Finance Bill 2019 Highlights

KPMG in Malaysia

17 October 2019

Finance Bill 2019 Highlights

Tai Lai Kok
Executive Director
Head of Tax and Head of Corporate Tax

"The Government's continued support to the SME in the form of 17% tax rate on the first RM600,000 of chargeable income will help to ease the tax burden of SME in the current business environment and the review of tax deductions for charitable contributions will further elevate the philanthropic projects to be undertaken by companies"

Business and International Tax

Income Tax

1 Expansion of Scope of Tax Deduction on Contributions to Charity and Community Projects

Currently, a tax deduction is given on the provision of services, public amenities and contributions to a charity or community project pertaining to education, health, housing, conservation or preservation of the environment, enhancement of income of the poor, infrastructure, and information and communication technology, approved by the Minister of Finance ("MOF").

It is proposed that the scope of deduction in relation to community project to include the maintenance of a building designated as a heritage site by the Commissioner of Heritage under the National Heritage Act 2005.

The above proposal is effective from Year of Assessment ("YA") 2020.

2 Review of Tax Deduction Limit for Sponsorship of Arts, Cultural and Heritage Activities in Malaysia

Currently, a tax deduction, not exceeding in aggregate RM700,000 is given on the sponsorship of arts, cultural or heritage activities approved by the Ministry of Tourism, Arts and Culture. In relation to sponsorship of foreign arts, cultural or heritage activities, the tax deduction shall not exceed RM300,000.

It is proposed that the total tax deduction for sponsoring approved arts, cultural or heritage activities be increased to RM1 million. In the case of foreign arts, cultural or heritage activities, the deduction limit remains at RM300,000.

The above proposal is effective from YA 2020.

3 Review of Tax Treatment on Donation or Contribution

Gift of Money or Contribution in Kind

Tax deductions of up to 7% of the aggregate income of a person, other than a company, and up to 10% of the aggregate income of a company are currently given on:-

- Gifts of money to approved institutions, organisations or funds;
- Gifts of money for any approved sports activity; and / or
- Gifts of money or cost of contribution in kind for any approved projects of national interest.

It is proposed that the tax deduction for a person, other than a company, be streamlined to 10% of aggregate income with effect from YA 2020.

Gift of Money to Religious Authority and Public Universities

As there is currently no specific tax treatment on cash *wakaf* and endowment contributions under the Income Tax Act, 1967 ("the ITA"), it is proposed that the tax deductions a person can claim be expanded to include:-

- Cash *wakaf* contribution to any appropriate religious authority established under any written law, body established by that appropriate religious authority or public university allowed by that appropriate religious authority to receive *wakaf*; and
- Cash endowment contributions to a public university,

Provided that:-

a) the *wakaf* or endowment is made for the purpose of achieving the objective for which the appropriate religious authority, body or public university was established;

b) the appropriate religious authority, body or public university is approved by the Director General of Inland Revenue ("DGIR") for the purposes of this proposed deduction; and

c) the tax deduction is limited to 10% of aggregate income of that person.

"Public university" means a higher educational institution having the status of a University established under the Universities and University Colleges Act 1971 and the Universiti Teknologi MARA established under the Universiti Teknologi MARA Act 1976.

The income of an approved appropriate religious authority or a body or a public university in respect of any *wakaf* or endowment received is proposed to be exempted from tax, so long as the approval status remains in force.

The above proposals are effective from YA 2020.

4 Special Allowance for Small Value Assets

It is proposed that the quantum of small value assets qualifying for the 100% annual allowance be increased as follows:-

Type of Entity	Asset Value (Current) (RM)	Asset Value (Proposed) (RM)	Total Asset Value (Current) (RM)	Total Asset Value (Proposed) (RM)	New Condition (Proposed)
SME *	Not more than 1,300	Not more than 2,000	No limit	No limit	Gross income from business source(s) of not more than RM50 million
Non-SME	Not more than 1,300	Not more than 2,000	13,000	20,000	-

* Small and Medium Enterprise ("SME") refers to a company resident and incorporated in Malaysia which has a paid-up capital in respect of ordinary shares and a Limited Liability Partnership with total contribution of capital of RM2.5 million and less at the beginning of the basis period for a year of assessment [subject to proviso on related parties].

It has also been proposed that for SME to qualify for the above allowance as well as the reduced tax rate (see below), the gross income from its business source(s) should not exceed RM50 million in a basis period for a year of assessment.

The above proposal is effective from YA 2020.

Changes in Tax Rate and Penalties

1 Corporate Income Tax Rate

For SME, it is proposed that the amount of chargeable income subject to the reduced tax rate of 17% be increased as follows:-

Type of Entity	Income Tax Rate (%)	Chargeable Income (RM) (Current)	Chargeable Income (RM) (Proposed)	New Condition (Proposed)
SME	17	Up to 500,000	Up to 600,000	Gross income from business source(s) of not more than RM50 million
	24	>500,000	>600,000	

The above proposal is effective from YA 2020.

2 Withholding Tax Rates

It is proposed that the reduced withholding tax rate of 10% for foreign institutional investors and non-corporate investors (including resident and non-resident individuals) investing in Real Estate Investment Trusts ("REITs") be extended as follows:-

REIT Investors *	Withholding Tax Rate (%)	YA (Current)	YA (Proposed)
Foreign institutional investor	10	Up to 2019	Up to 2025
Non-corporate investors including resident and non-resident individuals	10	Up to 2019	Up to 2025

* REIT investors who receive profit distribution out of the tax exempt total income, from a REIT listed on Bursa Malaysia.

The above proposal is effective from YA 2020 to YA 2025.

3 Increase in Tax Charged (Penalty) for Amendment of Return

It is proposed that the tax or additional tax payable be increased by a flat rate of 10% for an Amended Return furnished within 6 months from the statutory submission deadline; the further increase of 5% is to be removed.

Submission of Amended Return Form	Increase in Tax Charged (%) (Current)	Increase in Tax Charged (%) (Proposed)
Within 60 days from the submission due date	10	10
After 60 days but not later than 6 months from the due date	10 + 5	10

The above proposal comes into operation on 1 January 2020.

4 Penalty for Unpaid Tax After Due Date

It is proposed that the penalty to be imposed for payment made after the due date is set at a flat rate of 10%; the further increase of 5% is to be removed.

Payment of Unpaid Tax	Penalty (Current) (%)	Penalty (Proposed) (%)
After due date	10 + 5	10

The above proposal comes into operation on 1 January 2020.

Labuan Tax

1 Commencement Date for the Removal of Election to be Taxed at RM20,000 for Labuan Entities

The current commencement date for the removal of the election to be taxed at RM20,000 under the Labuan Business Activity Tax Act 1990 is 1 January 2019. However, confusion has arisen as to whether the removal of the election is effective for tax filing from YA 2020 onwards or if an apportionment is required for the affected Labuan entities with basis periods straddling 1 January 2019.

It is proposed that the commencement date for the said removal and consequential changes, be YA 2020 and subsequent YAs.

The above proposal is deemed to have come into operation on 1 January 2019.

Administrative Matters

1 Assessments and Additional Assessments

It is proposed that there would be no time limit for the DGIR to raise assessments or additional assessments under the ITA or the Petroleum (Income Tax) Act, 1967 ("PITA") where the assessment or additional assessment are raised as a result of the mutual agreement procedure in double taxation agreements.

The above proposal is effective on the coming into operation of the Finance Act 2019.

2 Extension of Time for Appeal

Currently, taxpayers seeking to appeal against an assessment under the ITA or the PITA after the expiration of the period to make an appeal, may at any time make a written application in the prescribed form to the DGIR for an extension of time.

It is proposed that a time limit of 7 years after the expiration of the period to make an appeal be introduced.

The above proposal is effective from YA 2020.

3 Recovery from Persons Leaving Malaysia

It is proposed that a person (including the director of a company) could be prevented from leaving Malaysia if the increase in tax under Section 107C(10A) of the ITA for the failure by the company to submit an estimated tax payable, has not been paid.

The above proposal is effective on the coming into operation of the Finance Act 2019.

4 Multilateral Instruments

Malaysia has signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting ("MLI") on 24 January 2018. The MLI, in essence, allows jurisdictions to swiftly amend their double taxation agreements to implement tax treaty related Base Erosion and Profit Shifting recommendations without the need to renegotiate each double taxation agreement.

In line with the ITA, it is proposed that new sections are to be inserted into the PITA to enable the ratification of MLI.

The above proposals are deemed to come into operation on 28 December 2018.

5 Licensing of Tax Agents

It is proposed that the DGIR be empowered to approve or reject applications, renewal, revocation and fees charged for tax agent licenses.

Any persons aggrieved by a decision of the DGIR, may make a written appeal to the MOF within one month from the date the decision is notified to him. The decision of the MOF would be final.

The above proposal is effective from 1 January 2021.

Real Property Gains Tax ("RPGT")

1 Retention Sums

Currently, the purchaser of Malaysian real property or shares in a Real Property Company, is required to retain part of the purchase consideration and pay it to the Inland Revenue Board ("IRB"). The retention sum is the lower of the whole amount of the money received or 3% of the total value of the purchase consideration or 7% of the total value of the purchase consideration if the disposer is not a citizen and not a permanent resident.

It is proposed that the 7% retention be extended to where the disposer is not a company incorporated in Malaysia.

The above proposal is effective on the coming into operation of the Finance Act 2019.

2 Review of RPGT Treatment

Currently, gains from disposal of real property as well as gains from the disposal of shares in Real Property Companies are subject to RPGT at rates of 5% to 30%, depending on the category of the disposer and the period of ownership.

Disposal	RPGT Rates		
	Part I	Part II	Part III
	Individual – Citizen and Permanent Resident	Company	Individual – Non-Citizen and Non-Permanent Resident
Within 3 years	30%	30%	30%
In the 4th year	20%	20%	30%
In the 5th year	15%	15%	30%
In the 6th and subsequent years	5%	10%	10%

It is proposed that the categories of disposers be revised as follows:-

a) Part II is to be amended to apply to a company incorporated in Malaysia and will be extended to include a trustee of a trust; and

b) Part III will be extended to include a company not incorporated in Malaysia.

The above proposal is effective on the coming into operation of the Finance Act 2019.

3 Acquisition Price for Real Property Acquired Prior to 1 January 2013

Currently, the market value as of 1 January 2000 is used as the acquisition price in determining the chargeable gain/loss for the disposal of real property by Malaysian citizens and permanent residents which was acquired prior to year 2000.

It is proposed that the market value as of 1 January 2013 be used as the acquisition price for the disposal of real properties acquired prior to year 2013 by Malaysian citizens or permanent residents.

The above proposal comes into operation on 12 October 2019. The above rebasing to 1 January 2013 will only apply to disposals from 12 October 2019.

Stamp Duty

1 Stamp Duty on Foreign Currency Loan Agreement

Currently, conventional and Shariah-compliant loan agreements in foreign currency are subject to stamp duty at an ad valorem rate of RM5 for every RM1,000 of the loan amount, and capped at RM500 for each loan agreement. It is proposed that the capped amount be increased to RM2,000.

The above proposal comes into operation on 1 January 2020.

Long Yen Ping
Executive Director
Head of Global Mobility Services

"The proposed tax measures on additional deduction, rebate and relief affecting individual taxpayers are not significant as they are not incentives which will benefit all taxpayers."

Personal Tax

1 Personal Income Tax Rate

It is proposed that personal income tax rate for chargeable income exceeding RM2 million (new band) be introduced for resident individuals and the fixed income tax rate be increased for non-resident individuals as follows:-

Type of Individual	Chargeable Income (RM)	Current Rate (%)	Proposed Rate (%)
Resident individual	> 2 million	28	30
Non-resident individual	Every ringgit	28	30

The above proposal is effective from YA 2020.

2 Tax Rebate on Departure Levy

It is proposed that an income tax rebate in respect of the departure levy which is charged under the Departure Levy Act 2019 will be granted to an individual who leaves Malaysia by air for the following purpose:

Purpose	Supporting documents	Restriction
Performing Umrah	A copy of the visa issued by the embassy of the Kingdom of Saudi Arabia	Shall be granted a) not more than 2 times; and b) is not applicable for individuals performing the Hajj
Other religious pilgrimage	A confirmation in writing by a religious body recognized by the Committee for the Promotion of Inter Religious Understanding and Harmony Among Adherents, Prime Minister's Department	

The above proposal is effective from YA 2019.

3 Expansion of Exemption for Withdrawals from Private Retirement Scheme

Currently, individuals who make withdrawals from private retirement scheme before the age of 55 would be taxed at 8%. The amount withdrawn would be exempted from tax if the withdrawal is due to permanent total disablement, serious disease, mental disability, death or leaving Malaysia permanently.

It is proposed that the exemption on the amount withdrawn be extended to withdrawal for healthcare and housing (subject to conditions).

The above proposal comes into operation on 1 January 2020.

4 Expansion of Tax Relief on Medical Expenses

Currently, the maximum relief of RM6,000 includes relief given for medical expenses incurred on serious disease and/or full medical examination (up to RM500) on self, spouse and child. The relief is proposed to be extended to include medical expenses incurred by an individual undergoing fertility treatment* on self/ wife.

* Fertility treatment means intrauterine insemination or in vitro fertilization treatment or any other fertility treatment.

The above proposal is effective from YA 2020.

5 Increase in Tax Relief on Child Care Fees

The tax relief for individuals who enrolled their children aged up to 6 years old in child care centers or kindergartens registered with the Department of Social Welfare or the Ministry of Education is to be increased from RM1,000 to RM2,000

The above proposal is effective from YA 2020.

Ng Sue Lynn
Executive Director
Head of Indirect Tax

"The introduction of the Approved Major Exporter Scheme is a welcome move for export oriented businesses as it aims to simplify the current facility and provides administrative relief, at the same time easing cash flow. It is hoped that this will improve competitiveness globally."

Indirect Tax

1 Approved Major Exporter Scheme ("AMES")

A new Part IXA is introduced into the Sales Tax Act 2018 to provide for AMES where export oriented businesses who qualify will be exempted from payment of Sales Tax on acquisition or importation of taxable goods for export or use in the manufacture of exempted goods for export.

Pursuant to the new Section 61A of the Finance Bill 2019, subject to meeting conditions, the AMES allows any trader or manufacturer to be exempted from payment of the whole of the Sales Tax on taxable goods imported, transported from designated areas ("DA") or special areas ("SA") or purchased from a registered manufacturer provided that-

a) The taxable goods shall be exported, or transported to DA or SA; or
b) The taxable goods are used as raw materials, packing and packaging materials or components to be manufactured, which subsequently shall be exported or transported to DA or SA as goods exempted from Sales Tax.

Any person who has been granted the AMES is required to keep a record of the Sales Tax exempted in a form and manner to be determined.

Where the approved person fails to comply with any prescribed conditions, the Sales Tax that has been exempted shall become due and payable from the date of the non-compliance of the conditions. Based on the Budget 2020 announcement, to qualify, (amongst others) the trader or manufacturer must export not less than 80% of their annual sales.

The introduction of the AMES will reduce the administrative and cash flow burden faced by traders who are currently required to pay Sales Tax on taxable goods upfront and apply for drawback when the goods are subsequently exported.

Under the AMES, it is also expected that the current facility will be simplified as the need to determine the quantity of goods to be exported at the time the taxable goods are acquired or imported will no longer be applicable.

More details on the conditions to be met to qualify for the AMES should follow in the subsidiary legislations.

Contact Us

Petaling Jaya Office

Tai Lai Kok
Executive Director – Head of Tax and Head of Corporate Tax
ltai1@kpmg.com.my
+603 7721 7020

Bob Kee
Executive Director – Head of Transfer Pricing
bkee@kpmg.com.my
+603 7721 7029

Soh Lian Seng
Executive Director –
Head of Tax Dispute Resolution
lsoh@kpmg.com.my
+603 7721 7019

Dato' Leanne Koh
Executive Director – Corporate Tax
leannekoh@kpmg.com.my
+603 7721 7026

Ong Guan Heng
Executive Director – Corporate Tax
guanhengong@kpmg.com.my
+ 603 7721 7027

Ivan Goh
Executive Director – Transfer Pricing
ivangoh@kpmg.com.my
+ 603 7721 7012

Long Yen Ping
Executive Director –
Head of Global Mobility Services
yenpinglong@kpmg.com.my
+603 7721 7018

Ng Sue Lynn
Executive Director – Head of Indirect Tax
suelynnng@kpmg.com.my
+603 7721 7271

Nicholas Crist
Executive Director – Corporate Tax
nicholascrist@kpmg.com.my
+ 603 7721 7022

Neoh Beng Guan
Executive Director – Corporate Tax
bneoh@kpmg.com.my
+ 603 7721 7025

Chang Mei Seen
Executive Director – Transfer Pricing
meiseenchang@kpmg.com.my
+ 603 7721 7028

Outstation Offices

Penang Office
Evelyn Lee
Executive Director – Penang Tax
evewflee@kpmg.com.my
+604 238 2288 (ext. 312)

Kota Kinabalu Office
Titus Tseu
Executive Director – Kota Kinabalu Tax
titustseu@kpmg.com.my
+6088 363 020 (ext. 2822)

Ipoh Office
Crystal Chuah Yoke Chin
Tax Manager – Ipoh Tax
ycchuah@kpmg.com.my
+605 253 1188 (ext. 320)

Kuching & Miri Offices
Regina Lau
Executive Director – Kuching Tax
reglau@kpmg.com.my
+6082 268 308 (ext. 2188)

Johor Bahru Office
Ng Fie Lih
Executive Director – Johor Bahru Tax
flng@kpmg.com.my
+607 266 2213 (ext. 2514)

KPMG Offices

Petaling Jaya
Level 10, KPMG Tower,
8, First Avenue, Bandar Utama,
47800 Petaling Jaya, Selangor
Tel: +603 7721 3388
Fax: +603 7721 3399
Email: info@kpmg.com.my

Penang
Level 18, Hunza Tower,
163E, Jalan Kelawei,
10250 Penang
Tel: +604 238 2288
Fax: +604 238 2222
Email: info@kpmg.com.my

Kuching
Level 2, Lee Onn Building,
Jalan Lapangan Terbang,
93250 Kuching, Sarawak
Tel: +6082 268 308
Fax: +6082 530 669
Email: info@kpmg.com.my

Miri
1st Floor, Lot 2045,
Jalan MS 1/2,
Marina Square, Marina Parkcity,
98000 Miri, Sarawak
Tel: +6085 321 912
Fax: +6085 321 962
Email: info@kpmg.com.my

Kota Kinabalu
Lot 3A.01 Level 3A,
Plaza Shell,
29, Jalan Tunku Abdul Rahman,
88000 Kota Kinabalu, Sabah
Tel: +6088 363 020
Fax: +6088 363 022
Email: info@kpmg.com.my

Johor Bahru
Level 3, CIMB Leadership Academy,
No. 3, Jalan Medini Utara 1,
Medini Iskandar,
79200 Iskandar Puteri, Johor
Tel: +607 266 2213
Fax: +607 266 2214
Email: info@kpmg.com.my

Ipoh
Level 17, Ipoh Tower,
Jalan Dato' Seri Ahmad Said,
30450 Ipoh, Perak
Tel: +605 253 1188
Fax: +605 255 8818
Email: info@kpmg.com.my

kpmg.com/my

facebook.com/KPMGMalaysia
twitter.com/kpmg_malaysia
linkedin.com/company/kpmg-malaysia
instagram.com/kpmgmalaysia