) Where a person has furnished a return together with an instrument in accordance with section 35A—

(a) the Collector shall be deemed to have **made** an assessment of duty on the instrument based on the information furnished in the return; or

(b) the Collector shall assess the duty on the instrument, if any, with which in his judgment an instrument is chargeable.”;

(d) by substituting for subsection (2) the following subsection:

“(2) For the purposes of this Act, where the Collector is deemed to have made an assessment under paragraph (1)(a)—

(a) the return referred to in that subsection shall be deemed to be an assessment; and

(b) the duty payable on the instrument shall be due and payable on the day the Collector is deemed to have made an assessment.”; and

Comments:

- a. We propose that the amended Section 36(1)(a) include the wording highlighted in bold as follows:

“(a) the Collector shall be deemed to have made, **on the day on which the return is furnished**, an assessment of duty on the instrument based on the information furnished in the return; or”

The above wording would be similar to the provisions of Section 90(1) of the ITA 1967 and provide clarity on when the assessment is deemed.

Maklum balas LHDNM:

LHDNM berpendapat perenggan 36(1)(a) jelas memperuntukkan duti atas taksiran adalah disifatkan setelah maklumat dikemukakan melalui borang nyata selaras dengan peruntukan seksyen 35A Akta Setem 1949.

LHDNM akan memberi pertimbangan lanjut ke atas cadangan CTIM untuk menjelaskan perkara ini.

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

b. Section 47 provides that:-

“Save where other express provision is made by this or any other Act, any unstamped or insufficiently stamped instrument not being a cheque or promissory note drawn or made within Malaysia may be stamped after execution on payment of the unpaid duty if the instrument is presented for stamping within thirty days of its execution if executed within Malaysia, or within thirty days after it has been first received in Malaysia if it has been executed out of Malaysia.”

Under the official assessment, the stamp officer would issue a notice of assessment to the taxpayer on the stamp duty payable. Generally, the stamp duty is payable within 30 days from the date of the notice of assessment.

However, under the self-assessment system, it is proposed that the duty payable on an instrument shall be due and payable on the day the return and instrument are furnished electronically.

Kindly advise what if the return and instrument are submitted electronically on the 20th day after execution and payment is made a few days later, but within 30 days from execution? In line with the spirit of Section 47 above, it is hoped that the duty would be payable on the date the assessment is made, or thirty days of execution of the relevant instrument if executed within Malaysia, or within thirty days after the relevant instrument has been first received in Malaysia if it has been executed out of Malaysia.

Otherwise, we would propose that the penalty for late payment be applicable only after 30 days from the date the instrument is executed or is brought into Malaysia, whichever is applicable.

Maklum balas LHDNM:

Dokumen dianggap disetemkan apabila taksiran disifatkan dibayar oleh pembayar duti.

- (i) Jika taksiran disifatkan dan dibayar dalam tempoh 30 hari dari tarikh perjanjian disempurnakan, tiada penalti dikenakan.
- (ii) Jika disifatkan dalam tempoh tempoh 30 hari tetapi bayaran dibuat selepas tempoh 30 hari, penalti akan dikenakan.
- (iii) Jika taksiran disifatkan dan bayaran dibuat selepas tempoh 30 hari, penalti akan dikenakan.

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

6.4 Proposed Section 36CA - Assessment and additional assessment in certain cases

New sections 36CA and 36CB

25. The principal Act is amended by inserting after section 36C the following sections:

“Assessment and additional assessment in certain cases

36CA. (1) The Collector, where it appears to him that no or no sufficient assessment has been made on an instrument chargeable to duty, may in that year or within five years after the date the duty is paid or would have been paid make an assessment or additional assessment, as the case may be, in respect of that instrument in the amount or additional amount of duty payable or in the additional amount of duty in which, according to the best of the Collector’s judgment, the assessment with respect to that instrument ought to have been made.

(2) The Collector, where it appears to him that—

- (a) any form of fraud or wilful default has been committed by or on behalf of any person; or
- (b) any person has been negligent,

in connection with or in relation to duty, may at any time make an assessment in respect of that instrument for the purpose of making good any loss of duty attributable to the fraud, wilful default or negligence in question.

Comments:

- a. We seek confirmation that Section 50A will always be exercised within the time bar under Section 36CA.

Maklum balas LHDNM:

Ya. Seksyen 36CA adalah terpakai untuk STSDS manakala seksyen 50A masih terpakai untuk taksiran yang dibangkitkan oleh Pemungut.

- b. Currently, only those instruments listed in the First Schedule of the Stamp Act are chargeable with stamp duty. The new proposal in Section 36CA should only be applicable for instruments that are executed under the self-assessment regime. Kindly confirm.

Maklum balas LHDNM:

Ya. Seksyen 36CA adalah terpakai bagi surat cara yang dikemukakan untuk penyeteman mulai 1 Januari 2026. Walau bagaimanapun, pelaksanaan STSDS ini adalah secara berperingkat. Bagi Fasa 1, hanya surat cara sekuriti, sewa dan am yang terlibat.

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

- c. The concept of “*negligent*” and “*negligence*” should be excluded from the proposed Section 36CA(2). Stamp duty is an area which most duty payers would have little encounter or knowledge of, and it would be inefficient for parties to have to use further resources to prove that any non-compliance was in fact due (or not due) to negligence.

The reasons for the exclusion of “*negligent*” and “*negligence*” are as follows:

- (i) Unlike income tax returns, the stamping of instruments which are chargeable to stamp duty is not something common and done annually. Whenever a transaction requires instruments to be stamped, the transferee will merely comply so that the transaction can be completed.
- (ii) In the case of instruments of transfer, the transferor being the owner of the property is the party which is in a better position to ascertain the value of the property (shares, land, leases, etc.) to be transferred. There is almost no room for the transferee (the duty payer) to commit the above offence in order to pay lower stamp duty.
- (iii) The Stamp Act originates from the old English Ordinance and contains many provisions which are not easily understood even among lawyers and tax practitioners. The common issue with stamp duty that has come before the Courts for judgement is valuation; it is not with matters relating to negligence (or fraud or wilful default) in determining stamp duty.
- (iv) The stamping of instruments is usually done as a further step after the drafting and execution of agreements or contracts.
- (v) It would be in line with the RPGTA 1976 which does not have the words “*negligent*” or “*negligence*” in any of its provisions.

Maklum balas LHDNM:

LHDNM akan memberi pemakluman secara berterusan berhubung senarai surat cara yang perlu disetemkan bagi membantu pembayar duti melaksanakan tanggungjawab di bawah Akta Setem 1949.

- d. Section 36CA(2) should only refer to fraud or wilful default having been committed by the party liable to pay such duty. This would be similar in concept to Section 15(2) of the Real Property Gains Tax Act 1976). Further, Section 36CA(2) (fraud and wilful default) should not be applicable where instruments were in fact submitted for self-assessment and the Collector considers that no or insufficient assessment has been made, otherwise the scope of Section 36CA(2) would be very broad. Furthermore, Section 36CA(1) would have provided the Collector the power to raise assessments within five years for such situations.

Disputes in the assessment which are due to differences in interpretation, legal positions and valuation should not be regarded as fraud and wilful default. Instead, fraud and wilful

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

default is a deliberate attempt to conceal or mislead the authorities relating to the instrument which is subject to stamp duty e.g. fraudulent documentation. There should be a distinction between the two situations so that the provisions for fraud and wilful default are applied appropriately.

Maklum balas LHDNM:

Penentuan sama ada berlakunya *fraud and wilful default* atau sebaliknya adalah bergantung kepada fakta sesuatu kes. Sebagai contoh, pendekatan yang sama telah diambil dalam menentukan sesuatu penerimaan atau pelupusan dikenakan cukai di bawah ACP atau ACKHT iaitu berdasarkan kepada fakta sesuatu kes.

6.5 Amended Section 47A – late stamping penalty (wef 1 January 2025)

26. Section 47A of the principal Act is amended by substituting for subsection (1) the following subsection:

“(1) An instrument which is not stamped within the period specified in or under section 40, 43 or 47 may be stamped on payment of the unpaid duty and a penalty of—

- (a) fifty ringgit or ten per centum of the amount of the deficient duty, whichever sum be the greater, if the instrument is stamped within three months after the time for stamping; or
- (b) one hundred ringgit or twenty per centum of the amount of the deficient duty, whichever sum be the greater, in any other case.”.

Comments:

If an instrument was executed on 1 November 2024 and brought for stamping on 10 January 2025, would the new penalty rate of RM50 / 10% of deficient duty apply or the old penalty rate of RM25 / 5% of deficient duty apply?

Maklum balas LHDNM:

Pengenaan penalti lewat penyeteman adalah berdasarkan perundangan semasa pada tarikh penyeteman.

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

6.6 Proposed Section 72D - Incorrect returns

72D. (1) Where a person—

- (a) makes an incorrect return by omitting or understating any duty of which he is required by this Act to make a return; or
- (b) gives any incorrect information in relation to any matter affecting his own chargeability to duty,

unless he satisfies the court that the incorrect return or incorrect information was made or given in good faith, such person shall be guilty of an offence and shall be liable on conviction to a fine of not less than one thousand ringgit and not more than ten thousand ringgit and shall pay a special penalty equal to the amount of duty which has been undercharged in consequence of the incorrect return or incorrect information or which would have been undercharged if the return or information had been accepted as correct.

(2) Where a person—

- (a) makes an incorrect return by omitting or understating any duty of which he is required by this Act to make a return; or
- (b) gives any incorrect information in relation to any matter affecting his own chargeability to duty,

and where no prosecution under subsection (1) has been instituted in respect of the incorrect return or incorrect information, the Collector may require that person to pay a penalty equal to the amount of duty which has been undercharged in consequence of the incorrect return or incorrect information or which would have been undercharged if the return or information had been accepted as correct.

(3) The Collector may, if he thinks fit, reduce or remit the penalty referred to in subsection (2).”.

Comments:

- a. There is heightened concern amongst businesses that incorrect return penalties will be imposed on incorrect returns as stamp duty is a complex area of taxation and subject to interpretation. Stamp duty treatment depends on the nature of each instrument and the characterisation of an instrument depends on the specific fact pattern/terms and in-depth stamp duty knowledge is not common for businesses or individuals. Due to the lack of in-depth knowledge giving rise to genuine mistakes or different views taken by the Stamp Office and duty payers and a potentially wide scope of implementation of the STSDS albeit by phases, we would like to request for no imposition of incorrect return penalties for a period of 12 months following the introduction of each phase. This will enable businesses to equip themselves with the necessary knowledge and have the systems ready ahead so that there is sufficient time to prepare for compliance. In addition, it is important for the IRB to provide sufficient guidance, especially on technical matters, to avoid future disputes/penalties.

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

Effective Date

No.	Phase	Effective Date	Types of Instruments
1.	Phase 1	From 1 January 2026	Instruments or agreements related to rental or lease, general stamping and securities
2.	Phase 2	From 1 January 2027	Instruments of transfer of property ownership
3.	Phase 3	From 1 January 2028	Instruments or agreements other than stated in Phase 1 and Phase 2

Maklum balas LHDNM:

LHDNM akan memberi pemakluman secara berterusan berhubung senarai surat cara yang perlu disetemkan bagi membantu pembayar duti melaksanakan tanggungjawab di bawah Akta Setem 1949.

Selain itu, LHDNM akan melaksanakan libat urus dengan pemegang taruh antaranya agensi kerajaan, CTIM, Majlis Peguam, Persatuan Bank-bank, Persatuan Insurans, MEF, REHDA, IPTA dan IPTS bagi memastikan penerangan dan maklumat dapat disampaikan kepada orang awam sebelum pelaksanaan STS Fasa 1 dimulakan.

- b. As explained in the comments in Item 6.4(c), the transferee / duty payer is likely to be unfamiliar with stamp duty and may not have sufficient knowledge to file a correct stamp duty return.

Maklum balas LHDNM:

Garis Panduan akan disediakan sebagai panduan dan rujukan pembayar duti.

- c. The imposition of a penalty provision for filing incorrect returns should be removed for technical / interpretation matters and valuation adjustments.

In particular, in many stamp duty dispute cases, the issue in dispute is with the valuation of the property, even when the duty payer has obtained valuation from independent and licensed valuers. Having differing opinions from the authorities about the value of the property is not tantamount to filing an incorrect return. Such penalty would not have arisen under an official assessment regime. It is hoped that the MOF and IRB would provide confirmation on this position.

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

Maklum balas LHDNM:

Secara umumnya, tujuan penalti dikenakan adalah untuk meningkatkan tahap pematuhan dalam kalangan pembayar duti untuk membayar duti yang sepatutnya di bawah Jadual Pertama Akta Setem 1949. Penjelasan lanjut berhubung pengenaan penalti ada dijelaskan di dalam Rangka Kerja Audit Duti Setem yang telah dikeluarkan dan berkuat kuasa mulai 1 Januari 2025.

Surat cara yang melibatkan penilaian akan dilaksanakan dalam Fasa 3. LHDNM akan menetapkan satu mekanisme atau aturan bersesuaian bagi penyeteman surat cara yang melibatkan penilaian.

6.7 Amended Item 12 of First Schedule & Appendix 14 of the 2025 Budget Speech

Amended Item 12 of First Schedule

27. The First Schedule to the principal Act is amended—

(a) by substituting for item 12 the following item:

Item	Description of Instrument	Proper Stamp Duty
"12	ASSIGNMENT:	
(a)	By way of security or of any security	See Charge
(b)	Upon a sale or otherwise	See Conveyance
(c)	Of policy of life insurance—	
(i)	by way of gift or trust where the sum insured—	
(A)	does not exceed RM100,000.00	RM10.00
(B)	exceeds RM100,000.00 but does not exceed RM500,000.00	RM100.00
(C)	exceeds RM500,000.00 but does not exceed RM1,000,000.00	RM500.00
(D)	exceeds RM1,000,000.00	RM1,000.00
(ii)	in any other case	See Conveyance";

Appendix 14 of the 2025 Budget Speech

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

Proposal

To help reduce the deed of assignment costs and promote insurance and takaful protection of family members, it is proposed the deed of assignment for life insurance policy and family takaful certificate given by way of love and affection or through a trustee, be subject to stamp duty at a fixed rate as follows:

No.	Ownership Transfer Value	Stamp Duty Rate
1.	The first RM100,000	RM10
2.	Above the first RM100,000 to RM500,000	RM100
3.	Above RM500,000 to RM1,000,000	RM500
4.	More than RM1,000,000	RM1,000

Effective Date

For deed of assignments for life insurance policy and family takaful certificate executed from 1 January 2025.

Comments:

In the Appendix 14 of the 2025 Budget Speech, it was proposed that the deed of assignment of life insurance policy and family takaful certificate given by way of love and affection or through a trustee for family members are subject to fixed stamp duty rate. However, in the proposed amended Item 12(c) of the First Schedule, the fixed stamp duty rate applies to an instrument of assignment of life insurance policy “by way of gift or trust”.

As such, kindly confirm that an instrument of assignment of life insurance policy to a non-related individual could also qualify for the fixed stamp duty rate.

Otherwise, please make it clear in the proposed amended Item 12(c) of the First Schedule accordingly, and kindly define “family members”.

Maklum balas LHDNM:

LHDNM mengesahkan bahawa kadar duti surat cara penyerahhakkan melalui hadiah atau melalui pemegang amanah tidak terhad pemakaiannya kepada ahli keluarga sahaja.

6.8 Amended Item 22(6) of First Schedule

22 *BOND, COVENANT, LOAN, SERVICES, EQUIPMENT LEASE AGREEMENT OR INSTRUMENT of any kind whatsoever:*

- (6) *Being the security for securing the payment or repayment of RM10 money for the purchase of goods (within the meaning given under the First Schedule of the Hire-Purchase Act 1967) in accordance with ~~the conventional hire purchase and Syariah~~*

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

principles any Syariah principles or conventional hire purchase.

ctim
CENTRE FOR TRADING INVESTMENT & MARKETS

2025 Budget Seminar
MALAYSIA MADANI
LHDN

FIRST SCHEDULE

ITEM 22
NEW SUB-ITEM
FINANCING AGREEMENT BASED ON SHARIAH PRINCIPLES

Shariah-based financing agreements for purchase of goods under First Schedule of the Hire-Purchase Act 1967 are extended to cover **any Shariah non-hire purchase goods**

Fixed duty of RM10 is imposed based on a new sub-item under Item 22

ITEM 29:
INSTRUMENT OF CHEQUE

Duty rate for cheque increased from RM0.15 to RM1

Wef: 1 January 2025

2025 Budget Seminar 33

Source: IRB presentation at CTIM 2025 Budget Seminar.

Comments:

Please confirm that the above IRB slide on Item 22 New Sub-Item refers to the amendment of Item 22(6) of the First Schedule.

Maklum balas LHDNM:

Ya. Pindaan adalah ke atas peruntukan sedia ada iaitu Butiran 22(6).

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

6.9 Amended Item 59 of First Schedule - Power or Letter of Attorney

(f) by substituting for item 59 and the particulars relating to it the following item and particulars:

Item	Description of Instrument	Proper Stamp Duty
"59	POWER OR LETTER OF ATTORNEY:	
(a)	being conveyance of real property in consideration of, and creating by way of sale or gift	The same duty as a conveyance on sale
(b)	in any other case	RM10.00

Exemption

For the sole purposes of appointment or authorizing any person to vote as proxy at a meeting of a Company or Association".

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

Comments:

A power of attorney merely appoints one to be an attorney acting on behalf of. It is not, and should not be an instrument of conveyance. There is technically no conveyance of any ownership (legal or beneficial).

Kindly provide clarification including examples as to what the proposed Item 59(a) covers given that any conveyance of real property would be covered under Conveyance anyway, and a power of attorney would not be possible to replace any conveyance instrument for a real property under Malaysian law.

Further, the instrument of transfer of real property would generally be the memorandum of transfer submitted to the Land Office, and such instrument would be the instrument which is subject to ad valorem stamp duty. If another instrument (e.g. a power of attorney) is somehow regarded as instrument of conveyance of real property, this may give rise to a situation of stamp duty being imposed twice on the same property (given the words "*The same duty as a conveyance on sale*", as if power of attorney in sub-item (a) is a separate instrument from an instrument of conveyance also subject to ad valorem duty). Hence if subitem (a) is retained, we would suggest to replace "*The same duty as a conveyance on sale*" with "*See Conveyance*".

Maklum balas LHDNM:

Asas pengenaan duti adalah bergantung kepada kandungan surat cara. Jika hak atau kepentingan atas harta berpindah daripada pemberi kuasa kepada penerima kuasa maka duti *ad valorem* boleh dikenakan ke atas surat cara PA tersebut.

Walau bagaimanapun, dalam keadaan Pemberi kuasa melantik penerima kuasa untuk menguruskan harta bagi pihaknya semasa berada di luar negara dan segala hasil harta hendaklah diberikan kepada pemberi kuasa, tidak berlaku pindahan hak atau kepentingan atas harta. Penerima kuasa hanya menguruskan harta tersebut bagi pihak pemberi kuasa. Duti boleh dikenakan pada kadar duti tetap RM10.

Secara umumnya, sekiranya PA telah dikenakan duti *ad valorem*, maka surat cara susulan bagi satu transaksi yang sama adalah dikenakan duti tetap RM10.

6.10 General

There are a few amendments to the stamp duty rate imposed on certain instruments, which come into operation on 1 January 2025.

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

Comments:

Kindly confirm that the new stamp duty rate would apply based on the date of execution of the instrument if it is executed in Malaysia, or based on the date the instrument is received in Malaysia if it has been executed out of Malaysia.

For example, if the instrument has been executed in Malaysia on 20 December 2024, but brought to Collector for stamping on 3 January 2025, the current stamp duty rate (instead of the newly proposed rate) should apply.

Maklum balas LHDNM:

Pengenaan duti adalah berdasarkan perundangan semasa yang berkuat kuasa pada masa surat cara dikemukakan untuk penyeteman dan bukan pada tarikh surat cara disempurnakan (ditandatangani).

7. Personal Tax

7.1 Appendix 1 of 2025 Budget Speech & Amended Section 46(1)(h)(i) - Review Of Individual Income Tax Relief On Medical Treatment Expenses For Self, Spouse And Child

It is proposed the current scope of individual income tax relief for medical expenses be reviewed as follows:

Item B (iv) - Relief for full medical check-up, mental health check-up or consultation and COVID-19 detection test limited to RM1,000, be expanded to include fees for **disease detection examination conducted at clinic or hospital**, such as blood test, ultrasound, mammograms and pap smear.

Comments:

We suggest the fees for disease detection examinations conducted at clinics or hospital be **expanded to include examinations conducted at medical laboratories** because most of the disease detection examinations such as blood tests are conducted at medical laboratories.

Maklum balas MOF:

Cadangan CTIM diambil maklum.

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

7.2 Appendix 3 of 2025 Budget Speech & Amended Sections 46(1)(c) and 46(1)(u) - Individual Income Tax Relief For Sports Activities, Health And Elderly Care

A. Individual income tax relief

The scope of individual income tax relief for sports activities, health and medical care be reviewed as follows:

- i. individual income tax relief of up to RM1,000 for expenses on sports equipment and activities for self, spouse and child be expanded to parents;

Comments:

- a. We suggest the individual income tax relief of up to RM1,000 for expenses on sports equipment and activities for self, spouse and child be expanded to also **include grandparents**, so that this will encourage the elderly to be involved in sport activities as well.

Maklum balas MOF:

Cadangan CTIM diambil maklum.

- ii. full medical check-up expenses for parents, limited to RM1,000 be expanded to include vaccination;
- iii. medical treatment, special needs, and parental care expenses be expanded to grandparents as follows:
 - a) medical treatment at clinics and hospitals;
 - b) treatment and homecare nursing, day care centres and residential care centres;
 - c) dental treatment not including cosmetic dental treatment; and
 - d) full medical check-up and vaccination, limited to RM1,000.

B. Individual income tax exemption

The individual income tax exemption of up to RM3,000 per year given on child care allowance received by employees or paid directly by employers to child care centres be expanded to include elderly care (parents/grandparents).

C. Further tax deduction

The further tax deductions on child care allowance paid by employers to employees be expanded to include elderly care (parents/grandparents).

Comments:

- b. What are the supporting documents required to substantiate that the expenses incurred are for grandparents?

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

Maklum balas LHDNM:

Tuntutan pelepasan hendaklah disokong dengan dokumen yang boleh membuktikan pertalian di antara individu dengan datuk/ nenek termasuk sijil kelahiran bagi individu, ibu bapa dan datuk/ nenek.

- c. Kindly advise whether the relief covers expenses incurred for parents / grandparents in-laws?

Maklum balas LHDNM:

Skop tuntutan pelepasan tidak termasuk ibu bapa mertua atau datuk/ nenek mertua.

- d. As the scope has been expanded to cover more family members, the Government should consider increasing the tax relief amount as well.

Maklum balas MOF:

Cadangan CTIM diambil maklum.

7.3 Appendix 6 of 2025 Budget Speech & Amended Section 46(1)(k) - Extension Of Individual Income Tax Relief On Net Savings In The National Education Savings Scheme

It is proposed the individual income tax relief of up to RM8,000 on net annual savings in SSPN be extended for 3 years, subject to the following additional conditions:

- (i) the tax relief can only be claimed by **either parent**, for SSPN savings, with maximum claim limited to RM8,000.

Comments:

We suggest the condition of “the tax relief can only be claimed by either parent” be **removed** so that this will encourage both parents to contribute more to their SSPN account, especially parents with a few children. This will also help the parents to accumulate more education funds and reduce their reliance on PTPTN loans.

Maklum balas MOF:

Pelepasan cukai bagi SSPN adalah bertujuan untuk terus menggalakkan ibu bapa membuat simpanan pendidikan tinggi anak-anak. Syarat tambahan yang dimasukkan bagi memastikan pelepasan cukai yang lebih bersasar. Tambahan lagi, Kerajaan bersetuju agar pengeluaran daripada tabung SSPN yang bertujuan membiayai kos pendidikan untuk

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

melanjutkan pelajaran tidak diambil kira dalam pengiraan tabungan bersih bagi tahun tersebut dan tidak akan menjejaskan jumlah pelepasan yang layak.

7.4 Paragraph 228 and Appendix 7 of 2025 Budget Speech & Amended Section 46B - Individual Income Tax Relief On Housing Loan Interest Payment For First Residential Home

Paragraph 228

228. To encourage first home ownership, the Government proposes to provide individual income tax relief of up to 7,000 ringgit on housing loan interest payment, as follows:

- Tax relief of up to 7,000 ringgit for residential homes priced up to 500,000 ringgit.
- Tax relief of up to 5,000 ringgit for residential homes priced from 500,000 ringgit up to 750,000 ringgit.

This relief is claimed for three consecutive years of assessments on sale and purchase agreements completed between 1 January 2025 and 31 December 2027.

Comments:

- a. If a first-time homebuyer purchases land and constructs a house on the land, can the interest on the loan taken for the purchase of the land and construction costs of the house qualify for relief?

Maklum balas LHDNM:

Pelepasan berhubung faedah pinjaman hanya terpakai kepada pinjaman untuk membiayai pembelian rumah kediaman pertama melalui perjanjian jual beli yang disempurnakan dalam tempoh 1 Januari 2025 hingga 31 Disember 2027. Faedah pinjaman untuk membiayai pembelian tanah dan pembinaan rumah kediaman adalah tidak layak pelepasan ini.

- b. If an individual currently owns a property under a commercial title and buys his "first" residential property in 2025, is the individual eligible for tax relief on the interest payment on the loan taken to finance the purchase of the residential property?

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

Maklum balas LHDNM:

Pelepasan bagi faedah pinjaman untuk pembelian rumah kediaman adalah dibenarkan sekiranya rumah tersebut merupakan rumah kediaman pertama dan perjanjian disempurnakan dalam tempoh yang ditetapkan.

Jika individu pernah membeli hartanah yang berstatus komersial iaitu bukan rumah kediaman (seperti tanah, bangunan) sebelum ini, dan pada tahun 2025, individu berkenaan berhasrat untuk membeli rumah kediaman pertama untuk didiami, individu tersebut layak untuk menuntut pelepasan cukai ke atas faedah pinjaman perumahan berkenaan. Ini adalah selaras dengan proviso (a) di bawah seksyen 46B ACP 1967.

Namun, jika individu pernah membeli rumah kediaman yang berstatus komersial seperti SOHO, SOVO, SOFO dan rumah kedai, maka individu tersebut tidak layak menuntut pelepasan cukai ini.

Appendix 7

It is proposed individual income tax relief be given on the interest payments for the first residential home loan (individually or jointly owned), is subject to the following conditions:

- (iii) the amount of individual income tax relief on allowable interest payments is applicable for 3 consecutive YAs, **commencing from the first year the housing loan interest is paid.**

Comments:

- c. We suggest the amount of individual income tax relief on allowable interest payments is applicable for 3 consecutive YAs, **commencing from any year between YA 2025 to YA 2027**, rather than limiting it to the first year the housing loan interest is paid.

Example:

Taxpayers are allowed to start claiming tax relief from YA 2026 to YA 2028 instead of claiming tax relief from YA 2025 to YA 2027.

Period	Interest Paid (RM)
November 2025	1,000
January – December 2026	7,000
January – December 2027	7,000
January – December 2028	7,000

This will allow taxpayer to claim the full RM7,000 tax relief even if the first interest being paid happens at the end of the year.

Maklum balas MOF:

Cadangan CTIM diambil maklum.

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

Amended Section 46B

(3) Where—

- (a) two or more individuals are each entitled to claim deduction for the relevant year under this section for interest expended in respect of the same residential property; and
- (b) the total amount of interest expended by those individuals in the basis year for that relevant year exceed the amount of deduction allowable for that relevant year under subsection (2),

there shall be allowed to each of those individuals for that relevant year an amount to be determined in accordance with the following formula:

$$A \quad X \quad \frac{B}{C}$$

- where
- A is the total amount of deduction allowed under subsection (2) for that relevant year;
 - B is the total interest expended in the basis year for that relevant year by that individual; and
 - C is the total interest expended in the basis year for that relevant year by all such individuals.

Comments:

- d. If the house mortgage is under two holders, one is a first house owner, but the other one is not a first house owner, kindly confirm whether a portion is still allowed to be claimed by the first house owner.

Maklum balas LHDNM:

Ya, pelepasan cukai boleh dituntut oleh individu yang membayar faedah bagi membiayai pembelian rumah pertama sahaja.

7.5 Appendix 8 of 2025 Budget Speech - Extension Of Individual Income Tax Relief For Nursery Or Kindergarten Fees

It is proposed the individual income tax relief of up to RM3,000 for nursery or kindergarten fees be extended for 3 years.

Comments:

We understand that this tax relief can only be claimed by either parent. Therefore, we would like to suggest that this condition be **removed**. This is to ease the burden of parents with a

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

few children as the nursery and kindergarten fees are getting more expensive over the years, and this will encourage parents to send their children to proper nurseries and kindergartens.

Maklum balas MOF:

Cadangan CTIM diambil maklum.

8. Tax Incentives

8.1 Paragraph 111 of 2025 Budget Speech – Increasing Supply Chain Resilience

- (i) Multinational enterprise (“MNE”) expenditure of up to 2 million ringgit per year is given a double tax deduction for a period of 3 consecutive years.
- (ii) MNEs or their suppliers who make joint venture investments with other local suppliers are given a tax deduction on the amount of investment made.
- (iii) Local suppliers involved in this effort will be given an appropriate tax incentive package based on outcome approach.
- (iv) An investment matching fund of over 100 million ringgit is provided through an equity public funding platform for the expansion of local suppliers in the E&E, specialty chemicals and medical device sectors.

Comments:

- a. For item (i), kindly advise what kind of expenditure would qualify for the double deduction.

Maklum balas MOF:

Perincian perbelanjaan yang layak akan dibincang bersama pihak MIDA untuk tujuan insentif cukai ini.

- b. Kindly advise which authority will be responsible for granting the investment matching fund.

Maklum balas MOF:

MOF akan menetapkan pihak berkuasa bagi tujuan dana padanan pelaburan.

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

8.2 Paragraph 111 of 2025 Budget Speech – ESG-based investments

To ensure ESG-based investments, tax incentives such as investment tax allowances or income tax exemptions are given for Carbon Capture, Utilisation and Storage (“CCUS”) activities.

Comments:

Kindly define the word “incurred” in the PU Order, to avoid the practical issue of the timing of claiming the incentive.

Maklum balas MOF:

Cadangan CTIM diambil maklum dan akan diteliti semasa proses penyediaan draf perundangan.

8.3 Paragraph 111 & Appendix 24 of 2025 Budget Speech – The Cost of Developing New Courses at Private Higher Education Institutions (“PHEIs”)

It is proposed that tax deduction on cost of developing new courses by PHEIs be allowed to be fully claimed within the same YA.

Comments:

- a. For any of the expenses which are incurred prior to the commencement of business, we would request that it be deemed to be incurred at the time of commencement of the business source.

Maklum balas LHDNM:

Pada amnya, perbelanjaan praoperasi atau prapermulaan perniagaan yang dilakukan oleh seseorang tidak dibenarkan sebagai potongan daripada pendapatan kasar perniagaan kerana perbelanjaan itu tidak kesemua dan semata-mata dilakukan dalam menghasilkan pendapatan itu.

- b. Please clarify what constitutes the expenses that are eligible for tax deduction.

Maklum balas LHDNM:

Perbelanjaan yang layak untuk potongan cukai bagi kursus baharu boleh dirujuk di Kaedah-Kaedah Cukai Pendapatan (Potongan bagi Perbelanjaan yang Dilakukan bagi Pembangunan dan Pematuhan Kursus Baru oleh Institusi Pendidikan Tinggi Swasta) 2006 [P.U. (A) 184/2006].

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

8.4 Paragraph 143 & Appendix 12 of 2025 Budget Speech – Extension of tax deduction for sponsorship of smart artificial intelligence driven reverse vending machine

It is proposed that tax deduction be given to contributions or sponsorships of smart artificial intelligence driven reverse vending machine being extended for 2 years.

Comments:

This should be studied to cover other wastes and a wider range of recycled items beyond plastic waste.

Maklum balas MOF:

Cadangan CTIM diambil maklum.

8.5 Paragraph 197 of 2025 Budget Speech – Payment of Salaries / Wages to Educators by Institutions and Organizations under Section 44(6)

To improve educational access for students from underprivileged families, the Government has agreed that salary or wage payments to educators by institutions and organizations with approved educational objectives under Section 44(6) of the ITA 1967 will be allowed as welfare expenditure.

Comments:

Thank you for reiterating the principle that expenses incurred in line with the approved objectives of the respective institutions would be allowed deduction. Please confirm the same principle would apply across different activities that may be performed by an approved institution/organisation.

Maklum balas MOF:

Dalam Belanjawan 2025, bayaran gaji/upah kepada tenaga pengajar bagi program pendidikan/pembelajaran untuk membantu para pelajar dari golongan yang kurang berkemampuan boleh dikategorikan sebagai perbelanjaan yang dibenarkan sekiranya perbelanjaan tersebut digunakan selaras dengan objektif penubuhan IOT. Kelulusan ini hanya terhadap kepada aktiviti pendidikan dan pembelajaran sahaja dan tidak terpakai kepada aktiviti-aktiviti kebajikan yang lain.

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

8.6 Paragraph 210 of 2025 Budget Speech – Tax Deduction on New Machinery and Equipment donated to registered ILKA, Polytechnics, or Vocational Colleges (YA 2025 to YA 2027)

Comments:

- a. Please clarify what are the definition / type of new equipment and machinery.

Maklum balas MOF:

Peralatan/mesin yang disumbangkan hendaklah peralatan/mesin baharu dan bukanlah peralatan/mesin yang telah digunakan.

- b. Please confirm that the supporting documentation required for this incentive is the same as the supporting documentation stated in the [Garis Panduan Memohon Potongan Di Bawah Seksyen 34\(6\)\(h\) Akta Pendapatan Cukai 1967 Bagi Maksud Pengiraan Cukai Pendapatan](#) issued by IRB on 8 June 2021.

Maklum balas MOF:

Ya, merujuk kepada garis panduan yang sama.

- c. Kindly confirm that the timing of deduction is in the YA when the machine is donated (instead of in the YA when the machine was bought).

Maklum balas MOF:

Potongan akan diberikan pada tahun taksiran sumbangan dibuat.

8.7 Paragraph 225 of 2025 Budget Speech – Tax deduction on donations to the Rare Diseases Trust Fund

It is proposed that tax deduction be given to donation to Rare Diseases Trust Fund.

Comments:

- a. Please define "donors" - would it cover both corporates and individuals?

Maklum balas MOF:

Dalam Belanjawan 2023, Kerajaan pada Julai 2022 telah menubuhkan satu Akaun Amanah bagi Rawatan Penyakit Jarang Jumpa untuk membolehkan semua pihak

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

menyalurkan sumbangan. Sumbangan kepada tabung ini diberi potongan cukai bersamaan jumlah sumbangan sebenar di bawah subseksyen 44(6) Akta Cukai Pendapatan 1967. Potongan cukai adalah diberikan secara automatik berdasarkan resit Kew 38 yang dikeluarkan oleh KKM.

Dalam Belanjawan 2025, Kerajaan menjelaskan semula mengenai layanan cukai ke atas sumbangan yang dibuat ke dalam Tabung Penyakit Jarang Jumpa. Maka, mana-mana pihak yang menyumbang secara tunai ke dalam Tabung Penyakit Jarang Jumpa layak membuat potongan cukai di bawah subseksyen 44(6) ACP 1967 bersamaan dengan jumlah sumbangan yang dilakukan berdasarkan resit kew 38.

- b. [Which section of the ITA 1967 is the tax deduction to be governed under?](#)

Maklum balas MOF:

Subseksyen 44(6) ACP 1967.

8.8 Paragraph 262 of 2025 Budget Speech – Expansion of the beneficiaries of charitable and welfare activities under Section 44(6) of the ITA 1967 to include contributions to affected non-citizens

It is proposed that the beneficiaries of charitable and welfare activities under Section 44(6) of the ITA 1967 be expanded to include contributions to non-citizens affected by crises.

Comments:

- a. [Would it be possible to expand this proposal to beneficiaries of charities under Section 34\(6\)\(h\) of the ITA 1967?](#)

Maklum balas MOF:

Di bawah subseksyen 34(6)(h) ACP 1967, potongan cukai yang dibenarkan adalah merujuk kepada sumbangan yang dibuat kepada mana-mana projek komuniti dan amal yang diluluskan Menteri Kewangan. Antara salah satu syarat yang ditetapkan adalah projek hendaklah memberi manfaat semata-mata kepada orang awam di Malaysia. Kelulusan di bawah subseksyen 34(6)(h) ACP 1967 tidak merujuk kepada rakyat Malaysia tetapi kepada komuniti dan masyarakat di Malaysia. Oleh itu, MOF berpandangan cadangan badan profesional adalah tidak berbangkit.

- b. [Please define “affected non-citizens” – as the existing Section 44\(6\) Guidelines only cover Malaysians.](#)

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

Maklum balas LHDNM:

Di bawah subseksyen 44(6) Akta Cukai Pendapatan 1967 (ACP 1967), mana-mana organisasi atau tabung yang menjalankan aktiviti bagi membantu mengurangkan atau melepaskan kesusahan di kalangan orang awam, boleh dipertimbangkan kelulusan Ketua Pengarah Hasil Dalam Negeri (KPHDN) sekiranya organisasi atau tabung tersebut memenuhi definisi perenggan 44(7)(b) ACP 1967 yang berikut:

(b) an organization established and maintained exclusively to administer and augment a public fund established or held solely for the relief of distress among members of the public;...

Oleh yang demikian, “bukan warganegara yang terjejas” adalah merujuk kepada bukan warga berikut:

- i. berada dalam keadaan apa-apa jenis kesusahan yang memerlukan bantuan seperti yang dibawa masuk ke Malaysia akibat peperangan di negara asal mereka atau yang hidup dalam kefakiran; dan
- ii. berada dalam kalangan orang awam di Malaysia.

Mana-mana institusi, organisasi atau tabung yang telah diluluskan di bawah subseksyen 44(6) kerana memenuhi definisi Institusi, organisasi atau tabung selain daripada perenggan 44(7)(b) di atas masih boleh memberikan bantuan yang dihasratkan oleh Kerajaan ini. Bagaimanapun, kelulusan daripada KPHDN hendaklah didapatkan terlebih dahulu kerana aktiviti ini mungkin di luar daripada objektif penubuhan Institusi, organisasi atau tabung tersebut.

8.9 Paragraph 123 & Appendix 11 of 2025 Budget Speech - Tax Incentives For Implementation Of E-Invoicing (YA 2024 to YA 2025)

It is proposed the expenses for the purchase of ICT equipment, computer software packages and consulting fees be given accelerated capital allowance (“ACA”) that can be fully claimed within a period of 2 years as follows:

No.	Qualifying Expenditure	Capital Allowance Rate
1.	Purchase of ICT equipment and computer software package	Initial Allowance: 20%
2.	Consultation, licensing and incidental fees related to customised computer software development	Annual Allowance: 40%

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

Comments:

- a. Since this proposal covers YA 2024, can the ACA also apply to qualifying expenditure incurred by early year end entities that have filed their YA 2024 tax returns?

Maklum balas LHDNM:

Ya. Galakan cukai ini layak bagi perbelanjaan kelengkapan teknologi maklumat dan komunikasi yang dilakukan mulai tahun taksiran 2024 hingga tahun taksiran 2025.

- b. Kindly confirm that the ACA incentive is applicable on all ICT costs and not incurred solely for e-Invoicing purposes (i.e. if an accounting software purchased has several functions such as inventory counting, and one of the modules is e-Invoicing integration, such accounting software qualifies for this ACA incentive).

Maklum balas LHDNM:

Insentif ini hanya terpakai untuk e-invois sahaja.

- c. Would the qualifying expenditure for the purchase of ICT equipment, computer software packages and consulting fees include expenditure for the following?
- (i) Purchase of on the shelf software;
 - (ii) Customization of software by external vendors; and
 - (iii) Consulting/advisors fees (e.g. e-Invoice GAP assessment fee).

Maklum balas LHDNM:

Perincian lanjut akan dijelaskan dalam perundangan subsidiari yang akan diwartakan kelak.

- d. For qualifying cost incurred under a hire purchase arrangement, kindly confirm that, as long as the hire purchase was entered in YA 2024 / 2025, the asset qualifies for the ACA, no matter how long the hire purchase terms are.

Maklum balas LHDNM:

Perincian lanjut akan dijelaskan dalam perundangan subsidiari yang akan diwartakan kelak.

- e. We understand that this incentive is not applicable to taxpayers granted concession in e-invoicing implementation. We suggest that this tax treatment be **applicable to all taxpayers**, whether or not they have fully implemented e-invoicing, to ease the administrative burden and avoid practical challenges in assessing "full compliance".

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

Maklum balas MOF:

Galakan cukai dalam bentuk ACA ini bertujuan untuk menggalakkan perniagaan untuk melaksanakan e-Invois mengikut garis masa dan syarat yang ditetapkan dalam garis panduan. Pematuhan cukai ke atas pelaksanaan e-Invois oleh pembayar cukai akan dipantau LHDNM bagi memastikan hanya yang layak sahaja menuntut insentif ini.

8.10 Appendix 19 of 2025 Budget Speech - Tax incentive for Smart Logistic Complex (“SLC”)

To further enhance supply chain efficiency through advanced technologies adaptation in logistics, including the use of IR4.0 elements such as AI, IoT and blockchain, it is proposed that Investment Tax Allowance of 60% of qualifying capital expenditure, set off against 70% statutory income, be given for a period of five years to the following eligible SLC:

1. SLC Investor and Operator that invest in the construction of smart warehouses; or
2. SLC Operator that leases a smart warehouse under a long-term lease of at least 10 years,

and engages in any of the following logistic services:

- Regional distribution centres
- Integrated logistic services
- Storage of hazardous goods, or
- Cold chain logistics

Comments:

- a. **Must the SLC investor and operator be the owner and operator?**

Maklum balas MOF:

Terdapat dua kategori yang melayakkan syarikat untuk menikmati insentif ini iaitu:

- (i) Pemilik dan pengendali yang menjalankan aktiviti SLC; dan
- (ii) Pengendali SLC membuat perjanjian jangka panjang untuk menyewa gudang (melebihi 10 tahun).

- b. **For the SLC operator that leases a smart warehouse, what is the qualifying capital expenditure? Kindly confirm the qualifying capital expenditure incurred by SLC operator on the lease of smart warehouse includes the lease payment for plant and machinery.**

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

Maklum balas MOF:

Perbelanjaan modal yang layak merangkumi apa-apa kos loji dan jentera yang dibeli oleh pengendali SLC tidak termasuk bayaran pajakan.

8.11 Paragraph 236 & Appendix 20 of 2025 Budget Speech – Tax Incentive for Flexible Working Arrangements (“FWA”)

Current Position

In Budget 2014, double tax deduction was given to employers who implemented or made improvements to the Flexible Working Arrangements (FWA), verified by Talent Corporation Malaysia Berhad from 1 January 2014 until 31 December 2016.

Meanwhile, under the National Economic Recovery Plan, employers implementing FWA were given a double tax deduction on eligible expenses capped at RM500,000 for consultancy fees, capacity building for flexible work arrangements, including employee training costs and the cost of acquiring virtual working environment software from 1 July 2020 until 31 December 2022.

Proposal

To further encourage more employers to offer flexibility to employees and create a work life balance, it is proposed expenses for capacity building and software acquisition incurred by employers for implementing FWA be given a 50% further deduction.

The expenses eligible for further deduction is capped at RM500,000, subject to a one-off claim and to be verified by Talent Corporation Malaysia Berhad.

Effective Date

For applications received by Talent Corporation Malaysia Berhad from 1 January 2025 until 31 December 2027.

Comments:

- a. If multiple expenses are incurred within the same YA, please confirm that companies can submit the multiple expenses for verification to TalentCorp in one application form for each YA.

Maklum balas MOF:

Ya, syarikat boleh membuat tuntutan secara *one-off* pada tahun taksiran yang sama terhad jumlah perbelanjaan sebanyak RM500,000.

- b. Kindly advise if the scope of qualifying expenditure covers licensing of software paid annually.

Maklum balas MOF:

Perbelanjaan perolehan perisian diberikan secara *one-off* sahaja.

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

c. Please clarify the definition of capacity building.

Maklum balas MOF:

Pembangunan kapasiti (capacity building) merangkumi:

- (a) Fi kursus atau program latihan
- (b) Fi jurulatih dalaman
- (c) Kos bahan latihan
- (d) Kos penyewaan ruang latihan
- (e) Fi peperiksaan; dan
- (f) Perbelanjaan perjalanan berkaitan latihan yang dilakukan oleh pekerja dan jurulatih seperti berikut:
 - (i) Tambang penerbangan kelas ekonomi bagi perjalanan dari luar Malaysia ke Malaysia atau dari Malaysia ke luar Malaysia
 - (ii) Tambang penerbangan kelas ekonomi / kos pengangkutan darat atau air bagi perjalanan dalam Malaysia.

8.12 Paragraph 236 & Appendix 21 of 2025 Budget Speech – Tax Incentive for Employers providing Caregiving Leave Benefit

Proposal

To cushion the impact of loss of income on affected individuals and to support job retention in line with the care economy policy, it is proposed a 50% further deduction be given to employers who provide additional paid leave of up to 12 months for employees caring for children or ill or disabled family members.

Effective Date

For applications received by Talent Corporation Malaysia Berhad from 1 January 2025 until 31 December 2027.

Comments:

a. Kindly advise the supporting document needed for the incentive claim.

Maklum balas LHDNM:

Dokumen sokongan sebagai pembuktian bahawa pekerja mengambil cuti untuk menjaga anak atau ahli keluarga yang sakit atau kurang upaya perlu dikemukakan bersama dengan permohonan kepada Talent Corporation Malaysia Berhad. Contoh dokumen sokongan yang boleh membantu majikan dalam permohonan bagi galakan cukai ini adalah sijil kelahiran anak, sijil kelahiran ahli keluarga, pengesahan daripada pengamal perubatan berhubung tahap kesihatan ahli keluarga yang sakit dan pengesahan bertulis daripada Jabatan Kebajikan Masyarakat bahawa ahli keluarga adalah kurang upaya.

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

- b. Please clarify whether the additional paid leave referred to in the above proposal is up to 12 months in aggregate for each of the said employees.

Maklum balas MOF:

Ya.

- c. Kindly define “family member” for this purpose.

Maklum balas MOF:

Ahli keluarga termasuk suami, isteri, anak kandung, anak tiri, anak angkat (yang berdaftar dengan Jabatan Pendaftaran Negara(JPN)), ibu bapa kandung, ibu bapa angkat (yang berdaftar dengan JPN) dan datuk nenek kandung.

- d. Please clarify whether the disabled family members would need to be registered with the relevant department such as *Jabatan Kebajikan Masyarakat* and supporting documents (e.g. OKU card) are required as part of the application requirement.

Maklum balas LHDNM:

Ya. Pengesahan daripada Jabatan Kebajikan Masyarakat diperlukan bagi mengesahkan ahli keluarga adalah orang kurang upaya.

8.13 Paragraph 235 & Appendix 22 of 2025 Budget Speech - Tax Incentive For Hiring Women Returning To Work

It is proposed a 50% further deduction be given to employers on employment expenses paid for a period of 12 months for hiring women returning to work.

Comments:

- a. Kindly advise what are the qualifying employment expenses. Does this cover the headhunter fee, referral fee, costs paid to recruitment agencies, SOCSO, EPF, staff benefits and training expenses?

Maklum balas LHDNM:

Perbelanjaan penggajian merujuk kepada pendapatan kasar wanita yang kembali bekerja yang digaji oleh majikan tetapi tidak termasuk bayaran kepada agensi pekerjaan, SOCSO, EPF dan perbelanjaan latihan. Wanita yang kembali bekerja adalah pekerja wanita yang diluluskan galakan cukai di bawah P.U. (A) 226/2019 dan P.U. (A) 30/2020.

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

- b. What if the hiring is made before the commencement of business operations? Can the further deduction be claimed in the YA when the business commences just like Income Tax (Deduction Of Pre-Commencement Of Business Expenses Relating To Employee Recruitment) Rules 2008 [P.U. (A) 361/2008]?

Maklum balas LHDNM:

Potongan tambahan diberikan kepada majikan atas pendapatan penggajian wanita yang kembali bekerja yang digaji olehnya. Tuntutan ini tiada kaitan dengan P.U. (A) 361/2008 memandangkan P.U. (A) tersebut membenarkan potongan ke atas perbelanjaan yang dilakukan oleh majikan untuk mengambil pekerja sebelum perniagaan bermula dan tidak termasuk pendapatan penggajian yang dibayar kepada pekerja.

- c. Would the employee include new employee of the employer?

Maklum balas LHDNM:

Ya, dengan syarat permohonan hendaklah diterima oleh Talent Corporation Malaysia Berhad mulai 1 Januari 2025 hingga 31 Disember 2027.

8.14 Appendix 23 of 2025 Budget Speech – Tax Incentive for Increased Exports

Current Position

Companies engaged in selected service activities and successfully increase exports are eligible to claim tax exemption up to 70% of the statutory income equivalent to 50% of the value of increased exports. The selected services activities are as follows:

- i. legal;
- ii. accounting;
- iii. architecture;
- iv. marketing;
- v. business consultancy;
- vi. office services;
- vii. construction management;
- viii. building management;
- ix. plantation management;
- x. private education;
- xi. publishing;
- xii. printing;
- xiii. information technology and communication;
- xiv. engineering; and
- xv. local franchise.

This incentive has been in effect since the year of assessment 2002.

Proposal

In line with the mission of the New Industrial Master Plan 2030 (NIMP) to establish Malaysia as a hub for Advanced Integrated Circuit (IC) Design Technology and Solutions, it is proposed the increased export incentive for the services sector be expanded to IC Design services.

Effective Date

From the year of assessment 2025.

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

Comments:

- a. Kindly advise if the proposed increased export incentive is applicable if the preceding year's export is zero. If not, we would suggest the IRB/MOF to consider giving similar incentives for companies that venture into new markets.

Maklum balas MOF:

Jika eksport untuk tahun sebelumnya adalah sifar, insentif eksport yang dicadangkan tidak terpakai. Tujuan insentif ini adalah untuk menggalakkan syarikat tempatan mengembangkan pasaran mereka ke peringkat global dan terpakai mulai tahun kedua dan seterusnya, setelah terdapat peningkatan dalam jumlah eksport. Pemberian insentif pada tahun pertama adalah terlalu awal memandangkan peningkatan jumlah eksport belum dapat dinilai. Sebagai alternatif, syarikat boleh menggunakan geran-geran lain seperti Dana Eksport Perkhidmatan (ditutup sementara menunggu dana RMK-13).

- b. We seek confirmation that the proposed extension of scope to include IC Design services apply to any person tax resident in Malaysia [i.e. the scope of qualifying person under the Income Tax (Exemption) (No. 9) Order 2002 (P.U. (A) 57/2002)] and not limited to only companies.

Maklum balas MOF:

IC design akan dimasukkan sebagai perkhidmatan yang layak di bawah (P.U. (A) 57/2002).

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

B. Labuan Business Activity Tax (Amendment) (No.2) Bill 2024

1. Appendix 13 of 2025 Budget Speech – income Tax Exemption for Islamic Financial Activities under Labuan International Business and Financial Centre

Proposal

To further attract investment in the Islamic finance sector driven by digital technology at the Labuan International Business and Financial Centre, it is proposed full income tax exemption given to Labuan trading entities that undertake Islamic finance activities be expanded to include qualifying Labuan takaful business activities and Labuan takaful related activities as follows:

No.	Labuan Trading Entity	Qualifying Activities
1.	Labuan insurer; Labuan reinsurer; Labuan takaful operator; or Labuan re-takaful operator.	Takaful and re-takaful businesses that comply with Shariah principles: i. risk management; or ii. product development.
2.	Labuan captive insurer; or Labuan captive takaful.	Takaful and re-takaful businesses that comply with Shariah principles where takaful participants are related companies or associated companies or as approved by the Labuan Financial Services Authority: i. risk management; or ii. product development.
3.	Labuan underwriting manager; or Labuan underwriting takaful manager.	Provides underwriting services including administration related to Labuan takaful business.
4.	Labuan insurance manager; or Labuan takaful manager.	Provides management or administrative services related to Labuan takaful business.
5.	Labuan insurance broker; or Labuan takaful broker.	Provides services such as: i. arrange Labuan takaful and re-takaful business; or ii. financial analysis.

Effective Date

From the year of assessment 2025 until the year of assessment 2028.

Comments:

Kindly confirm whether the Labuan entity must fulfill economic substance requirement in order to enjoy the said income tax exemption.

Maklum balas LHDNM:

Bagi melayakkan suatu entiti Labuan untuk mendapat pengecualian cukai sepertimana yang dinyatakan dalam Lampiran 13 Langkah Cukai Bajet 2025, entiti Labuan itu perlu memenuhi syarat-syarat substantif yang telah ditetapkan di samping menjalankan aktiviti yang layak.

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

2. Amended Section 2B (wef 1 January 2025)

Section 2B is amended to include a condition in relation to a fit and proper person for full time employees

3. Section 2B of the principal Act is amended—

(a) in subparagraph (1)(b)(i)—

- (i) in subparagraph (A), by deleting the word “and” at the end of the subparagraph;
- (ii) in subparagraph (B), by substituting for the comma at the end of the subparagraph the words “; and”; and
- (iii) by inserting after subparagraph (B) the following subparagraph:

“(C) comply with any condition in relation to a fit and proper person for full time employees.”;

(b) in subparagraph (1)(b)(ii)—

- (i) in subparagraph (B), by deleting the word “and” at the end of the subparagraph;
- (ii) in subparagraph (C), by substituting for the comma at the end of the subparagraph the words “; and”; and
- (iii) by inserting after subparagraph (C) the following subparagraph:

“(D) comply with any condition in relation to a fit and proper person for full time employees.”;

(c) by substituting for subsection (1B) the following subsection:

“(1B) For the purposes of subsection (1A), the chargeable profits shall be the net profits as reflected in the audited accounts in respect of such Labuan business activity of the Labuan entity for the basis period for that year of assessment.”; and

(d) in subsection (1c), by substituting for the words “paragraph (1B)(a)” the words “subsection (1B)”.

Comments:

The Labuan Financial Services Authority (“LFSA”) has issued Guidelines on Fit and Proper Person Requirements applicable to “persons in control”, “director”, “officer” or any person performing a senior management function. The LFSA Guidelines currently do not cater to ordinary full-time employees as required in the proposed amendment to Section 2B of the Labuan Business Activity Tax Act 1990 (“LBATA 1990”).

It is onerous and not easy for entities to have full-time employees based in Labuan. Competition for employment from Forest City, Tun Razak Exchange and other parts of Malaysia makes it even more challenging. We would suggest that the inclusion of such a paragraph in the LBATA 1990 be reconsidered. If such paragraph cannot be excluded, please confirm that this only applies to entities regulated by LFSA that are required by non-

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

tax law to have fit and proper persons and that complying with the relevant non-tax requirement for fit and proper persons will be sufficient for a regulated entity to meet this tax requirement.

With the above as the guiding principle, please elaborate on the following –

- (i) What is the definition and criteria of a 'fit and proper person' for full time employees to comply with Section 2B? On this point, for ease of understanding and compliance, it is important that we do not have different definitions / guidance for tax and non-tax purposes.

Maklum balas LHDNM:

Kriteria orang yang layak dan wajar akan dinyatakan dalam perundangan subsidiari yang akan dikeluarkan.

- (ii) Whether there is specific documentation required to substantiate that the full time employee in Labuan meets the 'fit and proper person' criteria?

Maklum balas LHDNM:

Perkara ini akan dijelaskan di dalam garis panduan yang akan dikeluarkan.

- (iii) Why is the requirement for Full Time Employees to be a 'fit and proper person' also imposed on Labuan entities carrying on Labuan non-trading activities?

Maklum balas LHDNM:

Syarat pekerja sepenuh masa dikenakan bertujuan untuk:

- (a) mencegah manipulasi rejim Labuan daripada disalahgunakan;
- (b) menjaga integriti pusat kewangan Labuan bagi menarik pelaburan secara berterusan;
- (c) memenuhi piawaian antarabangsa yang ditetapkan oleh OECD.

- (iv) A pure equity holding company is currently exempted from having full-time employees. Kindly confirm that the new requirement would not be applicable to a pure equity holding company.

Maklum balas LHDNM:

Syarat 'orang yang layak dan wajar' perlu dibaca bersama syarat 'pekerja sepenuh masa'. Melalui Perintah Cukai Aktiviti Perniagaan Labuan (Pengecualian) 2020 [P.U. (A) 177/2020], entiti Labuan yang menjalankan aktiviti perniagaan Labuan berhubung pemegangan ekuiti tulen telah dikecualikan daripada syarat 'pekerja sepenuh masa'. Oleh itu, syarat 'orang yang layak dan wajar' adalah tidak terpakai kepada entiti Labuan yang sama.

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

3. Proposed Section 21C (wef YA 2025 in respect of the basis period ending in the year 2025 and subsequent YAs)

Authorisation of tax agent to furnish returns on behalf electronically

“Electronic medium

21c. (1) Any person—

(a) shall, if so required under this Act; or

(b) may, if so allowed by the Director General,

furnish any prescribed form on an electronic medium or by way of an electronic transmission.

(2) For the purposes of subsection (1), the conditions and specifications under which any prescribed form is to be furnished shall be as determined by the Director General.

(3) For the purposes of subsection (1), a person may authorize in writing a tax agent to furnish on his behalf any prescribed form in the manner provided for in subsection (1).

Comments:

The proposed Section 21C of the LBATA 1990 allows a person to authorise in writing a tax agent to furnish on his behalf any prescribed form on an electronic medium or by way of an electronic transmission.

Pursuant to the ITA 1967, Section 153 defines a person who is a ‘tax agent’ for purposes of the ITA 1967, while the LBATA 1990 does not have a similar provision to define who qualifies as a tax agent. Please confirm that a person recognised as a tax agent pursuant to Section 153 of the ITA 1967 can automatically act as a tax agent under the LBATA 1990. If not automatically recognised by the LBATA 1990, please outline the process for a person to be recognised as a tax agent for LBATA 1990 purposes.

Maklum balas LHDNM:

Ejen cukai sebagaimana yang dinyatakan di bawah seksyen 153 ACP 1967 boleh dilantik sebagai ejen cukai bagi mewakili entiti Labuan. LHDNM akan memperkemaskan perundangan berkaitan ejen cukai di bawah LBATA 1990.

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

4. Clause 28 of the Labuan Business Activity Tax (Amendment) (No.2) Bill 2024 (wef 1 January 2025)

Transition to Current Year Basis of Assessment

28. (1) In the year of assessment 2025, there shall be two years of assessment namely—

(a) the year of assessment 2025 in respect of the basis period ending in the year 2024 (preceding year basis); and

(b) the year of assessment 2025 in respect of the basis period ending in the year 2025 (current year basis).

(2) The year of assessment 2025 on current year basis shall be a separate year of assessment which follows the year of assessment 2025 on preceding year basis.

Comments:

Labuan entities that have financial year ending in January – May 2025 may have to file Labuan tax return and pay tax twice in the year 2025. Hence, will there be a tax waiver year for YA 2025 (preceding year basis)? Alternatively, there must be a flexible payment approach to avoid excessive cashflow constraints.

Maklum balas LHDNM:

Tiada *waiver year* diberikan sewaktu pertukaran tempoh berasaskan sistem taksiran tahun sebelum kepada sistem taksiran tahun semasa. Entiti Labuan yang perlu mengemukakan penyata keuntungan dua kali dalam tahun 2025 boleh mengemukakan permohonan bayaran ansuran bagi tahun taksiran 2025 (tahun semasa). Permohonan ini tertakluk kepada kelulusan secara *case-to-case* basis.

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

C. Outstanding Gazette Orders – 2019 to 2024 Budgets

The Institutes note with concern that several gazette orders pertaining to proposals announced in the 2019 to 2024 Budgets are still outstanding to date. We would request for your urgent attention and update on the status of the relevant gazette orders.

As professional bodies, the Institutes would urge the tax authorities to ensure that all gazette orders / guidelines in respect of Budget proposals be issued in a timely manner, preferably within the first quarter following the Budget announcement, so that taxpayers are able to apply specific incentives and it creates certainty for investors.

It would be appreciated if future gazette orders could be issued and published on a timely basis. Otherwise, the incentives may not fulfil their objective of incentivising businesses or investment planning decisions.

2019 Budget

1. Extension of list of qualifying assets from nine assets to forty assets in the MyHIJAU directory for green investment tax allowance (“GITA”).

Maklum balas MOF (22 March 2024):

Sedang dimuktamadkan di peringkat AGC.

Comments:

Please provide an update on the status of the above.

Maklum balas LHDNM:

Insentif ini telah diwartakan sebagai Perintah Cukai Pendapatan (Insentif Teknologi Hijau) (Aset) (Pengecualian) 2024 [P.U. (A) 243/2024] pada 17 September 2024.

2020 Budget

1. Tax deduction on expenses incurred by companies for contributions towards Digital Social Responsibility (“DSR”) initiatives.

Maklum balas MOF (22 March 2024):

Sedang mendapatkan maklumat terkini berkenaan pelaksanaan inisiatif ini daripada agensi berkaitan.

Comments:

Please provide an update on the status of the above.

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

Maklum balas MOF:

Inisiatif ini diberikan melalui seksyen 34(6)(h) ACP 1967 dan tiada perundangan subsidiari.

2. Tax exemption of 100% up to 10 years on qualifying intellectual property income derived from patent and copyright software of qualifying activities.

Maklum balas MOF (22 March 2024):

Draf dalam semakan agensi berkaitan susulan mesyuarat yang diadakan pada 30 Januari 2024.

Comments:

[Please provide an update on the status of the above.](#)

Maklum balas LHDNM:

Maklum balas CTIM mengenai cadangan pindaan kepada *Intellectual Property Development Incentive Policy* diambil maklum dan akan disemak sebelum pewartaan perintah tersebut.

3. Expansion of the scope of tax incentives for automation equipment for Category 2: Other Industries to the services sector for applications received by MIDA between 1 January 2020 and 31 December 2023.

Maklum balas MOF (22 March 2024):

Sedang dimuktamadkan di peringkat AGC.

Comments:

[Please provide an update on the status of the above.](#)

Maklum balas LHDNM:

Draf dalam semakan pihak AGC.

2022 Budget

1. Rainwater Harvesting Systems (“RHS”) be included within the scope of qualifying green services and green assets. Where RHS projects are approved by the Malaysian Green Technology Corporation, the following incentives will now be available:

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

- Green Income Tax Exemption (“GITE”) which will provide tax exemption on 70% of statutory income from qualifying RHS activities.

Maklum balas MOF (22 March 2024):

Sedang dimuktamadkan di peringkat AGC.

Comments:

It is noted that P.U. (A) 243/2024 gazetted on 17 September 2024 is in respect of Green Investment Tax Allowance i.e. tax exemption on 70% of statutory income equivalent to qualifying capital expenditure incurred on green technology assets which include RHS. The P.U. (A) 243/2024 did not refer to qualifying RHS activities and does not appear to be in respect of GITE. As such, please provide an update on the status of the gazette order for the above proposal for GITE for statutory income from qualifying RHS activities.

Maklum balas LHDNM:

Sistem Pengumpulan dan Penggunaan Semula Air Hujan (SPAH) diberikan galakan cukai elaun cukai pelaburan (GITA Aset) sahaja sepertimana yang telah diwartakan sebagai Perintah Cukai Pendapatan (Insentif Teknologi Hijau) (Aset) (Pengecualian) 2024 [P.U. (A) 243/2024] pada 17 September 2024.

2023 Budget

1. Tax deduction on issuance cost of Sustainable and Responsible Investment Linked Sukuk that is approved or permitted or deposited with the Securities Commission Malaysia for a period of 5 years. From YA 2023 until YA 2027.

Maklum balas MOF (22 March 2024):

Dalam proses semakan draf perundangan subsidiari.

Comments:

Please provide an update on the status of the above.

Maklum balas LHDNM:

Insentif ini telah diwartakan sebagai Kaedah-Kaedah Cukai Pendapatan (Sukuk Berkaitan Pelaburan Mampan dan Bertanggungjawab) 2024 [P.U. (A) 415/2024] pada 19 Disember 2024.

2. Special tax deduction of up to RM150,000 for expenditure on Malaysian-made handicrafts purchased from local handicraft entrepreneurs registered with Perbadanan Kemajuan Kraftangan Malaysia. For qualifying handicraft products expenditure incurred from 1 January 2023 until 31 December 2025.

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

Maklum balas MOF (22 March 2024):

Sedang dalam proses draf di peringkat LHDNM.

Comments:

Please provide an update on the status of the above.

Maklum balas LHDNM:

Draf sedang dimuktamadkan oleh pihak LHDNM.

3. Expansion of the scope of further tax deduction to include remuneration paid to inmates and ex-inmates of: -
- Henry Gurney School under Malaysian Prison Department; and
 - Protection and rehabilitation institutions and non-government care centres registered under the Department of Social Welfare.
- From YA 2023 to YA 2025.

Maklum balas MOF (22 March 2024):

Sedang dalam proses draf di peringkat LHDNM.

Comments:

Please provide an update on the status of the above.

Maklum balas MOF:

Draf sedang dalam semakan MOF setelah menerima input daripada Jabatan Penjara dan Jabatan Kebajikan Masyarakat.

4. Tax deduction for company renting non-commercial electric vehicle on the rental amount up to RM300,000. From YA 2023 to YA 2025.

Maklum balas MOF (22 March 2024):

Sedang dalam proses draf di peringkat LHDNM.

Comments:

Please provide an update on the status of the above.

Maklum balas LHDNM:

Draf sedang dalam semakan MOF.

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

5. Tax incentives for carbon capture and storage (CCS): -
- (a) Companies undertaking CCS in-house activity: -
 - 100% Investment Tax Allowance (ITA) on qualifying capital expenditure (QCE) for 10 years which can be set-off against 100% of statutory business income; and
 - Tax deduction for allowable pre-commencement expenses within 5 years from the date of commencement of operation.
 - (b) Companies undertaking CCS services: -
 - 100% ITA on QCE for a period of 10 years which can be set-off against 100% statutory income, or
 - 70% tax exemption on statutory business income for 10 years.
 - (c) Companies engaging in CSS services: -
 - Tax deduction on fees incurred for the use of CCS services.

Maklum balas MOF (22 March 2024):

Sedang diperhalusi bersama agensi berkaitan.

Comments:

[Please provide an update on the status of the above.](#)

Maklum balas LHDNM:

Mekanisme pelaksanaan insentif di bawah perenggan 5(a) dan (b) adalah melalui kuasa Menteri di bawah subseksyen 127(3A) Akta Cukai Pendapatan 1967. Bagi insentif di bawah perenggan 5(c), draf perundangan subsidiari dalam semakan pihak MOF.

6. 100% accelerated capital allowance and 100% income tax exemption on qualifying capital expenditure from YA 2023 to YA 2025 are given to chicken rearers that adopt environmentally-friendly closed house systems verified by the Ministry of Agriculture and Food Security (MAFS).

Maklum balas MOF (22 March 2024):

Sedang diperhalusi bersama agensi berkaitan.

Comments:

[Please provide an update on the status of the above.](#)

Maklum balas LHDNM:

Draf sedang dimuktamadkan oleh pihak LHDNM.

7. Tax incentives for food production projects: -
- The scope of tax incentives is expanded to include agricultural projects based on Controlled Environment Agriculture; and

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

- The application period for tax incentives is extended for 3 years (1 January 2023 until 31 December 2025).

Maklum balas MOF (22 March 2024):

Sedang diperhalusi bersama agensi berkaitan.

Comments:

Please provide an update on the status of the above.

Maklum balas LHDNM:

Draf dalam semakan pihak AGC.

8. Accelerated capital allowance for automation equipment: -
- The scope of automation is to include the adaptation of Industry 4.0 elements;
 - The scope of the qualifying project is expanded to include the agriculture sector; and
 - The qualifying capital expenditure threshold for category 1, category 2, and agriculture is increased to RM10 million.
- For applications received by MIDA and MAFS from 1 January 2023 until 31 December 2027.

Maklum balas MOF (22 March 2024):

Sedang diperhalusi bersama agensi berkaitan.

Comments:

Please provide an update on the status of the above.

Maklum balas LHDNM:

Draf sedang dimuktamadkan oleh pihak LHDNM.

2024 Budget

1. CGT Exemption for Venture Capital Company.

Maklum balas LHDNM:

Draf perundangan subsidiari sedang dalam semakan MOF.

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

2. Extension of period of tax incentive for women returning to work after career break. From YA 2025 to YA 2028.

Maklum balas MOF:

Draf perundangan subsidiari sedang dalam semakan BUU, MOF dan dikemukakan kepada AGC untuk semakan dan pewartaan.

3. Income tax exemption on income derived from Islamic Securities Selling and Buying (“ISSB”). From YA 2024.

Maklum balas LHDNM:

Insentif ini telah diwartakan sebagai Perintah Cukai Pendapatan (Sekuriti Islam) (Pengecualian) 2024 [*P.U. (A) 444/2024*] pada 23 Disember 2024.

4. Preferential income tax rate for non-citizen individuals holding key/C-Suite positions in Global Services Hub (“GSH”). For new company’s GSH tax incentive applications received by MIDA from 14 October 2023 until 31 December 2027.

Maklum balas LHDNM:

Draf sedang dimuktamadkan oleh LHDNM.

5. Extension of tax deduction for rental of non-commercial electric vehicle. From YA 2023 to YA 2027.

Maklum balas LHDNM:

Draf dalam semakan pihak MOF.

6. Extension of income tax exemption for social enterprise. For applications received by MOF from 1 January 2024 until 31 December 2025.

Maklum balas MOF:

Insentif cukai bagi perusahaan social dilaksanakan melalui seksyen 127(3A) dan subseksyen 44(11C) ACP 1967.

7. Extension of tax deduction on issuance of Sustainable and Responsible Investment sukuk. From YA 2024 to YA 2027.

Maklum balas LHDNM:

Draf dalam semakan pihak AGC.

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

8. Expansion of scope of income tax exemption on the Sustainable and Responsible Investments Sukuk Grant and bond grant scheme. For applications received by the Securities Commission Malaysia from 1 January 2024 until 31 December 2025.

Maklum balas LHDNM:

Pengecualian diberikan melalui kuasa Menteri di bawah subseksyen 127(3A) Akta Cukai Pendapatan 1967.

9. Further tax deduction on expenditure incurred to participate for voluntary carbon market. For applications received by the Malaysia Green Technology and Climate Change Corporation (“MGTC”) from 1 January 2024 until 31 December 2026.

Maklum balas LHDNM:

Draf dalam semakan pihak MOF.

10. Tax incentive for foreign film production companies, foreign film actors and crews who are filming in Malaysia.

Maklum balas MOF:

Dalam proses penyediaan perundangan subsidiari.

11. Tax deduction on contributions for environmental preservation and conservation projects. For applications received by MOF from 1 January 2024 until 31 December 2026.

Maklum balas LHDNM:

Mekanisme pelaksanaan potongan cukai ini adalah melalui perenggan 34(6)(h) Akta Cukai Pendapatan 1967.

12. Tax deduction on environmental, social and governance related expenditures. From YA 2024 to YA 2027.

Maklum balas LHDNM:

Tertakluk kepada pengesahan MOF, draf dalam semakan pihak MOF.

13. Review of tax incentive on automation equipment. For applications received by Ministry of Plantation and Commodities from 14 October 2023 until 31 December 2027.

Maklum balas LHDNM:

Draf sedang dimuktamadkan oleh pihak LHDNM.

JOINT MEMORANDUM ON ISSUES ARISING FROM 2025 BUDGET SPEECH & TAX BILLS 2024

14. Review of Green Technology Tax incentive. For GITA Project and GITE solar leasing – applications received by MIDA from 1 January 2024 until 31 December 2026. For GITA Asset – qualifying capital expenditure as verified by MGTC for the purchase of green technology assets from 1 January 2024 until 31 December 2026.

Maklum balas LHDNM:

GITE Solar Leasing telah diwartakan sebagai Perintah Cukai Pendapatan (Insentif Teknologi Hijau) (Pajakan Sistem Fotovolta Suria) (Pengecualian) (Pindaan) 2024 [P.U. (A) 445/2024] pada 23 Disember 2024.

Draf GITA Asset sedang dimuktamadkan oleh pihak LHDNM manakala draf GITA Project dalam semakan pihak MOF.

15. Extension of tax incentive for angel investor. For applications submitted to MOF from 1 January 2024 until 31 December 2026.

Maklum balas MOF:

Draf dalam semakan pihak MOF.

16. Tax incentive for reinvestment under the New Industrial Master Plan 2030. For applications received by MIDA from 1 January 2024 until 31 December 2028.

Maklum balas LHDNM:

Draf sedang dimuktamadkan oleh pihak LHDNM.

17. Tax incentive for Global Services Hub. For applications received by MIDA from 14 October 2023 until 31 December 2027.

Maklum balas LHDNM:

Draf sedang dimuktamadkan oleh LHDNM.