

FINANCE BILL 2006

ARRANGEMENT OF CLAUSES

CHAPTER I

PRELIMINARY

Clause

1. Short title
2. Amendment of Acts

CHAPTER II

AMENDMENTS TO THE INCOME TAX ACT 1967

3. Commencement of amendments to the Income Tax Act 1967
4. Amendment of section 2
5. Amendment of section 6
6. Amendment of section 6A
7. Deletion of section 6B
8. Amendment of section 13
9. Amendment of section 22
10. Amendment of section 30
11. Amendment of section 34
12. Amendment of section 35
13. Amendment of section 39
14. Amendment of section 43
15. Amendment of section 44
16. Amendment of section 44A
17. Amendment of section 46
18. Amendment of section 60F
19. Amendment of section 61A
20. Amendment of section 91
21. Amendment of section 107A
22. Amendment of section 109

Clause

23. Amendment of section 109B
24. Amendment of section 109D
25. Amendment of section 111
26. New Chapter 1A
27. Special provision relating to section 138A
28. Amendment of section 153
29. Amendment of section 154
30. Amendment of Schedule 1
31. Amendment of Schedule 3
32. Amendment of Schedule 6
33. Amendment of Schedule 7
34. Amendment of Schedule 7A

CHAPTER III

AMENDMENTS TO THE REAL PROPERTY GAINS TAX ACT 1976

35. Commencement of amendments to the Real Property Gains Tax Act 1976
36. Amendment of section 9
37. Amendment of section 15
38. Amendment of Schedule 2

CHAPTER IV

AMENDMENTS TO THE STAMP ACT 1949

39. Commencement of amendments to the Stamp Act 1949
40. Amendment of section 2
41. Amendment of section 5A
42. Amendment of section 7
43. Amendment of section 9
44. Amendment of section 57
45. Amendment of section 80
46. Amendment of First Schedule

CHAPTER V

AMENDMENTS TO THE PETROLEUM (INCOME TAX) ACT 1967

Clause

47. Commencement of amendments to the Petroleum (Income Tax) Act 1967
48. Amendment of section 16
49. Amendment of section 22

CHAPTER VI

AMENDMENTS TO THE SALES TAX ACT 1972

50. Amendment of section 31c

CHAPTER VII

AMENDMENTS TO THE SERVICE TAX ACT 1975

51. Amendment of section 21B

A BILL

i n t i t u l e d

An Act to amend the Income Tax Act 1967, the Real Property Gains Tax Act 1976, the Stamp Act 1949, the Petroleum (Income Tax) Act 1967, the Sales Tax Act 1972 and the Service Tax Act 1975.

[]

ENACTED by the Parliament of Malaysia as follows:

CHAPTER I

PRELIMINARY

Short title

1. This Act may be cited as the Finance Act 2006.

Amendment of Acts

2. The Income Tax Act 1967 [*Act 53*], the Real Property Gains Tax Act 1976 [*Act 169*], the Stamp Act 1949 [*Act 378*], the Petroleum (Income Tax) Act 1967 [*Act 543*], the Sales Tax Act 1972 [*Act 64*] and the Service Tax Act 1975 [*Act 151*] are amended in the manner specified in Chapters II, III, IV, V, VI and VII respectively.

CHAPTER II

AMENDMENTS TO THE INCOME TAX ACT 1967

Commencement of amendments to the Income Tax Act 1967

3. (1) Sections 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 25, paragraph 30(*a*), section 31, paragraphs 32(*a*), (*b*), (*c*) and (*e*) and section 33 have effect for the year of assessment 2007 and subsequent years of assessment.

(2) Section 5, paragraph 24(a), sections 26, 27, 28, 29 and paragraph 30(b) come into operation on 1 January 2007.

(3) Section 18 has effect for the year of assessment 2006 and subsequent years of assessment.

(4) Section 20 comes into operation on the coming into operation of this Act.

(5) Sections 21, 22, 23, paragraph 24(b), paragraph 32(d) and section 34 are deemed to have come into operation on 2 September 2006.

Amendment of section 2

4. The Income Tax Act 1967, which is referred to as the “principal Act” in this Chapter, is amended in section 2—

(a) in subsection (1)—

(i) in the definition of “partnership”, by inserting after the words “in a partnership” the words “and any association which is established pursuant to a scheme of financing in accordance with the principles of Syariah”; and

(ii) in the definition of “public entertainer”, by substituting for the word “athlete” the word “sportsperson”; and

(b) in subsection (8), by substituting for the words “or the Securities Commission” the words “, the Securities Commission or the Labuan Offshore Financial Services Authority”.

Amendment of section 6

5. Subsection 6(1) of the principal Act is amended by substituting for paragraph (i) the following paragraph:

“(i) subject to section 109D but notwithstanding any other provisions of this Act, income tax shall be charged for each year of assessment upon the income of a unit holder other than a unit holder which is a resident company which consists of income distributed by the unit trust referred to in section 61A at the appropriate rate as specified under Part X of Schedule 1 provided that the rates specified under such Part shall apply only for a period of five years commencing from the year of assessment 2007.”.

Amendment of section 6A

6. Section 6A of the principal Act is amended—
- (a) in subsections (1) and (4), by substituting for the words “, (3) and (3A)” the words “and (3)”; and
 - (b) by deleting subsection (3A).

Deletion of section 6B

7. The principal Act is amended by deleting section 6B.

Amendment of section 13

8. Subsubparagraph 13(1)(b)(ii)(A) of the principal Act is amended by inserting after the words “leave passages” the words “including meals and accommodation”.

Amendment of section 22

9. Subsection 22(2) of the principal Act is amended—
- (a) in subparagraph (a)(ii), by inserting after the semicolon the word “and”;
 - (b) by substituting for the words “; and” at the end of paragraph (b) a full stop; and
 - (c) by deleting paragraph (c).

Amendment of section 30

10. Subsection 30(4) of the principal Act is amended—
- (a) by substituting for the word “and” at the end of paragraph (a) the word “or”;
 - (b) by substituting for paragraph (b) the following paragraph:
 - “(b) any allowance or aggregate amount of allowances has been made under section 42 in computing the statutory income of the relevant person from a business for the basis period for a year of

assessment (that basis period being prior to the relevant period) in respect of any expenditure incurred under Schedule 3,”; and

- (c) by inserting before the words “the amount released” the words “and the whole or any part of a debt in respect of any such outgoing, expense, sum, rent or expenditure is released in the relevant period,”.

Amendment of section 34

11. Subsection 34(6) of the principal Act is amended by substituting for paragraph (k) the following paragraph:

- “(k) an amount equal to the expenditure incurred by the relevant person in the relevant period for sponsoring any arts, cultural or heritage activity approved by the Ministry of Culture, Arts and Heritage:

Provided that the amount deducted in respect of expenditure incurred for sponsoring those activities shall not in aggregate exceed five hundred thousand ringgit of which the amount deducted in respect of expenditure incurred in sponsoring foreign arts, cultural or heritage activity shall not exceed two hundred thousand ringgit;”.

Amendment of section 35

12. Subsection 35(2) of the principal Act is amended by substituting for the words “sections 33, 34, 34A and 34B” the words “this Act”.

Amendment of section 39

13. Subsection 39(1) of the principal Act is amended—

- (a) by inserting after subparagraph (l)(vii) the following subparagraph:

“(viii) the provision of a benefit or amenity to an employee consisting of a leave passage to facilitate a yearly event within Malaysia which

involves the employer, the employee and the immediate family members of that employee; or”; and

- (b) in paragraph (m), by inserting after the words “(l)(i)” the words “and subject to subparagraph (l)(viii)”.

Amendment of section 43

14. Section 43 of the principal Act is amended by deleting subsection (5).

Amendment of section 44

15. Section 44 of the principal Act is amended—

- (a) in paragraph (1)(d), by substituting for the words “or (11A)” the words “, (11A), (11B) or (11C)”;
- (b) in the proviso to subsection (6), by substituting for the word “five” the word “seven”;
- (c) by substituting for subsection (11A) the following subsection:

“(11A) There shall be deducted pursuant to this subsection from the aggregate income of a person other than an offshore company and individual for the relevant year reduced by any deduction for that year in accordance with subsection (1) an amount equal to the payment of *zakat perniagaan* which is paid in the basis period for that relevant year to an appropriate religious authority established under any written law or any person authorized by such religious authority:

Provided that the amount to be deducted pursuant to this subsection shall not exceed one-fortieth of the aggregate income of that person in the relevant year.”; and

(d) by inserting after subsection (11A) the following subsections:

“(11B) There shall be deducted from the aggregate income of a relevant person for the relevant year reduced by any deduction for that year in accordance with subsection (1) an amount equal to any gift of money or cost of contribution in kind made by the relevant person in the basis period for that year for any sports activity approved by the Minister or to any sports body approved by the Commissioner of Sports appointed under the Sports Development Act 1997 [Act 576]:

Provided that the amount to be deducted pursuant to this subsection shall not exceed the difference between the amount of seven per cent of the aggregate income of the relevant person and the total amount that has been deducted pursuant to the proviso to subsection (6) and subsection (11C).

(11C) There shall be deducted from the aggregate income of a relevant person for the relevant year reduced by any deduction for that year in accordance with subsection (1) an amount equal to any gift of money or cost of contribution in kind made by the relevant person in the basis period for that year for any project of national interest approved by the Minister:

Provided that the amount to be deducted pursuant to this subsection shall not exceed the difference between the amount of seven per cent of the aggregate income of the relevant person and the total amount that has been deducted pursuant to the proviso to subsection (6) and subsection (11B).”.

Amendment of section 44A

16. Subsection 44A(9) of the principal Act is amended by substituting for paragraph (b) the following paragraph:

“(b) the surrendering company gives an incorrect information in the return furnished under section 77A in respect of the amount of adjusted loss surrendered, the Director General may, by a notice in writing, require the surrendering

company to pay a penalty equal to the amount of tax which had or would have been undercharged by the claimant company in consequence of the incorrect information and where the surrendering company is dissatisfied with the penalty, the surrendering company may within thirty days of being notified appeal to the Special Commissioners as if the notice were a notice of assessment and the provision of this Act relating to appeals shall apply accordingly with any necessary modifications.”.

Amendment of section 46

17. Section 46 of the principal Act is amended—

(a) in subsection (1)—

(i) in paragraph (f), by inserting after the word “accounting” the words “, Islamic financing”;

(ii) by deleting the word “and” at the end of paragraph (h);

(iii) in paragraph (i)—

(A) by substituting for the words “seven hundred” the words “one thousand”; and

(B) by substituting for the full stop at the end of that paragraph the words “; and”; and

(iv) by inserting after paragraph (i) the following paragraph:

“(j) an amount limited to a maximum of three thousand ringgit in respect of expenses expended or deemed expended under subsection (3) in the basis year for that year of assessment by that individual for the purchase of personal computer (not being a personal computer used for the purpose of his own business) as evidenced by receipt:

Provided that the deduction under this paragraph shall not be allowed for the two following years of assessment.”; and

- (b) in subsection (3), by substituting for the words “and (i)” the words “, (i) and (j)”.

Amendment of section 60F

18. Subsection 60F(2) of the principal Act is amended—

- (a) in the definition of “investment holding company”, by inserting after the words “gross income” the words “other than gross income from a source consisting of a business of holding of an investment”; and
- (b) by inserting before the definition of “investment holding company” the following definition:

‘ “business of holding of an investment” means business of letting of property where a company in any year of assessment provides any maintenance or support services in respect of the property;’.

Amendment of section 61A

19. Section 61A of the principal Act is amended—

- (a) by substituting for the full stop at the end of subsection (1) a colon; and
- (b) by inserting after subsection (1) the following proviso:

“Provided that where ninety per cent or more of the amount of total income of the unit trust is distributed to the unit holder, the total income of the unit trust shall be exempt.”.

Amendment of section 91

20. Paragraph 91(4)(a) of the principal Act is amended by inserting after the word “made” the words “under this Act or the Real Property Gains Tax Act 1976 [*Act 169*]”.

Amendment of section 107A

21. Subsection 107A(2) of the principal Act is amended by substituting for the words “an amount equal to ten per cent of the contract payment liable to deduction of tax under

subsection (1) and the total sum” the words “a sum equal to ten per cent of the amount which he fails to pay, and that amount and the increased sum”.

Amendment of section 109

22. Subsection 109(2) of the principal Act is amended by substituting for the words “an amount equal to ten per cent of the interest or royalty liable to deduction of tax under subsection (1) and the total sum” the words “a sum equal to ten per cent of the amount which he fails to pay, and that amount and the increased sum”.

Amendment of section 109B

23. Subsection 109B(2) of the principal Act is amended by substituting for the words “an amount equal to ten per cent of the payments liable to deduction of tax under paragraph (1)(a), (b) or (c) and the total sum” the words “a sum equal to ten per cent of the amount which he fails to pay, and that amount and the increased sum”.

Amendment of section 109D

24. Section 109D of the principal Act is amended—

- (a) in subsection (2), by substituting for the words “non-resident unit holder” the words “unit holder other than a unit holder which is a resident company”; and
- (b) in subsection (3), by substituting for the words “an amount equal to ten per cent of the income liable to deduction of tax under that subsection and the total sum” the words “a sum equal to ten per cent of that amount, and the amount which he fails to pay and the increased sum”.

Amendment of section 111

25. Subsection 111(1A) of the principal Act is amended by substituting for the words “subsection 77(1A)” the words “section 77A”.

New Chapter 1A

26. The principal Act is amended by inserting after section 138 the following Chapter:

“Chapter 1A—Ruling

Public ruling

138A. (1) The Director General may at any time make a public ruling on the application of any provision of this Act in relation to any person or class of persons, or any type of arrangement.

(2) The Director General may withdraw, either wholly or partly, any public ruling made under this section.

(3) Notwithstanding any other provision of this Act, where a public ruling in subsection (1) applies to any person in relation to an arrangement and the person applies the provision in the manner stated in the ruling, the Director General shall apply the provision in relation to the person and the arrangement in accordance with the ruling.

Advance ruling

138B. (1) Subject to this section or any rules prescribed under this Act, on the application made by any person, the Director General shall make an advance ruling on the application of any provision of this Act to the person and to the arrangement for which the ruling is sought.

(2) An application under subsection (1) shall be made in the prescribed form and shall contain particulars as may be required by the Director General.

(3) The Director General may at any time withdraw any advance ruling made under subsection (1) by giving a notice in writing of such withdrawal to the person to whom the ruling applies.

(4) Notwithstanding any other provision of this Act, where an advance ruling applies to any person in relation to an arrangement and the person applies the provision in the manner stated in

the ruling, the Director General shall apply the provision in relation to the person and that arrangement in accordance with the ruling.

(5) An advance ruling on any of the provision of this Act shall apply to a person in relation to an arrangement if the provision is expressly referred to in the ruling and for the basis period for year of the assessment for which the ruling applies.

(6) A ruling made under subsection (1) does not apply to a person in relation to an arrangement if—

- (a) the arrangement is materially different from the arrangement stated in the ruling;
- (b) there was a material omission or misrepresentation in, or in connection with the application of the ruling;
- (c) the Director General makes an assumption about a future event or another matter that is material to the ruling, and that assumption subsequently proves to be incorrect; or
- (d) the person fails to satisfy any of the conditions stipulated by the Director General.”.

Special provision relating to section 138A

27. Notwithstanding the provisions of section 138A of the principal Act, any public ruling that has been issued by the Director General prior to the coming into operation of the section, is deemed to have been made under that section and have effect for the year of assessment 2007 and subsequent years of assessment.

Amendment of section 153

28. Section 153 of the principal Act is amended—

- (a) by substituting for subsection (3) the following subsection:

“(3) For the purposes of this Act, “tax agent” means any professional accountant or person, approved by the Minister.”; and

- (b) in subsection (4), by substituting for the words “paragraph (3)(b) or (c)” the words “subsection (3)”.

Amendment of section 154

29. Subsection 154(1) of the principal Act is amended by inserting after paragraph (ea) the following paragraphs:

- “(eb) providing for the scope and procedure applied in relation to any ruling made under section 138A or 138B;
- (ec) prescribing fees charged in relation to any ruling made under section 138B;”.

Amendment of Schedule 1

30. Schedule 1 to the principal Act is amended—

(a) in Part I—

- (i) in paragraph 1, by inserting after the words “1A, 2” the words “, 2A”; and
- (ii) in paragraphs 2 and 2A, by substituting for the word “28” wherever appearing the word “27”; and

(b) by substituting for Part X the following Part:

“Part X

1. Notwithstanding Part I—

- (a) and subject to paragraphs (b) and (c), income tax shall be charged for a year of assessment on the income of a unit holder other than a unit holder which is a resident company consisting of income distributed to the unit holder referred to in section 109D which is derived from Malaysia at the rate of 15% of gross;
- (b) and subject to paragraph (c), income tax shall be charged for a year of assessment on the income of a unit holder which is a non-resident company consisting of income distributed to the unit holder referred to in section 109D which is derived from Malaysia at the rate of 27% of gross; and
- (c) and income tax shall be charged for a year of assessment on the income of a unit holder which is an institutional investor consisting of income distributed to the unit holder referred to in section 109D which is derived from Malaysia at the rate of 20% of gross.

2. In this Part, “institutional investor” means a pension fund, collective investment scheme or such other person approved by the Minister.”.

Amendment of Schedule 3

31. Schedule 3 to the principal Act is amended—

- (a) by deleting the words “Culture, Arts and” at the end of paragraph 37F; and
- (b) in paragraph 42B, by inserting after the word “Education” the words “or Minister of Higher Education”.

Amendment of Schedule 6

32. Schedule 6 to the principal Act is amended—

- (a) in paragraph 15, by inserting after subparagraph (2) the following subparagraph:

“(3) In this paragraph, “compensation for loss of employment” shall include any payment made by an employer to an employee of his pursuant to a separation scheme where employees are given an option for an early termination of an employment contract provided that such scheme from which payment was made does not expressly or impliedly provide for the employee to be reemployed under any other scheme of employment by the same or any other employer.”;

- (b) by inserting after paragraph 25B the following paragraph:

“**25c.** Perquisite consisting of long service, past achievement or service excellence award, whether in money or otherwise, provided to an employee pursuant to his employment, limited to a maximum amount or value of one thousand ringgit for each employee for a year of assessment provided that exemption in respect of long service award shall apply only after the employee has exercised an employment for more than ten years with the same employer.”;

- (c) in paragraph 32A, by inserting after the word “Education” the words “or Ministry of Higher Education”;

- (d) by substituting for paragraph 33 the following paragraph:

“**33.** Income of any person not resident in Malaysia for the basis year for a year of assessment, in respect of interest derived

from Malaysia (other than such interest accruing to a place of business in Malaysia of such person) and paid or credited by any person (whether the same person or not) carrying on the business of banking or finance in Malaysia and licensed under the Banking and Financial Institutions Act 1989 or the Islamic Banking Act 1983, or by any other institution approved by the Minister:

Provided that the exemption under this paragraph shall not apply to interest paid or credited on funds required for purposes of maintaining net working funds as prescribed by the Central Bank of Malaysia pursuant to section 37 of the Banking and Financial Institutions Act 1989 and subsection 5(2) of the Islamic Banking Act 1983, as the case may be.”; and

(e) by substituting for paragraph 34 the following paragraph:

“34. (1) Income of an individual derived from exercising an employment on board a ship used in a business operated by a person being a registered owner of a ship under the Merchant Shipping Ordinance 1952 who is resident in Malaysia.

(2) For the purpose of this paragraph “ship” means a sea-going ship other than a ferry, barge, tug-boat, supply vessel, crew boat, lighter, dredger, fishing boat or other similar vessel.”.

Amendment of Schedule 7

33. Schedule 7 to the principal Act is amended—

- (a) in paragraph 5, by inserting after the words “proportion as” the words “his statutory income in respect of”; and
- (b) in paragraph 16, in the definition of “foreign income”, by inserting after the word “Malaysia” the words “or in the case of bilateral credit, includes income derived from Malaysia charged to foreign tax”.

Amendment of Schedule 7A

34. Schedule 7A to the principal Act is amended in the proviso to paragraph 3, by inserting after the words “the Federal Territory of Labuan,” the words “Perlis,”.

CHAPTER III

AMENDMENTS TO THE REAL PROPERTY GAINS TAX ACT 1976

Commencement of amendments to the Real Property Gains Tax Act 1976

35. (1) Section 36 is deemed to have come into operation on 1 October 2005.

(2) Section 37 comes into operation on the coming into operation of this Act.

(3) Section 38 is deemed to have come into operation on 2 September 2006.

Amendment of section 9

36. The Real Property Gains Tax Act 1976, which is referred to as the “principal Act” in this Chapter, is amended in the national language text, by deleting the words “orang atau” in subsection 9(3).

Amendment of section 15

37. Paragraph 15(3)(a) of the principal Act is amended by inserting after the word “made” the words “under this Act or the Income Tax Act 1967”.

Amendment of Schedule 2

38. Schedule 2 to the principal Act is amended—

(a) by substituting for paragraph 16 the following paragraph:

“**16.** Where a contract for the disposal of an asset is conditional and the condition is satisfied (by the exercise of a right under an option or otherwise), the acquisition and disposal of the

asset shall be regarded as taking place at the time the contract was made, unless—

- (a) the acquisition or disposal requires the approval by the Government or an authority or committee appointed by the Government, the date of disposal shall be the date of such approval; or
- (b) the approval referred to in subparagraph (a) is conditional, the date of disposal shall be the date when the last of all such conditions is satisfied.”; and

(b) by inserting after paragraph 17 the following paragraph:

“Transfer of assets into stocks

17A. Notwithstanding any other provisions of this Act—

- (a) if an asset acquired or held by a person is taken into the trading stock of the person, there shall be deemed to be a disposal of chargeable asset; and
- (b) the disposal price of the chargeable asset shall be equal to the market value at the date the asset is taken into stock.”.

CHAPTER IV

AMENDMENTS TO THE STAMP ACT 1949

Commencement of amendments to the Stamp Act 1949

39. This Chapter is deemed to have come into operation on 2 September 2006.

Amendment of section 2

40. The Stamp Act 1949, which is referred to as the “principal Act” in this Chapter, is amended in section 2 by inserting after the definition of “settlement” the following definition:

‘ “small and medium enterprise” means—

- (a) in relation to the manufacturing, manufacturing related services and agro-based industries sectors, an enterprise with full-time employees not exceeding one hundred and fifty people or annual turnover not exceeding twenty-five million ringgit; and

- (b) in relation to the services, primary agriculture, and information and communication technology sectors, an enterprise with full-time employees not exceeding fifty people or annual turnover not exceeding five million ringgit;’.

Amendment of section 5A

- 41.** Section 5A of the principal Act is amended by substituting for the words “small business” wherever appearing the words “small and medium enterprise”.

Amendment of section 7

- 42.** Section 7 of the principal Act is amended by substituting for subsection (1) the following subsection:

“(1) Subject to any rules made under paragraph 82(b), all duties with which any instruments are chargeable under this Act shall be paid, and payment shall be indicated on such instrument, by means of an adhesive stamp or by affixing an official receipt to such instrument.”.

Amendment of section 9

- 43.** Section 9 of the principal Act is amended—

- (a) in subsection (3), by inserting after the word “books” the words “, records and documents”; and
- (b) by inserting after subsection (3) the following subsection:

“(4) For the purpose of subsection (3), the banker, dealer or insurer shall keep and retain the books, records and documents in connection with the issue of such cheques, contract notes or policies of insurance for a period of seven years from the year in which such cheques, contract notes or policies of insurance are issued.”.

Amendment of section 57

- 44.** Section 57 of the principal Act is amended—

- (a) by deleting paragraph (c); and

(b) by substituting for paragraph (e) the following paragraph:

“(e) the stamp on any promissory note which from any omission or error has been spoiled or rendered useless, although the same, being a promissory note, may have been delivered to the payee, provided that another completed and duly stamped promissory note, is produced identical in every particular except in correction of the error or omission, with the spoiled note;”.

Amendment of section 80

45. Section 80 of the principal Act is amended—

(a) in subsection (1A)—

(i) in paragraph (i), by inserting after the word “instrument” the words “or all instruments in relation to any scheme”; and

(ii) in paragraph (ii), by substituting for the words “instrument is” the words “instrument or all instruments in relation to any scheme are”; and

(b) in subsection (3), by inserting after the words “or (2)” the words “or any exemption, reduction or remission made under subsection (1A)”.

Amendment of First Schedule

46. Item 27 of the First Schedule to the principal Act is amended by substituting for subitem (a)(i) the following subitem:

“(i) where section 5A applies—

For an amount not exceeding RM250,000 of the aggregate loans or of the aggregate financing under the Syariah in a calendar year;	RM0.50 for every RM1,000 or fractional thereof
For each additional RM1,000 not exceeding RM1,000,000;	RM2.50 for every RM1,000 or fractional thereof
For each additional RM1,000 or part thereof	RM5.00”.

CHAPTER V

AMENDMENTS TO THE PETROLEUM (INCOME TAX) ACT 1967

Commencement of amendments to the Petroleum (Income Tax) Act 1967

47. This Chapter has effect for the year of assessment 2008 and subsequent years of assessment.

Amendment of section 16

48. The Petroleum (Income Tax) Act 1967, which is referred to as the “principal Act” in this Chapter, is amended in subsection 16(7E) by deleting the words “Culture, Arts and”.

Amendment of section 22

49. Section 22 of the principal Act is amended—

- (a) in the proviso to subsection (1), by substituting for the word “five” the word “seven”; and
- (b) by inserting after subsection (1D) the following subsections:

“(1E) The chargeable income of a chargeable person for a year of assessment shall consist of the amount of his assessable income for that year reduced by an amount equal to any gift of money or cost of contribution in kind made by the relevant person in the basis period for that year for any sports activity approved by the Minister or to any sports body approved by the Commissioner of Sports appointed under the Sports Development Act 1997:

Provided that the amount to be deducted pursuant to this subsection shall not exceed the difference between the amount of seven per cent of the statutory income of the relevant person and the total amount that has been deducted pursuant to the proviso to subsection (1) and subsection (1F).

(1F) The chargeable income of a chargeable person for a year of assessment shall consist of the amount of his assessable income for that year reduced by an amount equal to any gift of money or cost of contribution in kind made by the relevant person in the basis period for that year for any project of national interest approved by the Minister:

Provided that the amount to be deducted pursuant to this subsection shall not exceed the difference between the amount of seven per cent of the statutory income of the relevant person and the amount that has been deducted pursuant to the proviso to subsection (1) and subsection (1E).”.

CHAPTER VI

AMENDMENTS TO THE SALES TAX ACT 1972

Amendment of section 31c

50. The Sales Tax Act 1972 is amended in section 31c—

- (a) in the shoulder note, by inserting after the word “for” the words “doubtful debt or”;
- (b) in paragraph (1)(b), by inserting after the words “such person” the words “has been provided in his accounts as doubtful debt or”; and
- (c) by substituting for subsection (4) the following subsection:

“(4) For the purpose of this section—

“bad debt” means the outstanding amount of the payment in respect of the sale of taxable goods including the sales tax which is due to the person but has not been paid to, and is irrecoverable by the person;

“doubtful debt” means a provision made with respect to the outstanding amount in the person’s accounts consistent with the generally accepted accounting principles.”.

CHAPTER VII

AMENDMENTS TO THE SERVICE TAX ACT 1975

Amendment of section 21B

- 51.** The Service Tax Act 1975 is amended in section 21B—
- (a) in the shoulder note, by inserting after the word “for” the words “doubtful debt or”;
 - (b) in paragraph (1)(b), by inserting after the words “such person” the words “has been provided in his accounts as doubtful debt or”; and
 - (c) by substituting for subsection (4) the following subsection:

“(4) For the purpose of this section—

“bad debt” means the outstanding amount of the payment in respect of the provision of taxable services including the service tax which is due to the person but has not been paid to, and is irrecoverable by the person;

“doubtful debt” means a provision made with respect to the outstanding amount in the person’s accounts consistent with the generally accepted accounting principles.”.

EXPLANATORY STATEMENT

This Bill seeks to amend the Income Tax Act 1967 (“Act 53”), the Real Property Gains Tax Act 1976 (“Act 169”), the Stamp Act 1949 (“Act 378”), the Petroleum (Income Tax) Act 1967 (“Act 543”), the Sales Tax Act 1972 (“Act 64”) and the Service Tax Act 1975 (“Act 151”).

AMENDMENTS TO THE INCOME TAX ACT 1967

Chapter II of this Bill seeks to amend the Income Tax Act 1967.

2. *Clause 4* seeks to amend the definition of “partnership” in section 2 of Act 53 to provide that any association which is formed pursuant to a scheme of financing under the principles of Syariah is not a partnership for the purpose of Act 53.

Clause 4 also seeks to amend the definition of “public entertainer” by substituting for the word “athlete” the word “sportsperson” in line with the term used in the double taxation arrangements made under section 132 of Act 53.

This amendment has effect for the year of assessment 2007 and subsequent years of assessment.

3. *Clause 5* seeks to amend paragraph 6(1)(i) of Act 53 to provide that a unit holder other than a unit holder which is a resident company is subject to tax on the income distributed by a unit trust at the rate specified under Part X of Schedule 1. However, the rate applies only for five years of assessment beginning from the year of assessment 2007.

This amendment comes into operation on 1 January 2007.

4. *Clause 6* seeks to delete subsection 6A(3A) of Act 53. With the proposed deletion, a person can no longer claim a rebate for purchase of a personal computer. A new provision is inserted into section 46 of Act 53 for relief in respect of the same.

This amendment has effect for the year of assessment 2007 and subsequent years of assessment.

5. *Clause 7* seeks to delete section 6B of Act 53 since loan to a small business is no longer relevant and applicable under this Act. The proposed deletion is in pursuant to the termination of loan to a small business which is no longer applicable.

This amendment has effect for the year of assessment 2007 and subsequent years of assessment.

6. *Clause 8* seeks to amend subparagraph 13(1)(b)(ii)(A) of Act 53. Currently, the benefit in the form of leave passages within Malaysia is excluded from being part of income from employment under section 13 of Act 53. With the proposed amendment, the exclusion is extended to include meals and accommodation given pursuant to leave passages.

This amendment has effect for the year of assessment 2007 and subsequent years of assessment.

7. *Clause 10* seeks to amend subsection 30(4) of Act 53. With the proposed amendment, any amount of debt released in respect of an allowance that has been made shall be taxed as income under Act 53.

This amendment has effect for the year of assessment 2007 and subsequent years of assessment.

8. *Clause 11* seeks to amend paragraph 34(6)(k) of Act 53 to increase the amount of deduction allowed from three hundred thousand ringgit to five hundred thousand ringgit for sponsoring any arts, cultural or heritage activity approved by the Ministry of Culture, Arts and Heritage.

This amendment has effect for the year of assessment 2007 and subsequent years of assessment.

9. *Clause 12* seeks to amend subsection 35(2) of Act 53 to provide that the amount deductible under that subsection is not limited to deductions under sections 33, 34, 34A and 34B of Act 53 but to all other deductions provided under Act 53.

This amendment has effect for the year of assessment 2007 and subsequent years of assessment.

10. *Clause 13* seeks to introduce a new subparagraph 39(1)(l)(viii) into Act 53 to provide for the deduction for leave passages to facilitate in organizing a yearly event within Malaysia which involves the employer, employee and immediate family members of that employee.

This amendment has effect for the year of assessment 2007 and subsequent years of assessment.

11. *Clause 15* seeks to amend subsection 44(6) of Act 53 to increase the maximum amount allowed as a deduction for any donation made in accordance with that subsection from five per cent to seven per cent of the aggregate income of the person.

Clause 15 also seeks to amend subsection 44(11A) of Act 53. With the proposed amendment, a person other than an offshore company and individual is entitled to deduct from its aggregate income an amount equal to *zakat perniagaan* paid to an appropriate religious authority established under any written law limited to one-fortieth of the person's aggregate income.

Clause 15 further seeks to introduce new subsections 44(11B) and (11C) into Act 53. The proposed new subsections provide for a deduction equal to any gift of money or cost of contribution made by a person for any sports activity or any project of national interest approved by the Minister or to any sports body approved by the Commissioner of Sports. However, the total amount of deduction to be allowed pursuant to those subsections and proviso to subsection 44(6) shall not exceed seven per cent of the aggregate income of that person.

These amendments have effect for the year of assessment 2007 and subsequent years of assessment.

12. *Clause 16* seeks to amend paragraph 44A(9)(b) of Act 53 to provide that the Director General may require a surrendering company to pay a penalty equal to the amount of tax which had or would have been undercharged by the claimant company. However, the surrendering company may appeal to the Special Commissioners if the surrendering company is dissatisfied with the penalty.

This amendment has effect for the year of assessment 2007 and subsequent years of assessment.

13. *Clause 17* seeks to amend subsection 46(1) of Act 53. In the proposed amendment to paragraph (f), deduction for fees expended for pursuit of tertiary education is extended to the field of Islamic financing.

Clause 17 also seeks to amend paragraph 46(1)(i) of Act 53 to provide for the deduction of seven hundred ringgit for the purchase of books, journals, magazines and other similar publications be increased to one thousand ringgit.

Clause 17 further seeks to insert a new paragraph 46(1)(j) into Act 53 to provide for a deduction to a maximum of three thousand ringgit to an individual for purchase of a personal computer not for the purpose of his own business. The deduction may be claimed once in every three years of assessment.

These amendments have effect for the year of assessment 2007 and subsequent years of assessment.

14. *Clause 18* seeks to amend subsection 60F(2) of Act 53. With the proposed amendment, gross income from a source consisting of a business of holding of investment shall be excluded from the criteria in determining whether or not a company is an investment holding company. In section 60F of Act 53, business of holding of investment refers only to business of letting of properties.

This amendment has effect for the year of assessment 2006 and subsequent years of assessment.

15. *Clause 19* seeks to introduce a proviso into subsection 61A(1) of Act 53. With the proposed amendment, where ninety per cent or more of the amount of total income of a unit trust is distributed to the unit holder, the total income of the unit trust shall be exempt from tax.

This amendment has effect for the year of assessment 2007 and subsequent years of assessment.

16. *Clause 20* seeks to amend paragraph 91(4)(a) of Act 53. The proposed amendment is to empower the Director General of Inland Revenue to make an assessment within a period of six years after a determination by the court in a case where the court decides that gain on any disposal of asset is not subject to tax under Act 169.

This amendment comes into operation on the coming into operation of this Act.

17. *Clauses 21, 22, 23* and *subclause 24(b)* seek to amend subsections 107A(2), 109(2), 109B(2) and 109D(3) of Act 53 to provide for an increase in the penalty for failure to pay the deduction of tax under those subsections by an amount equal to ten per cent of any unpaid amount.

These amendments are deemed to have come into operation on 2 September 2006.

18. *Subclause 24(a)* seeks to amend subsection 109D(2) of Act 53 to provide that a unit trust is required to deduct an amount of tax as specified in Schedule 1 to Act 53 in respect of any income distributed to a unit holder other than a unit holder which is a resident company.

This amendment comes into operation on 1 January 2007.

19. *Clause 26* seeks to introduce a new Chapter 1A into Act 53. The proposed new section 138A empowers the Director General to make a public ruling on the application of any provision of Act 53 to any person or class of persons or to any arrangements.

Clause 26 also seeks to introduce a new section 138B into Act 53. With this proposed amendment, a person may request for a ruling from the Director General of Inland Revenue on the application of any provision of Act 53 to a particular type of arrangement. Subject to certain qualifications, the ruling issued under this section is binding on the person and the Director General.

These amendments come into operation on 1 January 2007.

20. *Clause 27* seeks to introduce a special provision relating to section 138A into Act 53 to provide that public rulings previously issued by the Director General of Inland Revenue prior to the coming into operation of the section is deemed to have been made under that section. The new provision also provides that those rulings have effect for the year of assessment 2007 and subsequent years of assessment.

This amendment comes into operation on 1 January 2007.

21. *Clause 28* seeks to amend paragraph 153(3)(c) of Act 53 to provide that a professional accountant or any other person approved is a tax agent under Act 53.

This amendment comes into operation on 1 January 2007.

22. *Clause 29* seeks to amend subsection 154(1) of Act 53 by introducing new paragraphs (eb) and (ec). The proposed amendments are to empower the Minister to issue rules pertaining to the public and advance rulings issued by the Director General of Inland Revenue.

These amendments come into operation on 1 January 2007.

23. *Clause 30* seeks to amend Part I of Schedule 1 to Act 53. With the proposed amendment, the tax rate for companies other than companies to which paragraph 2A applies, trust body, executor (of an estate of a deceased individual domiciled outside Malaysia at the time of his death) and a receiver is reduced from 28 per cent to 27 per cent.

This amendment has effect for the year of assessment 2007 and subsequent years of assessment.

Clause 30 also seeks to amend Part X of Schedule 1 to Act 53 to provide for the new tax rates for any income distributed by a unit trust to a unit holder other than a unit holder which is a resident company.

This amendment comes into operation on 1 January 2007.

24. *Clause 32* seeks to introduce new subparagraph 15(3) of Schedule 6 into Act 53 to provide that any payment received by an employee from an employer pursuant to a separation scheme is given an exemption in accordance with that subparagraph. However, if the scheme provides for reemployment by the same employer or any other employer, the payment does not qualify for an exemption.

Clause 32 also seeks to introduce a new paragraph 25c of Schedule 6 into Act 53. The proposed amendment provides for an exemption on any awards for long service, past achievement or service excellence, whether in money or otherwise, received by the employee subject to a maximum amount of one thousand ringgit. However, in the case of long service award the exemption is only given after the employee has exercised his employment for more than ten years with the same employer.

These amendments have effect for the year of assessment 2007 and subsequent years of assessment.

Clause 32 also seeks to amend paragraph 33 of Schedule 6 to Act 53. With the proposed amendment, exemption of interest received by any person not resident in Malaysia is extended not only in respect of interest paid or credited by an institution under the Banking and Financial Institutions Act 1989 but also by a person licensed under the Islamic Banking Act 1983 (“Act 276”) or by any other institution approved by the Minister.

This amendment is deemed to have come into operation on 2 September 2006.

Clause 32 further seeks to amend paragraph 34 of Schedule 6 to Act 53 to exempt any income received from employment on board a ship on a condition that the operator of the ship is a registered owner of a ship under the Merchant Shipping Ordinance 1952 (“Ord. 70/1952”).

This amendment has effect for the year of assessment 2007 and subsequent years of assessment.

25. *Clause 33* seeks to amend paragraphs 5 and 16 of Schedule 7 to Act 53 to provide that for the purpose of ascertaining the bilateral credit under the Schedule, the proportion of the foreign income referred to in paragraph 5 is the statutory income in respect of the foreign income. The proposed amendment also provides that in the case of bilateral credit the foreign income shall constitute income derived from outside and includes income derived from Malaysia charged to foreign tax.

These amendments have effect for the year of assessment 2007 and subsequent years of assessment.

26. *Clause 34* seeks to amend paragraph 3 of Schedule 7A to Act 53 to include Perlis as a promoted area.

This amendment is deemed to have come into operation on 2 September 2006.

AMENDMENTS TO THE REAL PROPERTY GAINS TAX ACT 1976

Chapter III of this Bill seeks to amend the Real Property Gains Tax Act 1976.

27. *Clause 37* seeks to amend paragraph 15(3)(a) of Act 169. The proposed amendment is to empower the Director General of Inland Revenue to make an assessment within a period of six years after a determination by the court in a case where the court decides that income on any disposal of asset is not subject to tax under Act 53.

This amendment comes into operation on the coming into operation of this Act.

28. *Clause 38* seeks to amend paragraph 16 Schedule 2 to Act 169. With the proposed amendment, the disposal date for a conditional contract shall be the date the approval is obtained if the Government's or any appropriate authority's approval is required. However, if the approval is subject to conditions, the disposal shall take place when the last of all such conditions is satisfied.

Clause 38 also seeks to introduce a new paragraph 17A of Schedule 2 into Act 169. With the proposed amendment, if a person transfers an asset of his to his trading stock, the transfer will constitute a disposal under Act 169. The disposal price will be the market value at the date the asset is transferred to stock.

These amendments are deemed to have come into operation on 2 September 2006.

AMENDMENTS TO THE STAMP ACT 1949

Chapter IV of this Bill seeks to amend the Stamp Act 1949.

29. *Clause 40* seeks to amend section 2 of Act 378. The proposed amendment seeks to introduce a definition of "small and medium enterprise" into Act 378.

This amendment is deemed to have come into operation on 2 September 2006.

30. *Clause 41* seeks to amend section 5A of Act 378. With the proposed amendment, small and medium enterprises shall enjoy new stamp duty rates as introduced in the amendment to item 27 of the First Schedule to Act 378.

This amendment is deemed to have come into operation on 2 September 2006.

31. *Clause 42* seeks to amend subsection 7(1) of Act 378 to provide that any payment of duty on any instrument may be indicated by means of adhesive stamp or affixing an official receipt to such instrument.

This amendment is deemed to have come into operation on 2 September 2006.

32. *Clause 43* seeks to amend section 9 of Act 378. With the proposed amendment, a banker, dealer or insurer shall keep records, books or documents relating to the issuance of cheques, contract notes or policies of insurance for a period of seven years from the date of issuance of those documents.

This amendment is deemed to have come into operation on 2 September 2006.

33. *Clause 44* seeks to amend section 57 of Act 378 to delete the references to bills of exchange in paragraphs (c) and (e) since it is no longer relevant and applicable under this Act.

This amendment is deemed to have come into operation on 2 September 2006.

34. *Clause 45* seeks to amend subsection 80(1A) of Act 378 to provide that the Minister may exempt, reduce or remit duty imposed on all instruments in relation to any scheme.

Clause 45 also seeks to amend subsection 80(3) of Act 378 to empower the Minister to give exemption, reduction or remission under subsection (1A) retrospectively.

These amendments are deemed to have come into operation on 2 September 2006.

35. *Clause 46* seeks to amend item 27 to the First Schedule of Act 378 to introduce new stamp duty rates applicable to loan instruments executed by small and medium enterprises.

This amendment is deemed to have come into operation on 2 September 2006.

AMENDMENTS TO THE PETROLEUM (INCOME TAX) ACT 1967

Chapter V of this Bill seeks to amend the Petroleum (Income Tax) Act 1967.

36. *Clause 49* seeks to amend subsection 22(1) of Act 543 to increase the maximum amount allowed as a deduction for any donation made in accordance with that subsection from five per cent to seven per cent of the statutory income of the chargeable person.

Clause 49 also seeks to introduce new subsections 22(1E) and (1F) into Act 543. The proposed new subsections provide for a deduction equal to any gift of money or cost of contribution made by a chargeable person for any sports activity or project of national interest approved by the Minister or to any sports body approved by the Commissioner of Sports. However, the total amount of deduction to be allowed pursuant to those subsections and subsection (1) shall not exceed seven per cent of the statutory income of that person.

These amendments have effect for the year of assessment 2008 and subsequent years of assessment.

AMENDMENTS TO THE SALES TAX ACT 1972

Chapter VI of this Bill seeks to amend the Sales Tax Act 1972.

37. Chapter VI of this Bill seeks to amend paragraph 31c(1)(b) and subsection 31c(4) of Act 64. The proposed amendment is to enable a taxable person to obtain faster refund of the amount of sales tax unable to be recovered by him from his client by extending the provision to include such amount provided as doubtful debt in his accounts.

This amendment comes into operation on 1 January 2007.

AMENDMENTS TO THE SERVICE TAX ACT 1975

Chapter VII of this Bill seeks to amend the Service Tax Act 1975.

38. Chapter VII of this Bill seeks to amend paragraph 21B(1)(b) and subsection 21B(4) of Act 151. The proposed amendment is to enable a taxable person to obtain faster refund of the amount of service tax unable to be recovered by him from his client by extending the provision to include such amount provided as doubtful debt in his accounts.

This amendment comes into operation on 1 January 2007.

GENERAL

39. Other amendments not specifically dealt with in this Statement are minor or consequential in nature.

FINANCIAL IMPLICATIONS

This Bill will not involve the Government in any extra financial expenditure.

[PN(U²)2558]

Hakcipta Pencetak H

PERCETAKAN NASIONAL MALAYSIA BERHAD

Semua Hak Terpelihara. Tiada mana-mana bahagian jua daripada penerbitan ini boleh diterbitkan semula atau disimpan di dalam bentuk yang boleh diperolehi semula atau disiarkan dalam sebarang bentuk dengan apa jua cara elektronik, mekanikal, fotokopi, rakaman dan/atau sebaliknya tanpa mendapat izin daripada Percetakan Nasional Malaysia Brhad (Pencetak kepada Kerajaan Malaysia yang dilantik).



DICETAK OLEH
PERCETAKAN NASIONAL MALAYSIA BERHAD,
CAWANGAN KUALA LUMPUR
BAGI PIHAK DAN DENGAN PERINTAH KERAJAAN MALAYSIA