D.R. 5/2009

RANG UNDANG-UNDANG

b e r n a m a

Suatu Akta untuk meminda Akta Cukai Pendapatan 1967.

[ ]

DIPERBUAT oleh Parlimen Malaysia seperti yang berikut:

Tajuk ringkas dan permulaan kuat kuasa

1. (1) Akta ini bolehlah dinamakan Akta Cukai Pendapatan (Pindaan) 2009.

(2) Seksyen 2, 3 dan 4 disifatkan berkuat kuasa bagi tahun taksiran 2008, 2009 dan 2010.

(3) Seksyen 5 dan 6 berkuat kuasa bagi tahun taksiran 2009 dan tahun-tahun taksiran yang berikutnya.

(4) Seksyen 7 disifatkan telah mula berkuat kuasa pada 1 Julai 2008.

Pindaan seksyen 44

2. Akta Cukai Pendapatan 1967 [*Akta 53*], yang disebut "Akta ibu" dalam Akta ini, dipinda dalam subseksyen 44(1)—

(a) dalam perenggan *(d)*, dengan memotong perkataan "and" di hujung perenggan itu;

(b) dalam perenggan *(e)*—

(i) dengan menggantikan perkataan "thereafter" dengan perkataan "next"; dan

(ii) dengan menggantikan noktah di hujung perenggan itu dengan perkataan "; and"; dan

(c) dengan memasukkan selepas perenggan *(e)* perenggan yang berikut:

"*(f)* thereafter, by any deduction falling to be so made pursuant to section 44B.".

Seksyen baru 44B

3. Akta ibu dipinda dengan memasukkan selepas seksyen 44A seksyen yang berikut:

"**Carry-back losses**

44B. (1) In this section—

"adjusted loss" means the amount or aggregate amount of the adjusted loss of a person from a source of his or the excess of that amount for the basis period for a year of assessment as ascertained under subsection 44(4) or 44(5);

"defined aggregate income", in relation to a year of assessment, means the aggregate income of the person for that year reduced by any deduction made pursuant to paragraphs *(a)*, *(b)*, *(c)*, *(d)*, and *(e)* of subsection 44(1);

"immediately preceding", in relation to a year of assessment, means—

(a) for the year of assessment 2009, the year of assessment 2008; and

(b) for the year of assessment 2010, the year of assessment 2009.

(2) Subject to subsection (6), this section shall apply if—

(a) the basis period of a person for the year of assessment 2009 or 2010 and the basis period for the year

of assessment immediately preceding the year of assessment 2009 or 2010 ends on the same day; and

(b) that person is subject to tax at the appropriate rate as specified in paragraph 1, 1A, 2 or 2A of Part I of Schedule 1.

(3) Subject to this section, where a person has made an irrevocable election under subsection (4), the amount of the adjusted loss of that person from a source of his for the basis period for a year of assessment 2009 or 2010, other than the adjusted loss surrendered by that person pursuant to section 44A, shall be allowed as a deduction in ascertaining the total income of that person for a year of assessment immediately preceding the year of assessment 2009 or 2010, in accordance with subsection 44(1).

(4) For the purpose of subsection (3), a person shall make an irrevocable election, either for the year of assessment 2009 or 2010, in the return furnished for the year of assessment 2009 or 2010 to deduct an amount of the adjusted loss from a source of his for the basis period for that year of assessment in ascertaining the total income of that person for the year of assessment immediately preceding the year of assessment 2009 or 2010.

(5) The amount of adjusted loss of a person from a source of his for the basis period for a year of assessment 2009 or 2010 to be deducted pursuant to subsection (3)—

(a) shall not exceed one hundred thousand ringgit; or

(b) where the amount of the defined aggregate income for the year of assessment immediately preceding the year of assessment 2009 or 2010 is less than one hundred thousand ringgit, shall not exceed the amount of the defined aggregate income.

(6) The provisions of this section shall not apply to a person if during the basis period for a year of assessment 2009 or 2010 and the basis period for a year of assessment immediately preceding the year of assessment 2009 or 2010, that person—

(a) is a pioneer company or has been granted approval for investment tax allowance under the Promotion of Investments Act 1986;

(b) is exempt from tax on its income under section 54A, paragraph 127(3)*(b)* or subsection 127(3A), or tax paid or payable by that person for that year of assessment is remitted under section 129;

(c) has made a claim for a reinvestment allowance under Schedule 7A;

(d) has made a claim for deduction in respect of an approved food production project under the Income Tax (Deduction for Investment in an Approved Food Production Project) Rules 2006 [*P.U. (A) 55/2006*];

(e) has made a claim for deduction under the Income Tax (Deduction for Cost of Acquisition of Proprietary Rights) Rules 2002 [*P.U. (A) 63/2002*];

(f) has made a claim for deduction under the Income Tax (Deduction for Cost of Acquisition of a Foreign Owned Company) Rules 2003 [*P.U. (A) 310/2003*];

(g) has made a claim for deduction under any rules made under section 154, other than the rules specified in paragraphs *(d)*, *(e)* and *(f)*, and those rules made under section 154 provide that this section shall not apply to that person;

(h) is an investment holding company under section 60FA;

(i) carries on insurance business under section 60, inward re-insurance business under section 60A or offshore insurance business under section 60B;

(j) carries on takaful business under section 60AA; or

(k) in the case of an individual, has no source consisting of a business.

(7) Where in the basis year for a year of assessment the Director General discovers that the adjusted loss referred to in subsection (3) ought not to have been deducted in arriving at the total income of a person for the year of assessment immediately preceding the year of assessment 2009 or 2010, the Director General may in the first-mentioned year or within six years after its expiration—

(a) make an assessment or additional assessment in respect of that person in order to make good any loss of tax; and

(*b*) require that person to pay a penalty equal to the amount of tax, which had or would have been undercharged by that person, pursuant to an assessment made under paragraph *(a)*.

(8) For the avoidance of doubt—

(*a*) the amount of adjusted loss which has been allowed as a deduction pursuant to this section shall be disregarded for the purpose of ascertaining the aggregate income of a person for a year of assessment immediately following the year of assessment 2009 or 2010 under subsection 43(2); and

(*b*) the provisions of this Act shall apply to the balance of the adjusted loss (if any) of a person which has not been allowed as a deduction pursuant to this section.".

Kesan baki 108 dan baki 108 tersemak ke atas potongan di bawah seksyen 44B Akta ibu

4. Walau apa pun peruntukan seksyen 46 Akta Kewangan 2007 [*Akta 683*], apa-apa amaun cukai yang dibayar balik berkenaan dengan apa-apa cukai yang dilepaskan bagi tahun taksiran sebelum tahun taksiran 2009 berbangkit daripada apa-apa potongan yang dibenarkan menurut seksyen 44B Akta ibu, tidak akan mengurangkan baki 108 atau baki 108 tersemak sesuatu syarikat di bawah seksyen 46 Akta Kewangan 2007.

Seksyen baru 46B

5. Akta ibu dipinda dengan memasukkan selepas seksyen 46 seksyen yang berikut:

"**Deduction for individual on interest expended**

46B. (1) Subject to this section, in the case of an individual who is a citizen and resident for the basis year for the relevant year, there shall be allowed for that relevant year personal deduction in respect of interest expended in that basis year by the individual to finance the purchase of a residential property:

Provided that—

(a) the purchase of the residential property is limited to only one unit;

(b) the Sale and Purchase Agreement for the purchase has been executed on or after 10 March 2009 but not later than 31 December 2010; and

(c) the individual has not derived any income in respect of that residential property.

(2) Subject to subsection (3), there shall be allowed to that individual a deduction for a maximum amount of ten thousand ringgit for each basis year for a year of assessment for a period of three consecutive basis years beginning from the basis year in which the interest referred to in subsection (1) is first expended by that individual.

(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:

$$A \times \frac{B}{C}$$

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.

(4) For the purposes of subsection (1), any amount expended by the wife or the husband in the relevant year—

(a) where subsection 45(2) applies, shall be deemed to have been expended by the husband of the wife who elects or by the wife of the husband who elects, as the case may be; or

(b) where the wife or the husband has no total income, shall be deemed to have been expended by the husband of that wife or the wife of that husband, as the case may be:

Provided that where paragraph 45(2)*(b)* applies or where the husband has no total income, any amount expended by the husband shall be deemed to have been expended by the wife who has been allowed a deduction under section 45A.

(5) For the purposes of this section, "residential property" means a house, condominium unit, apartment or flat which is built as a dwelling house.".

Pindaan Jadual 3

6. Jadual 3 Akta ibu dipinda—

(a) dengan memasukkan selepas perenggan 8 perenggan yang berikut:

"*Qualifying renovation or refurbishment expenditure*

8A. (1) Subject to this Schedule, qualifying renovation or refurbishment expenditure for the purposes of this Schedule is capital expenditure incurred by a person on renovation or refurbishment of a premises which is used for the purpose of a business of his.

(2) For the purposes of this Schedule, the qualifying renovation or refurbishment expenditure shall be an amount incurred by a person between the period from 10 March 2009 to 31 December 2010 and the total amount of expenditure for that period in respect of all of his sources consisting of a business shall not exceed one hundred thousand ringgit.

(3) Qualifying renovation or refurbishment expenditure does not include—

(a) expenditure which is qualifying plant expenditure for the purposes of this Schedule;

(b) expenditure which is qualifying agriculture expenditure for the purposes of this Schedule;

(c) expenditure which is qualifying forest expenditure for the purposes of this Schedule; and

(d) expenditure which is qualifying mining expenditure for the purposes of Schedule 2.

8B. For the purpose of paragraphs 8A and 32B of this Schedule renovation or refurbishment expenditure shall be an expenditure prescribed by the Minister.";

(b) dengan memasukkan selepas perenggan 32 perenggan yang berikut:

"*Renovation or refurbishment allowances*

32A. (1) Subject to this Schedule, where in the basis period for a year of assessment a person has for the purposes of a business of his incurred qualifying renovation or refurbishment expenditure, there shall be made to him in relation to the source consisting of that business for that year and the immediate following year of assessment an allowance equal to one-half of that expenditure.

(2) No renovation or refurbishment allowances shall be made to a person for a year of assessment and a business of his, if at the end of the basis period for that year of assessment the premises which has been renovated or refurbished is not in use by that person for the purpose of his business.

32B. Subject to paragraph 8A, where a person incurs between the period from 10 March 2009 to 31 December 2010 capital expenditure on renovation or refurbishment of a premises which is used for the purpose of a business and such capital expenditure qualifies both as qualifying renovation or refurbishment expenditure and qualifying building expenditure, that person shall elect to claim an allowance in respect of that capital expenditure as qualifying renovation or refurbishment expenditure, or qualifying building expenditure.";

(c) dalam perenggan 54, dengan memasukkan selepas perkataan "qualifying forest expenditure" perkataan "or qualifying renovation or refurbishment expenditure"; dan

(d) dalam perenggan 71, dengan menggantikan perkataan "(except by reason of the death of that person), the Director General may direct" dengan perkataan ", except by reason of the death of that person or any other reasons as the Director General thinks appropriate,".

Pindaan Jadual 6

7. Jadual 6 Akta ibu dipinda dalam subperenggan 15(1) dengan menggantikan subsubperenggan *(b)* dengan subsubperenggan yang berikut:

"*(b)* in the case of a payment made in connection with a period of employment with the same employer or with companies in the same group, in respect of so much of the payments as does not exceed an amount ascertained by multiplying the sum of ten thousand ringgit by the number of completed years of service with that employer or those companies:

Provided that this subsubparagraph shall apply to the payment made in respect of an individual who has ceased employment on or after 1 July 2008.".

HURAIAN

Rang Undang-Undang ini bertujuan untuk meminda Akta Cukai Pendapatan 1967 ("Akta 53").

1. *Fasal 2* bertujuan untuk meminda seksyen 44 Akta 53 bagi mengadakan peruntukan mengenai kerugian larasan yang boleh dibawa ke belakang sebagai potongan untuk mendapatkan jumlah pendapatan seseorang.

Pindaan ini disifatkan berkuat kuasa bagi tahun taksiran 2008, 2009 dan 2010.

2. *Fasal 3* bertujuan untuk memasukkan seksyen baru 44B ke dalam Akta 53. Peruntukan yang dicadangkan ini membolehkan seseorang untuk membawa ke belakang kerugian larasannya bagi tahun taksiran 2009 atau 2010 ke tahun taksiran sebelum yang terdekat. Mana-mana orang boleh membuat pilihan yang tidak boleh dibatalkan untuk membawa ke belakang kerugian larasan dalam borang nyata yang dikemukakan bagi tahun taksiran 2009 atau 2010 dan jumlah amaun kerugian larasan yang dibawa ke belakang bagi kedua-dua tahun itu adalah terhad kepada amaun maksimum sebanyak satu ratus ribu ringgit.

Pindaan ini disifatkan berkuat kuasa bagi tahun taksiran 2008, 2009 dan 2010.

3. *Fasal 4* bertujuan untuk mengadakan peruntukan mengenai kesan baki 108 dan baki 108 tersemak sebagaimana yang diperuntukkan dalam seksyen 46 Akta Kewangan 2007 [*Akta 683*] ke atas potongan berhubung dengan kerugian larasan yang boleh dibawa ke belakang di bawah seksyen baru 44B Akta 53 seperti yang dimasukkan dalam *fasal 3*.

Peruntukan ini menjelaskan bahawa sekiranya sesuatu syarikat memilih untuk membawa ke belakang kerugian larasannya di bawah seksyen baru 44B Akta 53, amaun baki 108 atau baki 108 tersemak syarikat itu di bawah seksyen 46 Akta Kewangan 2007 tidak boleh dikurangkan dengan potongan cukai berhubung dengan kerugian larasan yang dibawa ke belakang.

Pindaan ini disifatkan berkuat kuasa bagi tahun taksiran 2008, 2009 dan 2010.

4. *Fasal 5* bertujuan untuk memasukkan seksyen baru 46B ke dalam Akta 53. Peruntukan baru ini bertujuan untuk mengadakan suatu potongan bagi individu berkenaan dengan faedah yang dibelanjakan untuk membiayai pembelian satu unit harta kediaman. Dengan pindaan ini, seseorang individu layak untuk mendapat potongan peribadi terhad kepada amaun maksimum sebanyak sepuluh ribu ringgit ke atas faedah yang dibelanjakan bagi setiap tahun taksiran bagi tiga tahun asas berturut-turut mulai tahun yang faedah itu mula-mula dibelanjakan.

Pindaan ini berkuat kuasa bagi tahun taksiran 2009 dan tahun-tahun taksiran yang berikutnya.

5. *Fasal 6* bertujuan untuk memasukkan perenggan baru 8A, 8B, 32A dan 32B ke dalam Jadual 3 Akta 53. Dengan pindaan yang dicadangkan ini, mana-mana orang yang melakukan perbelanjaan pengubahsuaian atau pembaharuan yang layak pada atau selepas 10 Mac 2009 tetapi tidak lewat daripada 31 Disember 2010 ke atas mana-mana premis yang digunakan bagi maksud perniagaannya hendaklah dibenarkan untuk menuntut suatu elaun bersamaan dengan satu per dua perbelanjaan itu bagi suatu tahun taksiran dan tahun terdekat sebaik selepas tahun taksiran itu. Walau bagaimanapun jumlah perbelanjaan yang layak yang dilakukan pada atau selepas 10 Mac 2009 tetapi tidak lewat daripada 31 Disember 2010 tidak boleh melebihi satu ratus ribu ringgit.

Perenggan (c) fasal 6 bertujuan untuk meminda perenggan 54 Jadual 3 Akta 53 berbangkit daripada perenggan baru 8A, 8B, 32A dan 32B Jadual 3 Akta 53.

Perenggan 71 yang sedia ada dalam Jadual 3 Akta 53 memperuntukkan bahawa sekiranya seseorang melakukan perbelanjaan loji yang layak berkenaan dengan aset yang dipunyai olehnya bagi tempoh yang kurang daripada dua tahun, kenaan imbangan yang bersamaan dengan apa-apa elaun perbelanjaan loji yang layak hendaklah dibuat terhadap orang itu melainkan atas alasan kematian orang itu. *Perenggan (d) fasal 6* bertujuan untuk meminda peruntukan ini untuk meliputi alasan lain sebagaimana yang difikirkan patut oleh Ketua Pengarah.

Pindaan ini berkuat kuasa bagi tahun 2009 dan tahun-tahun taksiran yang berikutnya.

6. *Fasal 7* bertujuan untuk meminda subsubperenggan 15(1)*(b)* Jadual 6 Akta 53 untuk menaikkan amaun yang dikecualikan bagi bayaran yang diterima oleh seseorang individu berkenaan dengan kehilangan penggajian termasuk bayaran di bawah skim pemisahan atau sebagai balasan apa-apa perjanjian yang dibuat oleh seseorang pekerja yang mengehadkan haknya untuk mendapatkan pekerjaan lain yang sama atau yang seumpamanya, dari enam ribu ringgit kepada sepuluh ribu ringgit. Pindaan yang dicadangkan ini hendaklah terpakai bagi pekerja yang telah diberhentikan mulai 1 Julai 2008.

Pindaan ini disifatkan mula berkuat kuasa pada 1 Julai 2008.

IMPLIKASI KEWANGAN

Rang Undang-Undang ini tidak akan melibatkan Kerajaan dalam apa-apa perbelanjaan wang tambahan.

[PN(U^2)2691]