

2007 Budget Highlights Tax Commentary

Malaysia

1 September 2006

Executive Summary

- Reduction in corporate tax rate by two percentage points over two years of assessment.
- Withholding tax penalty to be imposed on the portion of unpaid tax only.
- Special regulations pertaining to the tax computation of property development and construction contract businesses to be formulated.
- Tax exemption to non-residents on ship rentals received under a voyage charter, time charter and bare boat charter.
- Re-defining of the scope of investment holding company by omitting income from the business of letting property from the eighty percent threshold.
- Improvement in tax benefits for Islamic banking, insurance and capital markets to spur sector growth.
- Tax exemption to Malaysian banks deriving income from overseas operations.
- Differing tax rates for unit holders of REITs. Distributions from REITs listed on Bursa Malaysia to unit holders other than resident corporate unit holders will be subject to withholding tax.
- Tax incentives to be enhanced for venture capital industry, biotechnology industry and for the promotion of Malaysian brand name goods
- Reduction in eligibility period to claim refund of sales tax and service tax related to bad debts.
- Higher overall compound or fine for under declaration of value of goods imported.
- Increase in specific excise duty on cigarettes, tobacco products and alcoholic beverages.
- Introduction of Customs Appeal Tribunal, Customs Ruling, Advance Rulings and Tax Audit and Investigation Framework to improve tax administration.
- Higher individual tax deduction for the purchase of computer and books.

Overview and Commentary

The Prime Minister, YAB Dato' Seri Abdullah Bin Hj. Ahmad Badawi, who is also the Minister of Finance, presented the 2007 Budget on Friday, 1 September 2006.

The 2007 Budget's theme is "Implementing the National Mission Towards Achieving the National Vision". The main objective is to ensure that the National Mission, which provides the development framework to achieve Vision 2020, is translated into programmes and projects to be implemented expeditiously and effectively to make Malaysia a developed nation.

The National Mission is founded on five key thrusts as follows:

- To move the economy up the value chain;
- To raise the capacity for knowledge and innovation and nurture "first class mentality";
- To address persistent socio-economic inequalities constructively and productively;
- To improve the standard and sustainability of quality of life; and
- To strengthen the institutional and implementation capacity.

To soften the impact of slower global growth on the Malaysian economy, the 2007 Budget has adopted an expansionary fiscal policy besides implementing measures to further stimulate the activities of the private sector.

Some of the more notable tax changes of the Budget include:

- Reduction in Corporate Income Tax Rate

To enhance the nation's competitiveness and to assist the private sector to increase production capacity and productivity, it is proposed that the corporate income tax rate be reduced by two percentage points in two stages. For the year of assessment 2007, the corporate tax rate would be reduced to 27% and then to 26% for the year of assessment 2008.

- Tax Breaks for Islamic Finance

A number of tax incentives have been proposed in line with the effort to develop Malaysia as the International Islamic Financial Centre. These include exemptions for Islamic banks, Islamic banking units, takaful companies and takaful units on income derived from qualifying transactions in international currencies. There are also stamp duty exemptions, withholding tax exemptions and relief for expenses in relation to Islamic financing.

- Advance Rulings Systems

Under Budget proposals a system of Advance Rulings for income tax, as well as Customs (to cover matters under the Customs Act 1967, Sales Tax Act 1972, Service Tax Act 1975 and Excise Act 1976) would be introduced. The Advance Rulings system would provide a measure of certainty for taxpayers and hence is particularly welcome.

- Establishment of a Customs Appeal Tribunal

The Budget also proposed for the introduction of an independent body known as the Customs Appeal Tribunal to decide on appeals against the decisions of the Director General of Customs pertaining to indirect taxation matters.

The other key tax changes are outlined in the following pages.

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SUBJECT	BUDGET PROPOSALS
<p data-bbox="225 398 488 427">CORPORATE TAX</p> <p data-bbox="225 465 451 562"><i>Reduction of Corporate Income Tax Rate</i></p> <p data-bbox="225 1279 427 1308"><i>Withholding tax</i></p> <p data-bbox="225 1653 448 1778"><i>Tax Treatment on Zakat Paid by Cooperatives and Trust Bodies</i></p>	<p data-bbox="523 465 1401 562">To promote greater private sector investment and to enhance the nation's competitiveness, it is proposed that the corporate income tax rate be reduced by two percentage points in two stages.</p> <p data-bbox="523 600 1401 763">For the Year of Assessment (YA) 2007, the corporate tax rate will be reduced from 28% to 27% including for small and medium scale companies (SMEs) resident in Malaysia with paid up ordinary share capital not exceeding RM2.5 million to the extent of that portion of their chargeable income in excess of RM500,000.</p> <p data-bbox="523 801 1273 831">For the YA 2008, the corporate tax rate will be reduced to 26%.</p> <p data-bbox="523 869 1193 898">Those new rates will also apply to the following entities:</p> <ul style="list-style-type: none"> <li data-bbox="523 936 724 965">i. a trust body; <li data-bbox="523 1003 1401 1070">ii. an executor of an estate of a deceased individual who was domiciled outside Malaysia at the time of his death; and <li data-bbox="523 1108 1401 1176">iii. a receiver appointed by the court pursuant to Section 68(4) of the Income Tax Act, 1967 (the Act). <p data-bbox="523 1214 1002 1243">The proposal is effective from YA 2007.</p> <p data-bbox="523 1281 1401 1541">To reduce the cost of doing business, it is proposed that the 10% penalty on withholding tax be imposed on the amount of unpaid tax and not on the total payment made to a non-resident. Payments to non-residents that are subject to withholding tax are contract payments under Section 107A, interest or royalty under Section 109, Section 4A special classes of income under Section 109B and distribution of income to unit holders other than a resident company unit holder by a unit trust under Section 109D of the Act.</p> <p data-bbox="523 1579 1109 1608">The proposal is effective from 2 September 2006.</p> <p data-bbox="523 1646 1401 1787">To accord equal tax treatment for companies, cooperatives and trust bodies, it is proposed that zakat on business income paid by cooperatives and trust bodies to Islamic religious authorities be allowed a tax deduction subject to a maximum of 2.5% of their aggregate income.</p> <p data-bbox="523 1825 1002 1854">The proposal is effective from YA 2007.</p>

SUBJECT	BUDGET PROPOSALS
<p><i>Special Tax Treatment for the Property Development and Construction Contract Businesses</i></p>	<p>It is proposed that special regulations under Section 36 (1)(a)(iv) of the Act, be formulated and published in the <i>Gazette</i> for the tax treatment applicable to property development and construction contract businesses. This will provide certainty in the tax treatment with respect to the computation of the gross income and adjusted income from the business of property development and construction contracts.</p> <p>The salient features of the regulations will be as follows:</p> <ol style="list-style-type: none"> <li data-bbox="523 674 847 703">i. Recognition of income <p data-bbox="572 745 1342 842">The gross income from a property development or construction contract business for a basis period for a YA shall be determined using the percentage of completion method;</p> <li data-bbox="523 884 999 913">ii. Date of commencement of business <p data-bbox="572 956 1394 1084">The specific date determined to be the date of commencement of a property development or construction contract business including a date based on such specific circumstances and facts acceptable to the Director General;</p> <li data-bbox="523 1126 1082 1155">iii. Date of completion of a project or contract <p data-bbox="572 1198 1385 1464">A property development project is deemed completed upon the date on which the Temporary Certificate of Fitness for Occupation is issued or the date on which the Certificate of Fitness for Occupation is issued, whichever is applicable. In the case of a construction contract, a contract is deemed completed upon the date on which the Certificate of Practical Completion is issued or where no such Certificate is issued, the date upon which the contract work is substantially completed, whichever is the earlier;</p> <li data-bbox="523 1507 831 1536">iv. Revision of estimates <p data-bbox="572 1579 1378 1742">Revision of estimates of gross profit from a property development project or construction contract can be allowed where there is an increase in development or construction costs due to escalating cost of materials, a reduction in selling price or contract sum or other commercial reasons acceptable to the Director General;</p> <li data-bbox="523 1785 1326 1850">v. Deductibility of expenses incurred during the defect liability or warranty period <p data-bbox="572 1892 1406 1951">Expenses incurred during the defect liability or warranty period shall be allowed against the income of the YA in which the expenses are</p>

SUBJECT	BUDGET PROPOSALS
<p><i>Increasing The Limit and Widening The Scope of Deduction on Donation for Charitable Activities</i></p>	<p>incurred or shall be carried forward to the following YAs. However, the property developer or construction contractor may elect to carry back the expenses to the basis period for the YA in which the project or contract is completed; and</p> <p>vi. Final accounts</p> <p>The regulations will also deal with the tax position on submission of the final accounts upon the completion of the project or contract.</p> <p>The proposal is effective from YA 2006. Points (i) to (iv) and (vi) were largely dealt with in Public Ruling 3/2006 while (v) is an additional point and is welcomed.</p> <p>To further encourage companies to be involved in corporate social responsibility programmes, it is proposed that the current limit on deductions given to companies on approved contributions for charitable activities be increased from 5% to 7% of the aggregate income.</p> <p>In addition, it is proposed that the deduction be extended to contributions made by companies towards sports activities approved by the Minister of Finance and sports bodies approved by the Commissioner of Sports, as well as contributions for any project of national interest approved by the Minister of Finance. The deduction shall be subject to the condition that the sum of the above contributions does not exceed 7% of the companies' aggregate income.</p> <p>The proposal is effective from YA 2007.</p>
<p><i>Enhancing Incentive For Sponsoring Arts and Cultural Performances</i></p>	<p>Deduction for expenditure incurred to sponsor local arts, cultural and heritage performances and shows, approved by the Ministry of Culture, Arts and Heritage is increased to RM500,000 per year. This proposal is effective from YA 2007.</p> <p>The maximum deduction on expenditure incurred to sponsor foreign performances and shows remains at RM200,000.</p>
<p><i>Tax Treatment on Payment for Rental of Ship</i></p>	<p>To promote the growth of the national shipping industry, payments made by Malaysian resident companies to a non-resident for the rental of ships under a voyage charter, time charter or bare boat charter will be exempt from income tax.</p> <p>The proposal is effective from 2 September 2006.</p>

SUBJECT	BUDGET PROPOSALS
<p><i>Investment Holding Company Redefined</i></p>	<p>The term “investment holding company” has been re-defined such that income from the business of letting property, where a company in a YA provides any maintenance and support services in respect of that property, is excluded from the eighty percent threshold.</p> <p>Investment holding company now means a company whose activities consist mainly in the holding of investments and not less than eighty percent of its gross income other than gross income from a source consisting of a business of holding an investment (whether exempt or not) is derived therefrom.</p> <p>Business of holding an investment means business of letting of property where a company in any YA provides any maintenance or support services in respect of the property.</p> <p>The proposal is effective from YA 2006.</p>
<p><i>Penalties for Incorrect Loss Surrendered</i></p>	<p>Group relief for locally incorporated resident companies was introduced in YA 2006. Where however, the surrendering company gives incorrect information in the return in respect of the adjusted loss surrendered, the Director General may 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. However, the surrendering company may appeal to the Special Commissioners if the surrendering company is dissatisfied with the penalty within thirty days of being notified as if the notice were a notice of assessment.</p> <p>The proposal is effective from YA 2007.</p>
<p><i>Deduction for Leave Passage to Facilitate Organizing of a Yearly Event Within Malaysia</i></p>	<p>It is proposed that the provision of leave passage to facilitate a yearly event within Malaysia which involves the employer, the employee and the immediate family members of that employee, be tax deductible.</p> <p>The proposal is effective from YA 2007.</p>
<p><i>Extension of the Definition of Foreign Income in Schedule 7 of the Act</i></p>	<p>At present, Schedule 7 of the Act, allows a Malaysian tax resident to claim bilateral tax credit relief on taxes suffered on “foreign income” where such “foreign income” is charged to Malaysian income tax. Schedule 7 defines “foreign income” as income derived from outside Malaysia.</p> <p>However, pursuant to Schedule 6 of the Act, income of any person, other than a resident company carrying on the business of banking, insurance or sea or air transport, derived from sources outside Malaysia and received in Malaysia is exempt from Malaysian income tax.</p>

SUBJECT	BUDGET PROPOSALS
	<p>As such, where the income of a resident taxpayer (other than a resident company carrying on the business of banking, insurance or sea or air transport) arises in a jurisdiction outside Malaysia and suffers tax in that jurisdiction but may also be viewed as Malaysian sourced income (i.e. subject to Malaysian income tax), the issue of claiming relief for such tax suffered will arise. In this respect, the applicability of Schedule 7 to accord relief for such foreign taxes suffered in calculating the Malaysian tax payable on the same income is ambiguous.</p> <p>The Finance Bill 2006 seeks to address the above ambiguity by extending the definition of “foreign income” in Schedule 7 to include income derived from Malaysia which has been charged to foreign tax.</p> <p>In view of the proposed change (to be effective from YA 2007), tax relief may be claimed on the tax suffered in foreign jurisdictions on income derived from Malaysia, when calculating the Malaysian tax payable on such income.</p>

SUBJECT	BUDGET PROPOSALS
<p>CAPITAL MARKETS</p> <p><i>Income Tax Exemption for Islamic Banking and Takaful Business</i></p> <p><i>Tax Exemption For Companies Managing Foreign Islamic Funds</i></p> <p><i>Deduction on Expenses to Establish Islamic Stock Broking Company</i></p>	<p>To be in line with the effort to develop Malaysia as the International Islamic Financial Centre and to widen inter-linkages in the global Islamic financial markets through the enhancement of Islamic banking and takaful business, it is proposed that full tax exemption under the Act be given to:-</p> <ol style="list-style-type: none"> i. Islamic banks and Islamic banking units licensed under the Islamic Banking Act 1983 on income derived from Islamic banking business conducted in international currencies including transactions with Malaysian residents; and ii. Takaful companies and takaful units licensed under the Takaful Act 1984 on income derived from takaful business conducted in international currencies including transactions with Malaysian residents. <p>The proposal is effective from YA 2007 until YA 2016.</p> <p>Currently, management fees received from foreign investors by licensed foreign fund management companies are subject to income tax at a concessionary rate of 10%.</p> <p>To further promote foreign Islamic fund management activities, it is proposed that foreign fund management companies licensed by the Securities Commission (SC) be given full income tax exemption on the management fees received from managing funds of foreign investors established under the Shariah principles for a period of 10 years. The SC must approve such funds.</p> <p>The proposal is effective from YA 2007 until YA 2016.</p> <p>As a measure to develop Malaysia into an Islamic financial hub, it is proposed that expenses incurred prior to the commencement of an Islamic stock broking business be given a tax deduction. The eligibility for the proposed incentive is subject to the condition that the company undertaking the Islamic stock broking business must commence its business activities within a period of 2 years from the date of approval by the SC.</p> <p>The proposal is effective for applications received by the SC from 2 September 2006 until 31 December 2009.</p>

SUBJECT	BUDGET PROPOSALS
<p><i>Extension of Tax Incentive for Issuance of Islamic Securities</i></p>	<p>To ensure Islamic securities are more competitive, it is proposed that deduction on the expenses incurred on the issuance of Islamic securities based on leasing (Ijarah), progressive sales (Istisna'), profit sharing (Mudharabah) and profit and loss sharing (Musyarakah) be extended for another 3 years from YA 2008 until YA 2010.</p> <p>This incentive is also proposed to be given to all Islamic securities products approved by the SC.</p>
<p><i>Review Of Tax Treatment On Special Purpose Vehicle For Islamic Financing</i></p>	<p>Special Purpose Vehicles (SPVs) established for the sole purpose of channeling funds in an Islamic capital market financing transaction approved by the SC will not be subject to income tax and will not be required to adhere to the administrative procedures contained in the Act.</p> <p>Further, the company that establishes the SPV is to be given a deduction on the costs incurred by the SPV to issue Islamic bonds.</p> <p>In addition, the income received by the SPV will be deemed to be income received by the company that established the SPV and will be subject to tax accordingly.</p> <p>The proposal is effective from YA 2007. It is unclear whether this proposal will apply to existing SPVs or only to new SPVs.</p>
<p><i>Extending the Scope of Tax Incentive for Financial Institutions</i></p>	<p>Currently, interest income received by non-residents from banking and financial institutions established under the Banking and Financial Institutions Act 1989, is exempted from tax. However, profits or interest income received by non-residents from banking and financial institutions established under the Islamic Banking Act 1983 or other financial institutions are subject to tax.</p> <p>To further attract more foreign funds and streamline tax treatment on profits or interest income received from all financial institutions, it is proposed that profits or interest income received by non-residents from financial institutions established under the Islamic Banking Act 1983, and other institutions approved by the Minister of Finance be exempted from tax.</p> <p>The proposal is effective from 2 September 2006.</p>
<p><i>Capital Market Graduate Training</i></p>	<p>To encourage the hiring of unemployed graduates, the double deduction on allowances paid to participants in the SC Capital Market Graduate Training Scheme currently given to companies listed on the Bursa Malaysia is to be extended to unlisted companies under the supervision of the SC. In addition, the double deduction incentive is to be given to companies, both listed and unlisted, under the supervision of SC who</p>

SUBJECT	BUDGET PROPOSALS
<p><i>Review Of Incentives For Real Estate Investment Trusts</i></p>	<p>conduct in-house training schemes for graduates certified by the SC.</p> <p>The deduction is given for a period of 3 years from the date the scheme commences. The proposal is effective from 2 September 2006 until 31 December 2008.</p> <p>In order to enhance the development of Real Estate Investment Trusts (REITs) in Malaysia and attract foreign investors, the following incentives were proposed:</p> <ul style="list-style-type: none"> i. Non-corporate investors (especially resident and non-resident individuals) and other local entities that receive distributions from REITs listed on Bursa Malaysia will be subject to a final withholding tax at the rate of 15% for 5 years; ii. Foreign institutional investors (especially pension funds and collective investment funds) that receive distributions from REITs listed on Bursa Malaysia will be subject to a final withholding tax at the rate of 20% for 5 years (Note); iii. Local corporate investors will be subject to the existing tax treatment and tax rates; iv. Foreign corporate investors will be subject to a final withholding tax at the rate of 27%; v. REITs will be exempted from tax on all its income provided that at least 90% of its total income is distributed to the investors; and vi. Where the 90% distribution is not complied with, the REITs will be subject to income tax while all their investors are eligible to claim tax credits. <p>The above proposals (i) and (ii) are effective from 1 January 2007 and proposals (iv) and (v) are effective from YA 2007.</p> <p>Note: There appears to be some ambiguity between the Budget proposal and the Finance Bill as the latter does not mention the requirement for the institutional investor to be foreign.</p>
<p><i>Bank - Overseas Operations</i></p>	<p>To encourage local banks to expand internationally, it is proposed that profits of <i>newly established</i> overseas branches or remittances of <i>new overseas</i> subsidiaries be granted 5 years tax exemption. To be eligible for the exemption, such branch or subsidiary must commence operations within a period of 2 years from the date of approval by Bank Negara</p>

SUBJECT	BUDGET PROPOSALS
<p><i>Stamp Duty Exemption - Islamic</i></p>	<p>Malaysia.</p> <p>The proposal is effective from 2 September 2006 until 31 December 2009.</p> <p>At present, in an effort to ensure tax neutrality between Islamic and conventional financing products, a stamp duty exemption is only given to the additional instruments that are required to be executed in accordance with Islamic principles. As such, certain documents (e.g. loan documents) executed pursuant to either Islamic or conventional financing products are subject to stamp duty at ad valorem rates.</p> <p>It is proposed that an exemption of 20% on stamp duty be given on instruments used in Islamic financing which are subject to ad valorem stamp duty. This exemption is given for a period of 3 years.</p> <p>The applicability of this incentive is subject to the condition that the Islamic financial products are approved by the Bank Negara Malaysia Shariah Advisory Council or the Securities Commission Shariah Advisory Council.</p> <p>The above proposal is effective from 2 September 2006 until 31 December 2009.</p>

SUBJECT	BUDGET PROPOSALS
<p data-bbox="225 360 464 427">ENHANCEMENT OF INCENTIVES</p> <p data-bbox="225 465 424 533"><i>Venture Capital Industry</i></p> <p data-bbox="225 1003 403 1070"><i>Biotechnology Industry</i></p>	<p data-bbox="523 465 1401 533">Currently, venture capital companies (VCCs) have the option to choose between the following incentives:</p> <ul style="list-style-type: none"> <li data-bbox="523 566 1401 667">i. Income tax exemption for 10 years for investing at least 70% of its investment funds in venture companies (VCs) in the form of seed capital, start-up or early stage financing; or <li data-bbox="523 701 1401 768">ii. Income tax deduction of an amount equivalent to the value of investment made in VCs. <p data-bbox="523 801 1401 902">It is proposed that VCCs investing at least 50% of their investment funds in VCs in the form of seed capital be given income tax exemption for 10 years.</p> <p data-bbox="523 936 1007 969">The proposal is effective from YA 2007.</p> <p data-bbox="523 1003 1401 1137">To promote the biotechnology industry, it is proposed that the commencement date of the exemption period for the existing incentive be effected from the first year the company derives profit as opposed to the date of commercial production which is currently being applied.</p> <p data-bbox="523 1171 1401 1238">In recognition of biotechnology industry as a new growth area, additional incentives have been introduced as follows:</p> <ul style="list-style-type: none"> <li data-bbox="523 1272 1401 1373">i. Upon expiry of the 10 years exemption period, a bionexus company will be subject to a concessionary tax rate of 20% for another 10 years; <li data-bbox="523 1406 1401 1507">ii. A company or an individual investing in a bionexus company is to be given a tax deduction equivalent to the amount of investment made in seed capital and early stage financing; <li data-bbox="523 1541 1401 1675">iii. A bionexus company undertaking mergers and acquisitions with a biotechnology company within the 5 years period until 31 December 2011 be given exemption from stamp duty and real property gains tax; and <li data-bbox="523 1709 1401 1821">iv. Buildings used solely for the purpose of biotechnology research activities are to be given Industrial Building Allowance over a period of 10 years.

SUBJECT	BUDGET PROPOSALS
<p><i>Enhancing Incentives for the Promotion of Malaysian Brand Names</i></p>	<p>Applications for these incentives will be evaluated by a Committee under the Malaysian Biotechnology Corporation Sdn Bhd and recommended for approval by the Minister of Finance.</p> <p>The proposal is effective from 2 September 2006.</p> <p>To enhance the promotion of Malaysian brand names, it is proposed that a double deduction on expenses incurred in advertising Malaysian brand names for goods of export quality, currently given to a qualifying company that owns the brand, be extended to a company within the same group that incurs the advertising expenditure. The double deduction is subject to the following conditions:-</p> <ul style="list-style-type: none"> i. The claimant company must be owned more than 50% by the registered proprietor of the Malaysian brand name; and ii. The double deduction can only be claimed by one company in a YA. <p>The proposal is effective from YA 2007.</p>
<p><i>Extension of Incentive Period for Tour Operators</i></p>	<p>To further encourage the tourism industry, it is proposed that income tax exemption for tour operators on income derived from the business of operating domestic tour packages participated by at least 500 inbound tourists per year or 1,200 local tourists per year be extended for another 5 years until YA 2011.</p>
<p><i>Extending the Promoted Areas</i></p>	<p>As a measure to improve the investment climate in the state of Perlis, it is proposed that Perlis be declared as a promoted area. Companies located in this state and undertaking promoted activities or producing promoted products shall be eligible for enhanced incentives presently given to the promoted areas.</p> <p>The proposal is effective for applications received by the Malaysian Industrial Development Authority (MIDA) from 2 September 2006.</p>

SUBJECT	BUDGET PROPOSALS
<p>INDIRECT TAX</p> <p><i>Review of Eligibility Period to Claim Refund of Sales Tax and Service Tax Related to Bad Debts</i></p>	<p>To enhance cash flow positions and lower the cost of doing business, it is proposed that the eligibility period to claim refunds of sales tax and service tax related to bad debts be shortened from 12 months to 6 months from the date the tax is paid.</p> <p>As such, a licensee will be able to make a claim to Customs for a refund of the sales tax or service tax paid if:</p> <ol style="list-style-type: none"> i. The licensee is unable to collect the debt from the client after the expiry of 6 months from the date of payment of the tax; or ii. (*) The debtor had been adjudged a bankrupt under the Bankruptcy Act; 1967; or iii. (*) The debtor had been placed under receivership of official assignee; or iv. (*) The debtor had been ordered by the court to wind up; or v. (*) The licensee had filed a claim in court to recover the tax or the licensee had initiated action for the client to be adjudged a bankrupt; and vi. Payments for goods sold have either been written off as a bad debt or provided for as a doubtful debt in the accounts of the licensee. <p>(Note:- * Denotes existing position)</p> <p>This proposal is effective from 1 January 2007.</p> <p>The above proposal does not eliminate the present requirement of tracking subsequent collection of money from the relevant debtor. The licensee shall therefore repay to the Customs the sales tax or service tax portion of any bad debt recovered from such subsequent collection.</p>
<p><i>Review of Compound For Under Declaration and Smuggling of High Duty Goods</i></p>	<p>To overcome the problem of under declaration of goods and smuggling of high duty goods particularly cars, cigarettes and liquor, the compounding provisions have been made more punitive. It is proposed that:</p> <ol style="list-style-type: none"> i. the minimum compound imposed be 5 times the total duty; and ii. for dutiable goods: <ul style="list-style-type: none"> • for the first offence, a fine of between 10 to 20 times the amount of duty; and • for any subsequent offence, a fine of between 20 to 40 times the amount of duty.

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<p><i>Additional Incentive for Tour Operators</i></p> <p><i>Cigarettes, tobacco and alcohol</i></p>	<p>iii. for prohibited goods:</p> <ul style="list-style-type: none"> for the first offence, a fine of between 10 to 20 times the value of the goods; and for any subsequent offence, a fine of between 20 to 40 times the value of the goods. <p>The proposal is effective from 1 January 2007.</p> <p>To enable tourists to explore challenging destinations, the Government has proposed that tour operators be given 50% excise duty exemption on locally assembled Four Wheel Drive (4WD) vehicles.</p> <p>The proposal is effective for applications received by the Ministry of Finance from 2 September 2006.</p> <p>To promote a healthy lifestyle and to curb social ills resulting from addiction to excessive drinking and smoking, it is proposed that the following increases in Excise Duty rates be implemented:</p>																																																											
	<table border="1"> <thead> <tr> <th colspan="2" rowspan="2">Tariff Code</th> <th rowspan="2">Description</th> <th colspan="2">Excise Duty (RM)</th> </tr> <tr> <th>Current Rate</th> <th>Proposed Rate</th> </tr> </thead> <tbody> <tr> <td colspan="2">24.02</td> <td>Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes.</td> <td></td> <td></td> </tr> <tr> <td>2402.10</td> <td>000</td> <td>- Cigars, cheroots and cigarillos, containing tobacco</td> <td>110.00/kg + 20%</td> <td>120.00/kg + 20%</td> </tr> <tr> <td>2402.20</td> <td></td> <td>- Cigarettes containing tobacco</td> <td></td> <td></td> </tr> <tr> <td></td> <td>100</td> <td>Beedies</td> <td>7.00/kg + 5%</td> <td>7.50/kg + 5%</td> </tr> <tr> <td></td> <td>900</td> <td>Other</td> <td>0.11/stick + 20%</td> <td>0.12/stick + 20%</td> </tr> <tr> <td>2402.90</td> <td></td> <td>- Other</td> <td></td> <td></td> </tr> <tr> <td></td> <td>100</td> <td>Cigars, cheroots and cigarillos, containing tobacco substitutes</td> <td>110.00/kg + 20%</td> <td>120.00/kg + 20%</td> </tr> <tr> <td></td> <td>200</td> <td>Cigarettes containing tobacco substitutes</td> <td>0.11/stick + 20%</td> <td>0.12/stick + 20%</td> </tr> <tr> <td colspan="2">24.03</td> <td>Other manufactured tobacco and manufactured tobacco substitutes; "homogenised" or "reconstituted" tobacco; tobacco extracts and essences</td> <td></td> <td></td> </tr> <tr> <td>2403.10</td> <td></td> <td>- Smoking tobacco, whether or not containing tobacco substitutes in any proportion:</td> <td></td> <td></td> </tr> </tbody> </table>				Tariff Code		Description	Excise Duty (RM)		Current Rate	Proposed Rate	24.02		Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes.			2402.10	000	- Cigars, cheroots and cigarillos, containing tobacco	110.00/kg + 20%	120.00/kg + 20%	2402.20		- Cigarettes containing tobacco				100	Beedies	7.00/kg + 5%	7.50/kg + 5%		900	Other	0.11/stick + 20%	0.12/stick + 20%	2402.90		- Other				100	Cigars, cheroots and cigarillos, containing tobacco substitutes	110.00/kg + 20%	120.00/kg + 20%		200	Cigarettes containing tobacco substitutes	0.11/stick + 20%	0.12/stick + 20%	24.03		Other manufactured tobacco and manufactured tobacco substitutes; "homogenised" or "reconstituted" tobacco; tobacco extracts and essences			2403.10		- Smoking tobacco, whether or not containing tobacco substitutes in any proportion:	
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			Current Rate	Proposed Rate																																																								
24.02		Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes.																																																										
2402.10	000	- Cigars, cheroots and cigarillos, containing tobacco	110.00/kg + 20%	120.00/kg + 20%																																																								
2402.20		- Cigarettes containing tobacco																																																										
	100	Beedies	7.00/kg + 5%	7.50/kg + 5%																																																								
	900	Other	0.11/stick + 20%	0.12/stick + 20%																																																								
2402.90		- Other																																																										
	100	Cigars, cheroots and cigarillos, containing tobacco substitutes	110.00/kg + 20%	120.00/kg + 20%																																																								
	200	Cigarettes containing tobacco substitutes	0.11/stick + 20%	0.12/stick + 20%																																																								
24.03		Other manufactured tobacco and manufactured tobacco substitutes; "homogenised" or "reconstituted" tobacco; tobacco extracts and essences																																																										
2403.10		- Smoking tobacco, whether or not containing tobacco substitutes in any proportion:																																																										

SUBJECT	BUDGET PROPOSALS			
		Packed for retail sale:		
	110	In airtight containers	25.00/kg + 5%	27.00/kg + 5%
	190	Other	25.00/kg + 5%	27.00/kg + 5%
	900	Other	14.00/kg + 5%	15.00/kg + 5%
2403.91		- "Homogenised" or "reconstituted" tobacco:		
	100	For retail sale	25.00/kg + 5%	27.00/kg + 5%
2403.99		- Other		
	200	Snuff	25.00/kg + 5%	27.00/kg + 5%
22.08		Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80% vol; spirit, liqueurs and other spirituous beverages		
2208.20		- Spirits obtained by distilling grape wine or grape marc:		
	100	Brandy	25.00/litre + 15%	30.00/litre + 15%
	900	Other	25.00/litre + 15%	30.00/litre + 15%
2208.30	000	- Whiskies	25.00/litre + 15%	30.00/litre + 15%
2208.40	000	- Rum and tafia	25.00/litre + 15%	30.00/litre + 15%
2208.50	000	- Gin and Geneva	25.00/litre + 15%	30.00/litre + 15%
2208.60	000	- Vodka	25.00/litre + 15%	30.00/litre + 15%

The proposal is effective from 4 p.m. on 1 September 2006.

SUBJECT	BUDGET PROPOSALS
PERSONAL TAX	
<i>Computer</i>	<p>It is proposed that the rebate of RM500 for the purchase of a personal computer (not for the purpose of own business) be amended to individual tax relief of up to a maximum of RM3,000. The deduction shall be given once in every 3 years.</p> <p>Further, in the case of separate assessment, each taxpayer is eligible to claim the relief. In the case of combined assessment, the amount shall be deemed to have been incurred by the spouse who pays the income tax.</p> <p>The proposal is effective from YA 2007.</p>
<i>Further education</i>	<p>It is proposed that the scope of courses eligible for individual tax relief for further education of up to RM5,000 per annum on study fees be extended from courses undertaken to acquire law, accounting, technical, vocational, industrial, scientific or technological skills or qualifications to include the field of Islamic finance.</p> <p>The courses in Islamic finance must be approved by Bank Negara Malaysia or the SC and undertaken at local institutions of higher education including at the International Centre for Education in Islamic Finance.</p> <p>The proposal is effective from YA 2007.</p>
<i>Leave passage</i>	<p>It is proposed that tax exemption on local leave passage currently given only on expenses for fares be extended to expenses on meals and accommodation.</p> <p>Note that the proposed tax exemption on expenses on meals and accommodation is not extended to overseas leave passage. Local leave passage is exempted from tax up to 3 times per year and is confined to the employee and members of his immediate family.</p> <p>The proposal is effective from YA 2007.</p>
<i>Books</i>	<p>It is proposed that the individual tax relief on purchase of books be increased from RM700 to RM1,000 per year.</p> <p>The proposal is effective from YA 2007.</p>
<i>Perquisite</i>	<p>It is proposed that tax exemption up to RM1,000 a year be accorded to service awards (such as long service, past achievement or service excellence awards) received by employees whether in cash or in kind. The value of the service awards, in excess of RM1,000, will be subject to</p>

SUBJECT	BUDGET PROPOSALS
<p><i>Seafarers</i></p>	<p>tax.</p> <p>For long service awards, the employees must have served at least 10 years with the same employer.</p> <p>For the purpose of exemption, the service award:-</p> <ol style="list-style-type: none"> i. cannot be a disguised wage; ii. must be awarded as part of a meaningful contribution to the organization; and iii. is not provided frequently to the same employee. <p>The proposal is effective from YA 2007.</p>
<p><i>Voluntary Separation Schemes</i></p>	<p>It is proposed that tax exemption be given on the income of a seafarer who exercises employment on board a foreign ship used in a business operated by a Malaysian shipping company. However, this is on a condition that the Malaysian shipping company is a registered owner of a ship under the Merchant Shipping Ordinance 1952.</p> <p>This is to streamline the tax treatment whereby currently, tax exemption is only accorded to seafarers who work on board Malaysian ships.</p> <p>The proposal is effective from YA 2007.</p> <p>It is proposed that any payment received by an employee from an employer pursuant to a separation scheme is given an exemption of RM6,000 for each year of completed service with the same employer or with companies in the same group.</p> <p>The tax exemption would not apply if the scheme provides for re-employment by the same employer or any other employer.</p> <p>The proposal is effective from YA 2007.</p>

SUBJECT	BUDGET PROPOSALS
<p data-bbox="225 360 496 389">ADMINISTRATIVE</p> <p data-bbox="225 432 437 461"><i>Advance Rulings</i></p> <p data-bbox="225 972 472 1070"><i>Framework for Tax Audit and Investigation</i></p> <p data-bbox="225 1547 437 1646"><i>Establishment of Customs Appeal Tribunal</i></p>	<p data-bbox="523 432 1390 629">To promote clarity and certainty in the interpretation and application of the tax law, a new provision will be introduced that will allow a taxpayer to request from the Director General an advance ruling on the tax treatment of an arrangement to be undertaken by the taxpayer. The advance ruling, which is applicable to the taxpayer only, must be applied in a prescribed form and based on actual facts, not assumptions.</p> <p data-bbox="523 667 1166 696">A fee will be charged on the application for the ruling.</p> <p data-bbox="523 734 1390 864">This is indeed a welcome change as it allows taxpayers to manage their tax affairs more effectively. Also, for transfer pricing purposes, this new provision could be used by taxpayers to apply for a unilateral Advance Pricing Agreement for their related party transactions.</p> <p data-bbox="523 902 1075 931">The proposal is effective from 1 January 2007.</p> <p data-bbox="523 969 1390 1068">It is proposed that the existing guide on tax audit be updated and the framework for tax investigation be issued by the IRB. The main areas to be addressed in the guideline/framework are as follows:</p> <ul style="list-style-type: none"> <li data-bbox="523 1106 1114 1135">i. criteria for audit and investigation selection; <li data-bbox="523 1140 1075 1169">ii. tax audit and investigation methodology; <li data-bbox="523 1173 1353 1238">iii. rights and responsibilities of taxpayers, tax agents and the IRB's officers; <li data-bbox="523 1243 1305 1272">iv. settlement upon completion of an audit or investigation; and <li data-bbox="523 1276 932 1305">v. offences and penalty regime. <p data-bbox="523 1344 1362 1442">The proposal is intended to maintain and enhance public confidence in the tax administration. Hopefully, with greater clarity, it will also alleviate taxpayers' fears in the event of being audited/investigated.</p> <p data-bbox="523 1480 1075 1509">The proposal is effective from 1 January 2007.</p> <p data-bbox="523 1547 1406 1711">It is proposed that an independent body to be known as the Customs Appeal Tribunal be established to decide on appeals against the decisions of the Director General of Customs pertaining to matters under the Customs Act 1967, Sales Tax Act 1972, Service Tax Act 1975 and Excise Act 1976. The Tribunal would have the following characteristics:</p> <ul style="list-style-type: none"> <li data-bbox="523 1749 1406 1848">i. The Tribunal shall consist of at least three (3) members; the Chairman shall be from the judicial and legal service and the other members having experience in taxation or customs matters;

SUBJECT	BUDGET PROPOSALS
<p><i>Introduction of Customs Ruling</i></p>	<ul style="list-style-type: none"> ii. Any appeal to the Tribunal shall be made within 30 days from the date of notification of the Director General’s decision; and iii. The decision of the Tribunal shall be final subject to the appellant’s right of further appeal to the Courts. <p>Since the matter under dispute would be adjudicated, the Tribunal would also have to substantiate any decision they make. This move enhances transparency, clarity and ensures greater compliance with the tax legislation.</p> <p>The proposal is effective from 1 March 2007.</p> <p>It is proposed that Customs Rulings be introduced under the Customs Act 1967, Sales Tax Act 1972, Service Tax Act 1975 and Excise Act 1976. The Ruling issued by the Royal Malaysian Customs (RMC) and agreed by the applicant shall be legally binding between both parties for a specific period of time.</p> <p>The main features of the proposed Customs Ruling regime are as follows:-</p> <ul style="list-style-type: none"> i. Application for Customs Ruling can be made with respect to classification of goods, determination of taxable services and the principles of determination of value of goods and services; ii. All applications are to be made in writing together with sufficient facts and the payment of a prescribed fee; iii. Applications may be made before the goods are imported or the services provided upon which the RMC will issue an advance ruling; iv. The Customs Ruling is only applicable to the applicant; and v. The Director General of Customs may amend, modify or revoke a Ruling if there is any error in the Ruling due to typing or the wrong reference or if the Ruling is based on an error of facts as in the case of the use of incomplete analysis done on a product or if there is a change in law which can result in a new tariff structure. <p>The above proposal seeks to introduce elements of certainty and confidence in the business community.</p> <p>The proposal is effective from 1 January 2007.</p>

SUBJECT	BUDGET PROPOSALS
<p>REAL PROPERTY GAINS TAX (RPGT)</p> <p><i>Conditional Contracts Requiring Government or Government Appointed Authority or Committee Approval</i></p> <p><i>Transfers of Assets Into Stocks</i></p>	<p>The disposal date of a conditional contract where the disposal requires Government or Government appointed authority or committee approval will be ascertained as follows:</p> <ul style="list-style-type: none"> i. Where Government or Government appointed authority or committee approval is required, the date of such approval; or ii. Where the above approval is conditional, the date when the last of all the conditions is satisfied. <p>The proposal is effective from 2 September 2006.</p> <p>The transfer of real property assets into trading stock of a person shall be deemed to be a disposal of a chargeable asset which triggers RPGT. The disposal price shall be deemed to be the market value of such asset at the date the asset is transferred.</p> <p>The proposal is effective from 2 September 2006.</p>

