



LAWS OF MALAYSIA

REPRINT

Act 619

FINANCE ACT 2002

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FINANCE ACT 2002

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LAWS OF MALAYSIA**Act 619****FINANCE ACT 2002**

ARRANGEMENT OF SECTIONS

CHAPTER I**PRELIMINARY**

Section

1. Short title
2. Amendments 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 34
5. Amendment of section 39
6. Amendment of section 75
7. Amendment of Schedule 1
8. Amendment of Schedule 3
9. Special provision relating to paragraph 16 of Schedule 3
10. Amendment of Schedule 7A

CHAPTER III**AMENDMENTS TO THE PETROLEUM (INCOME TAX)
ACT 1967**

11. Commencement of amendments to the Petroleum (Income Tax) Act 1967
12. Amendment of section 16

Section

13. Amendment of section 18
14. Amendment of Second Schedule
15. Special provision relating to paragraph 13 of Second Schedule

CHAPTER IV

AMENDMENTS TO THE STAMP ACT 1949

16. Commencement of amendments to the Stamp Act 1949
17. Amendment of section 9
18. New section 38A
19. Amendment of section 39
20. Amendment of section 47A
21. Amendment of First Schedule

LAWS OF MALAYSIA**Act 619****FINANCE ACT 2002**

An Act to amend the Income Tax Act 1967, the Petroleum (Income Tax) Act 1967 and the Stamp Act 1949.

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ENACTED by the Parliament of Malaysia as follows:

CHAPTER I**PRELIMINARY****Short title**

1. This Act may be cited as the Finance Act 2002.

Amendments of Acts

2. The Income Tax Act 1967 [*Act 53*], the Petroleum (Income Tax) Act 1967 [*Act 543*] and the Stamp Act 1949 [*Act 378*] are amended in the manner specified in Chapters II, III and IV respectively.

CHAPTER II**AMENDMENTS TO THE INCOME TAX ACT 1967****Commencement of amendments to the Income Tax Act 1967**

3. (1) Sections 4, 5, 7, paragraphs 8(*a*), 8(*b*), 8(*d*), 8(*e*), 8(*f*), 8(*g*), 8(*h*), 8(*i*), 8(*j*), 8(*l*) and 8(*m*), section 9 and paragraphs 10(*a*), 10(*b*) and 10(*c*) of this Chapter shall have effect for the year of assessment 2002 and subsequent years of assessment.

(2) Paragraph 8(c) of this Chapter shall be deemed to have come into operation on 1 January 2000 and shall have effect for the year of assessment 2000 in respect of the basis period ending in the year 2000 and subsequent years of assessment.

(3) Paragraph 37F of Schedule 3 to the Income Tax Act 1967, which in this Chapter is referred to as the “principal Act”, as inserted by paragraph 8(k) of this Chapter shall have effect for the year of assessment 2002 and subsequent years of assessment.

(4) Paragraphs 37G and 37H of Schedule 3 to the principal Act as inserted by paragraph 8(k) of this Chapter shall be deemed to have effect for the year of assessment 2001 and subsequent years of assessment.

(5) Paragraph 10(d) shall be deemed to have effect for the year of assessment 1998 and subsequent years of assessment.

Amendment of section 34

4. The principal Act is amended in subsection 34(6)—
- (a) in paragraph (l), by deleting the word “and” at the end of proviso (b);
 - (b) by substituting for the full stop at the end of paragraph (m) the words “; and”; and
 - (c) by inserting after paragraph (m) the following paragraph:
 - “(n) an amount equal to the expenditure incurred by a person in the relevant period on the provision of practical training in Malaysia, in relation to his business, to an individual who is—
 - (i) resident in the basis year for a year of assessment; and
 - (ii) not an employee of that person.”.

Amendment of section 39

5. Section 39 of the principal Act is amended in subsection (1)—
- (a) by deleting paragraph (h); and

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

“(k) any sum paid by way of rentals in respect of a motor vehicle, other than a motor vehicle licensed by the appropriate authority for commercial transportation of goods or passengers, in excess of fifty thousand ringgit:

Provided that if the motor vehicle has not been used by any person for any purpose prior to the rental and the total cost of the motor vehicle does not exceed one hundred and fifty thousand ringgit, any sum paid by way of rental in excess of one hundred thousand ringgit:

Provided further that the maximum amount of deduction in respect of the rentals of such motor vehicle in the year of assessment and subsequent years of assessment shall not in the aggregate exceed fifty thousand ringgit or one hundred thousand ringgit, as the case may be, in respect of that motor vehicle;”.

Amendment of section 75

6. Section 75 of the principal Act is amended in subsection (1)—

- (a) by substituting for the word “Responsibility” the words “Notwithstanding anything to the contrary to this Act or any other written law, the responsibility”; and
- (b) by inserting after the words “for the purposes of this Act” the words “including the payment of tax”.

Amendment of Schedule 1

7. Schedule 1 to the principal Act is amended—

- (a) in Part I in paragraph 1, by substituting for the existing rates the following rates:

<i>“Chargeable Income</i>	<i>RM</i>	<i>Rate of Income Tax</i>
For every ringgit of the first	2,500	0 per cent
For every ringgit of the next	2,500	1 per cent

<i>“Chargeable Income</i>	<i>RM</i>	<i>Rate of Income Tax</i>
For every ringgit of the next	15,000	3 per cent
For every ringgit of the next	15,000	7 per cent
For every ringgit of the next	15,000	13 per cent
For every ringgit of the next	20,000	19 per cent
For every ringgit of the next	30,000	24 per cent
For every ringgit of the next	150,000	27 per cent
For every ringgit exceeding	250,000	28 per cent”;

- (b) in Part I in paragraph 1A, by substituting for the word “29” the word “28”; and
- (c) in Part IV, by substituting for the existing rates the following rates:

<i>“Chargeable Income</i>	<i>RM</i>	<i>Rate of Income Tax</i>
For every ringgit of the first	20,000	0 per cent
For every ringgit of the next	10,000	3 per cent
For every ringgit of the next	10,000	6 per cent
For every ringgit of the next	10,000	9 per cent
For every ringgit of the next	25,000	12 per cent
For every ringgit of the next	25,000	16 per cent
For every ringgit of the next	50,000	20 per cent
For every ringgit of the next	100,000	23 per cent
For every ringgit of the next	250,000	26 per cent
For every ringgit exceeding	500,000	28 per cent”.

Amendment of Schedule 3

8. Schedule 3 to the principal Act is amended—

- (a) in paragraph 3, by substituting for the word “4” the word “3A”;

(b) by inserting after paragraph 3 the following paragraph:

“3A. (1) Subject to subparagraph (2), where a building is purchased for use as an industrial building from a person who constructed that building and that building has not been used by any person for any purpose prior to the purchase, then, for the purposes of this Schedule—

- (a) the purchaser shall be deemed to have constructed that building and deemed to have incurred capital expenditure on the construction of that building;
- (b) the purchase price shall be deemed to be the capital expenditure incurred on the construction of that building; and
- (c) the date of that purchase shall be deemed to be the date of construction of that building.

(2) The capital expenditure incurred by the person who constructed the building and the date of construction of that building by that person to which regard would be had but for this subparagraph shall be disregarded for the purposes of this Schedule.”;

(c) in paragraph 5—

- (i) in subparagraph (1) by substituting for the word “In” the words “Subject to subparagraph (1A), in”;
- (ii) in subsubparagraph (1)(a)—
 - (A) by substituting for the word “following” the word “from”; and
 - (B) by substituting for the words “including the particular” the words “including the immediately preceding”; and
- (iii) by inserting after subparagraph (1) the following subparagraph:

“(1A) Where the purchased building referred to in subparagraph (1) is constructed prior to 1

January 2000 and that building was first used after its purchase as an industrial building—

- (a) in the year of assessment 2000, all annual allowances referred to in subsubparagraph (1)(a) shall be allowances which could have been claimed or made for the year of assessment following the year of assessment in which the expenditure on the construction of that building was incurred up to and including the year of assessment 2000 (preceding year basis); or
 - (b) in the year of assessment 2001 or any subsequent year of assessment, all annual allowances referred to in subsubparagraph (1)(a) shall be allowances which could have been claimed or made for the year of assessment following the year of assessment in which the expenditure on the construction of that building was incurred up to and including the year of assessment immediately preceding, the year of assessment 2001 or any subsequent year of assessment in which that building was first used after its purchase as an industrial building, and for the avoidance of doubt, the allowance for the year of assessment 2000 shall consist of the allowances for the year of assessment 2000 (preceding year basis) and year of assessment 2000 (current year basis).”;
- (d) in paragraph 12, by inserting after the word “construction” the words “or purchase”;
- (e) in paragraph 14, by substituting for the word “17” the word “16A”;
- (f) by deleting paragraph 15A;
- (g) in paragraph 16—
- (i) by inserting after the word “construction” the words “or purchase”; and
 - (ii) by substituting for the word “one-fiftieth” the word “three-hundredth”;

- (h) by deleting paragraph 17;
- (i) in paragraph 18, by substituting for the words “15, 16 or 17” the words “15 or 16”;
- (j) in paragraph 37C, by substituting for the words “12, 16 or 17” the words “12 or 16”;
- (k) by inserting after paragraph 37E the following paragraphs:

“Qualifying expenditure: Building used for hotel

37F. The provisions of this Schedule relating to industrial buildings shall apply, *mutatis mutandis*, to a building or part thereof used by a person solely for the purpose of an hotel and that hotel is registered with the Ministry of Culture, Arts and Tourism.

Qualifying expenditure: Airport

37G. The provisions of this Schedule relating to industrial buildings shall apply, *mutatis mutandis*, to an airport and the reference to capital expenditure incurred in relation to that airport shall include the capital expenditure on the construction, reconstruction, extension, improvement or purchase of any building, runway or ancillary structures.

Qualifying expenditure: Motor racing circuit

37H. The provisions of this Schedule relating to industrial buildings shall apply, *mutatis mutandis*, to a motor racing circuit approved by the Minister and the reference to capital expenditure incurred in relation to that motor racing circuit shall include the capital expenditure on the construction, reconstruction, extension or improvement of that motor racing circuit or ancillary structures.”;

- (l) in paragraphs 42A, 42B and 42C, by deleting the words “, 17”; and
- (m) in subparagraph 65(3), by deleting the words “, hotel”.

Special provision relating to paragraph 16 of Schedule 3

9. Notwithstanding the provisions of paragraph 16 of Schedule 3 to the principal Act, where an annual allowance has been made to a person in respect of a purchased building, and that allowance has been calculated based on a permitted fraction under paragraph 17 of Schedule 3 to the principal Act before the coming into operation of the deletion of that paragraph under paragraph 8(h) of this Act, which is higher than three-hundredth, the annual allowance for a year of assessment for that building shall be calculated based on the higher fraction and that allowance shall not exceed the amount of the residual expenditure at the end of the basis period for that year of assessment.

Amendment of Schedule 7A

10. Schedule 7A to the principal Act is amended—

- (a) in paragraph 1, by substituting for the word “Where” the words “Subject to this Schedule, where”;
- (b) in paragraph 1A, by substituting for the word “Where” the words “Subject to this Schedule, where”;
- (c) by inserting after paragraph 1A the following paragraph:

“1B. (1) Subject to subparagraph (2), where a company (in this paragraph referred to as “the acquirer”) has incurred capital expenditure in respect of an asset for the purposes of a qualifying project and that asset is acquired from another company (in this paragraph referred to as “the disposer”) and at the time of the acquisition—

- (a) the acquirer of the asset is a person over whom the disposer of the asset has control;
- (b) the disposer of the asset is a person over whom the acquirer of the asset has control;
- (c) some other person has control over the acquirer and disposer of the asset; or
- (d) the acquisition is effected in consequence of a scheme of reconstruction or amalgamation of companies,

the acquirer shall be deemed to have incurred that capital expenditure on the asset on the first day of the disposer's final period, of an amount equal to the amount of residual expenditure ascertained under subparagraph (3).

(2) Where the disposer incurred capital expenditure in relation to the asset referred to in subparagraph (1) on or after the first day of the disposer's final period, the acquirer shall be deemed to have incurred capital expenditure on the asset on the day that disposer incurred capital expenditure, of an amount equal to the amount of capital expenditure incurred by that disposer.

(3) For the purposes of subparagraph (1), residual expenditure in relation to an asset shall be the capital expenditure incurred by the disposer reduced by the amount of allowances on that asset under Schedule 3 that has been made or would have been made to the disposer in the basis period or periods before the first day of the disposer's final period.

(4) In this paragraph—

“asset” means a factory, plant or machinery referred to in paragraph 1, or plant, machinery or building referred to in the definition of “capital expenditure” in paragraph 9;

“control”, in relation to a company, means the power of a person to secure, by means of the holding of shares or the possession of voting power in or in relation to that or any other company, or by virtue of any powers conferred by the articles of association or other document regulating that or any other company, that the affairs of the first-mentioned company are conducted in accordance with the wishes of that person;

“the disposer's final period”, in relation to the disposal and acquisition of an asset, means the basis period (appropriate to the disposer's business for the purposes of which expenditure has been incurred in relation to the asset) for the year of assessment which coincides

with the first year of assessment for which an allowance under Schedule 3 may be made to the acquirer in relation to the asset if it is used for the purposes of a business carried on by the acquirer or as an industrial building.”; and

- (d) in paragraph 2, by substituting for the word “five” the word “fifteen”.

CHAPTER III

AMENDMENTS TO THE PETROLEUM (INCOME TAX) ACT 1967

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

11. Sections 12, 13, 14 and 15 shall have effect for the year of assessment 2002 and subsequent years of assessment.

Amendment of section 16

12. The Petroleum (Income Tax) Act 1967, which in this Chapter is referred to as the “principal Act”, is amended in section 16 by inserting after subsection (7G) the following subsection:

“(7H) There shall be deducted from the relevant gross income an amount equal to the expenditure incurred by the relevant chargeable person in the relevant period on the provision of practical training in Malaysia, in relation to his business, to an individual who is—

- (a) resident in the basis year for a year of assessment; and
- (b) not an employee of that person.”.

Amendment of section 18

13. Section 18 of the principal Act is amended—

- (a) by deleting paragraph (1)(l); and

(b) by substituting for paragraph (1)(m) the following paragraph:

“(m) any sum paid by way of rentals in respect of a motor vehicle, other than a motor vehicle licensed by the appropriate authority for commercial transportation of goods or passengers, in excess of fifty thousand ringgit:

Provided that if the motor vehicle has not been used by any person for any purpose prior to the rental and the total cost of the motor vehicle does not exceed one hundred and fifty thousand ringgit, any sum paid by way of rental in excess of one hundred thousand ringgit:

Provided further that the maximum amount of deduction in respect of the rentals of such motor vehicle in the year of assessment and subsequent years of assessment shall not in the aggregate exceed fifty thousand ringgit or one hundred thousand ringgit, as the case may be, in respect of that motor vehicle.”.

Amendment of Second Schedule

14. The Second Schedule to the principal Act is amended—

(a) in paragraph 3, by substituting for the word “4” the word “3A”;

(b) by inserting after paragraph 3 the following paragraph:

“3A. (1) Subject to subparagraph (2), where a building is purchased for use as an industrial building from a person who constructed that building and that building has not been used by any person for any purpose prior to the purchase, then, for the purposes of this Schedule—

(a) the purchaser shall be deemed to have constructed that building and deemed to have incurred capital expenditure on the construction of that building;

(b) the purchase price shall be deemed to be the capital expenditure incurred on the construction of that building; and

(c) the date of that purchase shall be deemed to be the date of the construction of that building.

(2) The capital expenditure incurred by a chargeable person who constructed the building and the date of construction of that building by that person to which regard would be had but for this subparagraph shall be disregarded for the purposes of this Schedule.”;

- (c) in paragraph 9, by inserting after the word “construction” the words “or purchase”;
- (d) in paragraph 11, by substituting for the words “to 14” the words “and 13”;
- (e) in paragraph 13—
 - (i) by inserting after the word “construction” the words “or purchase”; and
 - (ii) by substituting for the word “two” the word “three”;
- (f) by deleting paragraph 14; and
- (g) in paragraph 15, by deleting the words “or 14”.

Special provision relating to paragraph 13 of Second Schedule

15. Notwithstanding the provision of paragraph 13 of the Second Schedule to the principal Act, where an annual allowance has been made to a chargeable person in respect of a purchased building, and that allowance has been calculated based on a permitted fraction under paragraph 14 of the Second Schedule to the principal Act before coming into operation of the deletion of that paragraph under paragraph 14(f) of this Act, which is higher than three per cent, the annual allowance for a year of assessment for that building shall be calculated based on the higher fraction and that allowance shall not exceed the amount of the residual expenditure at the end of the basis period for that year of assessment.

CHAPTER IV

AMENDMENTS TO THE STAMP ACT 1949

Commencement of amendments to the Stamp Act 1949

16. Sections 17, 18, 19, 20 and 21 shall have effect from 1 January 2002.

Amendment of section 9

17. The Stamp Act 1949, which in this Chapter is referred to as the “principal Act”, is amended in subsection 9(3), by substituting for the words “Minister of Finance” the word “Collector”.

New section 38A

18. The principal Act is amended by inserting after section 38 the following section:

“Notice of objection

38A. (1) Any person who is dissatisfied with an assessment of the Collector under section 36 may, by written notice (referred to in this Act as “notice of objection”), object to the assessment and apply to the Collector to review the assessment.

(2) Every notice of objection shall state the grounds of objection to the Collector’s assessment and shall be made within thirty days after the date of the assessment or such further period as the Collector may allow in any particular case.

(3) The person giving a notice of objection shall furnish further particulars and information in relation to the grounds of the objection if required to do so by the Collector in writing.

(4) The Collector shall, on receipt of a notice of objection and such further particulars and information as he may require under subsection (3), review the assessment.

(5) After the objection has been determined, the Collector shall notify the person in writing of his decision.

(6) Where, on review, it appears to the Collector that the amount of duty originally assessed is excessive, he may cancel the original assessment and make such other assessment in substitution of the original assessment and shall serve on the person a notice of substituted assessment.

(7) The making of an objection shall not relieve the person of liability to pay the duty as required by this Act.

(8) Any reference in this Act to an assessment shall be construed as including a reference to a substituted assessment under subsection (6).”.

Amendment of section 39

19. Section 39 of the principal Act is amended—

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

“(1) Any person who is dissatisfied with the decision of the Collector under section 38A(5) may, within twenty-one days after the person is notified in writing of that decision and upon payment of duty in conformity therewith, appeal against the decision to the High Court by filing a notice of appeal with the High Court and may for that purpose require the Collector to state and sign a case, setting forth the question upon which his opinion was required, and the decision made by him.”; and

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

“(1A) Where a notice of appeal has been filed under subsection (1), the notice shall be served on the Collector within the time stipulated for the filing of the notice of appeal.”.

Amendment of section 47A

20. Section 47A of the principal Act is amended by substituting for subsection (2) the following subsection:

“(2) The Collector may, if he thinks fit, reduce or remit such penalty or the further amount payable under paragraph 9(1)(c).”.

Amendment of First Schedule

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

- (a)* in paragraph 27(*d*), by substituting for the words “borrowing company in Malaysia approved by the Minister of Finance” the words “finance company licensed under the Banking and Financial Institutions Act 1989 or under the Islamic Banking Act 1983 or a scheduled institution as defined under section 2 of the Banking and Financial Institutions Act 1989”; and
 - (b)* in paragraph 32(*c*), by substituting for the words “borrowing company in Malaysia approved by the Minister of Finance” the words “finance company licensed under the Banking and Financial Institutions Act 1989 or under the Islamic Banking Act 1983 or a scheduled institution as defined under section 2 of the Banking and Financial Institutions Act 1989”.
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LAWS OF MALAYSIA

Act 619

FINANCE ACT 2002

LIST OF AMENDMENTS

Amending law

Short title

In force from

– NIL –

LAWS OF MALAYSIA**Act 619****FINANCE ACT 2002****LIST OF SECTIONS AMENDED**

Section	Amending authority	In force from
	– NIL –	

