MOORE Advent

TAX FLASH

NOVEMBER 2021 (SPECIAL EDITION)

2022 Budget Highlights

With the release of the Finance Bill 2021 on 9th November 2021, we provide you with the updates on the additional amendments contained therein besides those announced in the Budget Speech 2021. The updated key amendments are outlined broadly into the following categories:-

A. Income Tax – Changes Affecting Individuals
B. Income Tax – Changes Affecting Companies and Unincorporated Businesses
C. Investment Incentives
D. Real Property Gains Tax
E. Petroleum Income Tax
F. Stamp Duty
G. Sales and Service Tax and Indirect Tax
H. Labuan
I. Others

- Moore Malaysia
- Moore Global
- Inland Revenue Board
- Budget Speech
- Appendices
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- Finance Bill 2021

Legend

ACA	=	Accelerated Capital Allowance
COVID-19	=	Coronavirus Disease 2019
EPF	=	Employees Provident Fund
IRB	=	Inland Revenue Board
ITA	=	Investment Tax Allowance
ITA 1967	=	Income Tax Act 1967
LBATA 1990	=	Labuan Business Activity Tax Act 1990
LLP	=	Limited Liability Partnership
MEDAC	=	Ministry of Entrepreneur Development and Cooperatives
MIDA	=	Malaysian Investment Development Authority
MITI	=	Ministry of International Trade and Industries
MOTAC	=	Ministry of Tourism, Arts and Culture
MOU	=	Memorandum of Understanding
MSC	=	Multimedia Super Corridor
PIA 1986	=	Promotion of Investments Act 1986
R&D	=	Research and development
RA	=	Reinvestment Allowance
RPGT	=	Real Property Gains Tax
RPGT Act 1976	=	Real Property Gains Tax Act 1976
SA 1949	=	Stamp Act 1949
SC	=	Securities Commission
SCIT	=	Special Commissioners of Income Tax
SME	=	Small and Medium Enterprises
SOCSO	=	Social Security Organisation
WT	=	Withholding Tax
YA	=	Year of Assessment

A. Income Tax – Changes Affecting Individuals

1. Deferment of First and Second Tax Instalment Payments As Per the Form CP500 for the YA 2022

- It is proposed that individual taxpayers (with income other than employment income) who are required to make payments under the instalment scheme ["Form CP500"] be granted a deferment of their first and second instalments (i.e. March 2022 and May 2022 instalments)

2. Increase and Expansion of Tax Relief for Contribution to SOCSO

- It is proposed that:-
  - the relief on contributions to SOCSO (which currently only covers SOCSO contribution) be expanded to include contributions to the Employment Insurance System; and
  - the relief be increased from RM250 to RM350
- Effective YA 2022

3. Increase and Extension of Tax Relief for Up-Skilling or Self-Enhancement Course Fees

- Currently, tax relief of up to RM1,000 (which forms part of the relief for the education fees of RM7,000) is given on fees incurred for up-skilling or self-enhancement course in any field recognised by the Department of Skills Development, Ministry of Human Resources for the YA 2021 and YA 2022
- It is proposed that the maximum tax relief for the fees be increased from RM1,000 to RM2,000 for the YA 2022 and be extended to YA 2023
- Effective YA 2022 and YA 2023

4. Expansion of the Scope of Relief for Contribution to an Approved Provident Fund

- Relief of up to RM4,000 available to tax resident individuals on obligatory contributions made to an approved provident fund be expanded to cover voluntary contributions, including the contributions made by public servants under the pension scheme
- Effective YA 2022

5. Expansion of Scope of Tax Relief for Medical Expenses for Self, Spouse and Child

- It is proposed that the scope of tax relief of up to RM1,000 on expenses incurred on complete medical examination (which forms part of the relief of RM8,000 for the expenses incurred on medical treatment for serious disease for self, spouse and child and fertility treatment) be expanded to cover the costs of:-
  - (i) COVID-19 detection test, as evidenced by receipts issued by a hospital or medical practitioner registered with the Malaysian Medical Council or receipts for purchase of COVID-19 self-detection test kit; and
  - (ii) examination or consultation service related to mental health from the following approved persons:-
    - a psychiatrist registered with the Malaysian Medical Council under the Mental Health Act 2001; or
    - a clinical psychologist registered with the Malaysian Allied Health Professions Council under the Allied Health Professions Act 2016; or
    - a counsellor registered with Board of Counsellors Malaysia under the Counsellors Act 1998
- Item (i) is effective YA 2021 whereas item (ii) is effective YA 2022

6. Extension of Tax Relief Period for Expenditure Incurred in Relation to Domestic Tourism

- Relief of up to RM1,000 given to individuals on the following expenditure incurred on domestic tourism (evidenced by receipts) be extended for another year i.e. until 31st December 2022:-

(i) accommodation at the premises registered with the Commissioner of Tourism under the Tourism Industry Act 1992; and

(ii) entrance fee to a tourist attraction

- The above relief has been expanded to cover the expenditure incurred on purchase of domestic tour package through a licensed travel agent registered with the Commissioner of Tourism under the Tourism Industry Act 1992
- Items (i) and (ii) are effective YA 2020 to YA 2022 (i.e. for the expenses incurred from 1st March 2020 to 31st December 2022) whereas the expanded relief is effective YA 2021 and YA 2022 (i.e. for the purchase made from 1st January 2021 to 31st December 2022)

7. Extension of Tax Relief Period for Fees Paid to Child Care Centres and Kindergartens

- Relief of up to RM3,000 given to either parent of a child on fees paid to a child care centre registered with the Director General of Social Welfare under the Child Care Centre Act 1984 or a kindergarten registered under the Education Act 1996 for the child aged 6 and below be extended for another 2 years
- Effective YA 2022 and YA 2023

8. Extension of Special Tax Relief in Relation to the Purchase of Personal Computer, Smartphone or Tablet

- The special tax relief of up to RM2,500 (which is in addition to the current lifestyle relief of up to RM2,500) given for the purchase of personal computer, smartphone or tablet during the period from 1st June 2020 to 31st December 2021 under the *PENJANA* and the *PERMAI* Stimulus Packages be extended for another year i.e. until 31st December 2022
- Extended to YA 2022

9. Extension of Tax Relief Period for Deferred Annuity

- Tax relief of up to RM3,000 given on contribution made to a Private Retirement Scheme approved by SC be extended to cover deferred annuity premium
- Effective YA 2022 to YA 2025

10. Relief for Self-Funded Vaccine Booster Shot Expenses for Self

- Relief be given to tax resident individuals on self-funded costs associated with taking the vaccine booster shot
- Applicable to YA 2022

11. Income Tax Exemption on Prize Money from E-Sports Tournament

- It is proposed that tax exemption be given to prize money received from recognised e-sports tournament

12. Tax on Foreign Source Income Remitted to Malaysia

- Please refer to Part B2 below

13. Extension of Special Deduction for Reduction of Rental of Business Premises Offered to SME and Non-SME Tenants

- Please refer to Part B7 below

14. Tax Identification Number

- Please refer to Part B21 below

15. Use of Prescribed Form for Notification of Change of Address

- Please refer to Part B23 below

16. Use of Prescribed Form in Respect of Relief Application to be Submitted to the SCIT

- Please refer to Part B24 below

17. Power to Call for Bank Account Information for the Purpose of Making Garnishee Order Application

- Please refer to Part B25 below

18. Extension of Special Income Tax Rate for Non-Resident Individuals Holding Key Positions in Companies Granted Incentives for Relocation of Manufacturing Activities to Malaysia

- Please refer to Part C5 below

19. Relief for EV Charging Facilities

- Please refer to Part G1 below

B. Income Tax – Changes Affecting Companies and Unincorporated Businesses

1. Imposition of *Cukai Makmur*

- It is proposed a one-off special tax known as *Cukai Makmur* be imposed on companies other than SME generating high income during the COVID-19 pandemic period as follows:-
    - the first RM100 million of chargeable income be subject to tax at 24%; and
    - the remaining chargeable income be taxed at 33%
- Applicable to YA 2022

2. Tax on Foreign Source Income Remitted to Malaysia

- Currently, foreign source income derived from sources outside Malaysia and received in Malaysia by any person (other than a resident company carrying on the business of banking, insurance or sea or air transport) is exempted from tax pursuant to Paragraph 28, Schedule 6 of the ITA 1967
- It is proposed that the income of a person who is a resident in Malaysia arising from sources outside Malaysia and received in Malaysia no longer be exempted from tax
- The said income received by the resident in Malaysia will be taxed at the following rates:-
    - For the period from 1st January 2022 to 30th June 2022, at 3% of gross;
    - From 1st July 2022 onwards, at the prevailing tax rates
- Effective 1st January 2022

3. Review of Tax Treatment on UBL

- Currently, the unabsorbed business losses ["UBL"] for the current year of assessment are only allowed to be carried forward up to 7 consecutive years of assessment effective YA 2019 and any UBL at the end of the 7th year of assessment shall be disregarded. For the UBL as at YA 2018, they are only allowed to be carried forward up to YA 2025
- It is proposed that the 7-year restriction be extended to 10-year as follows:-
    - the UBL as at YA 2018 be allowed to be carried forward until YA 2028
    - the UBL for the YA 2019 and thereafter be allowed to be carried forward up to 10 consecutive years of assessment; and
- Effective YA 2019

4. Submission of Revised Estimate of Tax Payable

- Currently, every company, LLP, trust body or co-operative society may furnish a revised estimate of tax payable for a year of assessment in the 6th month and/or 9th month of the basis period for that year of assessment
- It is proposed that all businesses are allowed to submit a revised estimate of tax payable in the 11th month of the basis period of a year of assessment i.e. not later than 31st October 2022
- Applicable to YA 2021 and YA 2022

5. Deferment of Tax Estimate Instalment for 6 Months for SME

- It is proposed that SME be granted a deferment of its tax estimate instalment payments for 6 months from 1st January 2022 to 30th June 2022

6. Extension of Tax Rebate for Establishing New Businesses

- Currently, companies and LLP are entitled to a tax rebate of up to RM20,000 per year for the first 3 years of assessment, equivalent to operating/capital expenditure incurred
- To be eligible for the above tax rebate, the following conditions must be fulfilled by the company or LLP:-
    - incorporated or registered in Malaysia and qualify as a tax resident in Malaysia;
    - having paid-up share capital or contribution of capital of not more than RM2.5 million at the beginning of the basis period for a year of assessment;
    - having gross business income of not more than RM50 million for the basis period for a year of assessment;
    - commences operations between 1st July 2020 to 31st December 2021; and
    - other conditions to be prescribed under statutory order
- It is proposed that the above tax rebate be extended to companies or LLP commencing operations between 1st January 2022 to 31st December 2022
- Effective 1st January 2022

7. Extension of Special Deduction for Reduction of Rental of Business Premises Offered to SME and Non-SME Tenants

- Currently, special tax deduction of the amount of the rental reduction is given to property owners who provide at least 30% rental discount to SME and non-SME tenants for the periods from April 2020 to December 2021 and January 2021 to December 2021 respectively
- It is proposed that this special deduction be extended for another 6 months, until June 2022
- Effective for reduction of rental of business premises given by property owners for the period from January 2022 to June 2022

8. Extension of Tax Deduction on Costs of Renovation and Refurbishment of Business Premises

- Currently, tax deduction is allowed for the costs of renovation and refurbishment of business premises incurred from 1st March 2020 to 31st December 2021 and used for the purpose of a business, limited to maximum amount of RM300,000
- It is proposed that this tax deduction be extended for another year, until 31st December 2022
- Effective for the costs of renovation and refurbishment of business premises incurred from 1st January 2022 until 31st December 2022

9. Deduction for Vaccination Cost Borne by Employers

- It is proposed that tax deduction be given to employers on costs incurred for its employees in relation to the adoption of self-funded booster vaccines
- Effective 1st January 2022

10. Extension of ACA for New Locally Assembled Excursion Bus

- Currently, ACA can be claimed at the initial allowance rate of 20% and annual allowance rate of 40% on qualifying expenditure incurred by licensed tour operators on new locally assembled excursion bus from YA 2020 to YA 2021
- The following rules shall be applied to a licensed tour operator:-
  - resident in Malaysia
  - who has incurred capital expenditure for the purchase of an excursion bus as the first registered owner in the basis period for a year of assessment from a source consisting of his business in relation to the tour operations; and
  - who is a holder of the tourism vehicle licence issued under the Land Public Transport Act 2010 or the Tourism Vehicles Licensing Act 1999
- The excursion bus purchased by the licensed tour operator shall:-
  - be used exclusively for the conveyance of tourists pursuant to the Land Public Transport Act 2010 or the Tourism Vehicles Licensing Act 1999
  - be assembled or constructed in Malaysia pursuant to Motor Vehicles (Registration and Licensing) Rules 1959; and
  - is not a recondition excursion bus
- It is proposed that the abovementioned ACA be extended for another 3 years
- Effective YA 2022 to YA 2024

11. Extension of Further Deduction on Rental Expenses on Premises and Hostels for Employees (Safe@Work)

- Currently, further deduction is given for rental expense on premises used as employees' accommodation in accordance to the Employees' Minimum Standards of Housing, Accommodations and Amenities Act 1990 and incurred by manufacturing and manufacturing-related service companies that participate in the Safe@Work programme implemented by MITI
- The eligible rental expenses are given to company with limit of up to RM50,000 from 1st January 2021 to 31st December 2021
- It is proposed that the above further deduction given be extended for another 1 year
- Effective for rental expenses of premises incurred from 1st January 2022 to 31st December 2022

12. Extension of Double Deduction for Scholarship

- Currently, double deduction is given companies sponsoring students on tuition fees, educational aid and cost of living expenses throughout the study period for pursuing studies at Technical and Vocational levels, Diploma and Bachelor's Degree in engineering and technology up to YA 2021
- It is proposed that the double deduction be reviewed as follows:-
  - Expansion of qualifying studies to include all fields at the Technical and Vocational, Diploma, Degree including Master's and Doctorate and
  - Extension of another 4 years
- Effective YA 2022 to YA 2025

13. Extension of Tax Incentive for Structured Internship Programme

- Currently, double deduction is given on qualifying expenditure incurred by companies that implement Structured Internship Programme approved by Talent Corporation Malaysia Berhad for students pursuing Bachelor's Degree, Diploma and Vocational level (DKU Level 4 and 5) and SKM Level 3 in all academic fields up to YA 2021
- It is proposed that the above double deduction be extended for another 4 years and expanded to include students at the academic levels of Master's Degree, Professional Certificate and SKM Level 1 and 2
- Effective YA 2022 to YA 2025

14. Review of Double Deduction on Expenses Incurred by Anchor Companies under VDP

- Double deduction currently given on expenses incurred by anchor companies under the Vendor Development Programme ["VDP"] to develop local vendors be extended for another 5 years
- Qualifying expenses:-
  - Cost of product development, R&D, innovation and quality improvement;
  - Cost of obtaining ISO/Kaizen/5S certifications, evaluation programme and business process reengineering exercises for the purpose of increasing vendor capabilities; and
  - Cost of vendor skills training, capacity building, lean management systems and financial management systems
- Conditions:-
  - Anchor companies are required to sign a MOU with MITI on VDP;
  - Qualifying expenses must be verified by MITI / MEDAC prior to the claim for deduction;
  - Qualifying expenses eligible for deduction be increased up to RM500,000 per year; and
  - Double deduction is given for 3 years of assessment
- Effective for MOU signed by anchor companies with MEDAC between 1st January 2021 to 31st December 2025

15. Tax Exemption for Social Enterprise

- Currently, the income of Social Enterprise including cash contributions received is subject to income tax
- It is proposed that tax exemption be given on all income for up to 3 years of assessment received by a Social Enterprise subject to the validity period of Social Enterprise Accreditation
- Besides, a Joint Committee on Accreditation comprises of *Yayasan Hasanah* and the MEDAC will be established to review the applications for the accreditation by Social Enterprises
- Effective for applications of:-
  - tax exemption received by Ministry of Finance from 1st January 2022 to 31st December 2023
  - accreditation received by *Yayasan Hasanah* from 1st January 2022 to 31st December 2023

16. Extension of Tax Incentive for Organising Arts, Cultural, Sports and Recreational Activities in Malaysia

- It is proposed that the current tax exemption of 50% on statutory income given to company that organises the following activities be extended for another 3 years:-
  - arts and cultural activities approved by the MOTAC; and
  - international sports and recreational competitions approved by the Ministry of Youth and Sports
- Effective YA 2023 to YA 2025

17. Tax Compliance Certificate

- It is proposed that a Tax Compliance Certificate issued by the IRB be made as part of pre-requisite for companies that intend to participate in government procurement
- Effective 1st January 2023

18. Tax Treatment on Distribution of Income to Unit Holders Other Than an Individual

- It is proposed that the income received by unit holders other than an individual from interest income of a unit trust that is a retail money market fund be subject to tax
- The unit trust (i.e. the payer) shall upon distributing the income, deduct therefrom tax at the rate of 24% and shall within one month / any extension thereof granted by the DGIR after distributing such income, render an account and pay the amount of tax to the DGIR
- Failing which, the payer shall be liable to an increased sum which is equivalent to 10% of that amount and the amount which the payer fails to pay plus the increased sum shall be a debt due from the payer to the Government

- The income distributed by a unit trust to non-resident unit holders other than an individual which has been subjected to WT under Section 109DA of the ITA 1967 shall be excluded from the computation of chargeable income, i.e. deemed final tax
- Any WT deducted in respect of income, exempted from tax under Section 127 of the ITA 1967, pursuant to the new proposed 109DA of the ITA 1967 shall be refunded under Section 111 of the ITA 1967
- Effective 1st January 2022

19. WT on Payment Made to Agent, Dealer or Distributor

- A new Section 107D of the ITA 1967 be introduced to provide that any company, that makes payments in monetary form to an agent, a dealer or a distributor that carried out sales, transactions or schemes, is required to deduct 2% from the gross payments. The tax deducted is to be remitted to the DGIR within 30 days from the date of payment or crediting such payments to the agent, dealer or distributor
- The above WT provision shall apply if the total amount of payments, whether in monetary form or otherwise, made to the agent, dealer or distributor in the immediately preceding basis year for a year of assessment that carried out sales, transactions or schemes is more than RM100,000
- Failure to comply with the WT provision above will result in an increased sum which is equivalent to 10% on the WT due and the amount which the payer fails to pay plus the increased sum shall be a debt due from the payer to the Government
- The WT paid to the DGIR or recovered from the payer by the DGIR shall be used to set-off against the tax payable for any year of assessment of the agent, dealer or distributor who receives the payment from the payer
- For the purpose of the above provision, "agent", "dealer" or "distributor" means any individual resident who is authorised by a company to act as its agent, dealer or distributor, and who receives payments, whether in monetary form or otherwise, from the company arising from sales, transactions or schemes carried out by the agent, dealer or distributor
- Concurrently, a new Section 39(1)(s) of the ITA 1967 be introduced to provide that where a person fails to remit the WT and penalty imposed in respect of the payments made to an agent, a dealer or a distributor, such payments made by that person shall not be allowed for deduction
- In addition, the DGIR is empowered to impose a penalty for incorrect return under Section 113(2) of the ITA 1967 if a deduction on the expenses mentioned above is made and the WT and the penalty are not paid by the due date for submission of the tax return that relates to such expenses
- Effective 1st January 2022

20. Review of Taxation of *Takaful* Business

- It is proposed for a *takaful* operator (both resident and non-resident) that:-
  - gross income in respect of the *wakalah* fee or any other fee receivable in connection with the family fund be included in arriving at adjusted income of the shareholders' fund
  - the amount of management expenses incurred, commission payable and discounts allowed in connection with the *wakalah* fee or any other fee receivable in connection with the family fund are allowed for tax deduction in arriving at the adjusted income of the shareholders' fund
  - the capital allowance in respect of assets acquired on or after 1st January 2022 is available for deduction against the adjusted income of the shareholders' fund and the balance of such allowance shall not be available for deduction against the adjusted income of the family fund or general fund
  - the capital allowance in respect of assets acquired prior to 1st January 2022 shall only be available for deduction against the adjusted income of the family fund or general fund until it is fully claimed
- Effective YA 2022

21. Tax Identification Number

- A new Section 66A of the ITA 1967 be introduced to empower the DGIR to assign a tax identification number ["TIN"] to a person who is:-
    - assessable and chargeable to tax;
    - required to furnish a return under the ITA 1967; or
    - a citizen aged eighteen years old and above
- Any person who has been assigned a reference number on or before 1st January 2022 is deemed to have been assigned a TIN
- Effective 1st January 2022

22. Amendment to the Requirement for Furnishing of Tax Return

- Currently, the tax return furnished by a company must be based on financial statements made in accordance with the requirements of the Companies Act 2016
- It is proposed that the above requirement for furnishing of tax return be expanded to include LLP, trust body and co-operative society whereby the tax returns furnished must be based on financial statements made in accordance with the requirement of the law governing the entity
- Effective YA 2022

23. Use of Prescribed Form for Notification of Change of Address

- Currently, every person chargeable to tax who changes his address in Malaysia is required to notify the DGIR in writing within 3 months of the change
- It is proposed that the notification of change of address be made in a prescribed form (i.e. Form CP600B)
- Effective 1st January 2022

24. Use of Prescribed Form for Relief Application to be Submitted to the SCIT

- Currently, where an applicant has made an application for relief to the DGIR and the applicant is aggrieved by the decision made by the DGIR on such application, he may rely on the provisions of Section 97A(10)(a), Section 131(5)(a) or Section 131A(5)(a) to appeal further with the SCIT, as summarised below:-
    - the applicant may within 6 months after being informed of the decision, make a written request to the DGIR to forward the application to the SCIT;
    - the DGIR shall, within 3 months after receiving such written request, forward the application to the SCIT; and
    - the application shall thereupon be deemed to be an appeal and shall be disposed of accordingly.
- It is proposed that the applicant may, within 6 months after being informed of the decision, make the request via a prescribed form for the DGIR to forward the application for relief to the SCIT
- Effective 1st January 2022

25. Power to Call for Bank Account Information for the Purpose of Making Garnishee Order Application

- A new Section 106A of the ITA 1967 be introduced to empower the DGIR for the purpose of a garnishee order application to require any financial institution to furnish the bank account information of a person on whom civil proceedings under Section 106 of the ITA 1967 has been instituted and a judgement has been obtained on him in a form of notice within a specified time
- The financial institution which is required to provide such bank account information shall not disclose to any person that such a request was made to the financial institution

- For the purpose of the above provision, “financial institution” means:-
    - any person licensed under the Financial Services Act 2013 to carry on a banking business in Malaysia;
    - any person licensed under the Islamic Financial Services Act 2013 to carry on an Islamic banking business in Malaysia; or
    - any development financial institution prescribed under the Development Financial Institutions Act 2002
- Any financial institution that fails to comply with the notice given by the DGIR or contravenes the non-disclosure requirement to the relevant person of interest shall be guilty of an offence and shall, on conviction, be liable to a fine ranging from RM200 to RM20,000 or to imprisonment for a term not exceeding 6 months or to both
- Effective 1st January 2022

26. Penalty on Late and Non-Submission of Tax Estimate

- Currently, a penalty of 10% on tax payable will be imposed on company, trust body or co-operative society for late or non-submission of tax estimate for a year of assessment where:-
    - no direction is given by the DGIR to make payment by instalment under Section 107C(8) of the ITA 1967;
    - no prosecution under Section 120 of the ITA 1967 has been instituted in relation to the failure to furnish an estimate; and
    - there is tax payable for that year of assessment
- It is proposed that the above penalty provision be expanded to include LLP
- Effective YA 2022

27. Tax on Interest Arising from Issuance of Asset-Back Securities Paid or Credited by a Special Purpose Vehicle

- It is proposed that income tax be imposed on interest paid or credited by a special purpose vehicle [“SPV”] to a company pursuant to the issuance of asset-backed securities lodged with the SC where the company and the person who established the SPV for the issuance of the asset-backed securities are in the same group
- SPV is now being defined under Paragraph 37, Schedule 6 of the ITA 1967 as a company incorporated under the Companies Act 2016 or a company incorporated under the Labuan Companies Act 1990 which has made an election under Section 3A of the LBATA 1990 and established solely for the purpose of issuance of *Sukuk* or debenture for asset-backed securities in a securitization transaction lodged with the SC or approved by the Labuan Financial Services Authority
- Effective 1st January 2022

C. Investment Incentives

1. Further Extension of Additional RA Incentive

- RA is currently given to a company that has incurred capital expenditure on a factory, plant or machinery for the purposes of a qualifying project in respect of a manufacturing activity or agriculture activity (excluding rearing chickens and ducks)
- A company is entitled to RA for 15 consecutive years of assessment commencing from the year of assessment in which the first RA claim is made
- For companies that have exhausted their eligibility to RA claim upon expiry of the 15-year incentive period, they are entitled to make a claim for Special RA for another 3 years of assessment (i.e. from YA 2016 to YA 2018) as announced in Budget 2016

- For companies that have exhausted their eligibility to claim the RA and/or Special RA, Additional RA of 3 years of assessment (i.e. from YA 2020 to YA 2022) is given as announced under the *PENJANA* Stimulus Package
- It is now proposed that:-
    - The above Additional RA for 3 years be extended for 2 more years until YA 2024, i.e. make up to a total period of 5 years for the Additional RA. For illustration:-

15-year RA Period / Special RA Period Ended in:-	**Additional RA Incentive**				
	YA 2020	**YA 2021**	**YA 2022**	**YA 2023**	**YA 2024**
YA 2019 or prior years	√	√	√	√	√
YA 2020	N/A	√	√	√	√
YA 2021	N/A	N/A	√	√	√

- Currently, unutilised RA can be carried forward for a maximum of 7 consecutive years of assessment as follows:-
    - upon expiry of the 15-year qualifying period of RA; or
    - for unabsorbed RA as at YA 2018 (applicable to claim for Special RA made for YA 2016 to YA 2018), it is allowed to be carried forward up to YA 2025
- It is now proposed that for companies where Additional RA has been claimed after the 15-year qualifying period i.e. Additional RA claimed from YA 2020 to YA 2024, any such unutilised Additional RA be allowed to be carried forward for 7 consecutive years of assessment commencing from YA 2025 i.e. until YA 2031. Any remaining unutilised amount after the end of YA 2031 will be disregarded
- Effective YA 2022

2. Review of R&D Company and Contract R&D Company

- Currently, no approval from MITI is required for R&D Company and Contract R&D Company
- It is proposed that the definitions of “Contract R&D Company” and “R&D Company” under Section 2 of the PIA 1986 be refined to only include a company which is granted the R&D Status under the new Section 4H of the PIA 1986
- New Sections 4G, 4H, 4I, 4J, 4K and 4L of the PIA 1986 be introduced to provide guidance on R&D Status as follows:-
    - any R&D Company or Contract R&D Company that wishes to be granted with the R&D Status under Section 4H of the PIA 1986 may apply to MITI
    - MITI may impose pre-conditions for application of the R&D Status
    - MITI, in concurrence with MOF may impose additional conditions or vary any of the conditions in granting the R&D Status
    - approved applications will be given R&D Status for a period of 5 years
    - a company which is granted R&D Status may apply to MITI within 30 days after the end of the expiry of the R&D Status period for an extension of R&D Status for a further period of 5 years
    - a company may surrender its R&D Status by giving notice in writing together with any reason to MITI
- The existing R&D Company and Contract R&D Company which do not have R&D Status under the new Section 4H of the PIA 1986 are given a grace period of 6 months i.e. up to June 2022 to notify MITI if they wish to maintain as a R&D Company or Contract R&D Company after the grace period, failing which the company shall immediately cease to be a R&D Company and Contract R&D Company
- Effective 1st January 2022

3. Incentives under Digital Ecosystem Acceleration Scheme

- Currently, companies carrying out approved activities under MSC are given the following incentives from 1st January 2019 onwards:-
  i. Premises within MSC location
    - Income tax exemption of 100% for 10 years
    - ITA of 100% on qualifying capital expenditure incurred within a 5-year period and allowable for set-off against 70% of statutory income

  ii. Premises outside MSC location
    - Income tax exemption of 70% for 5 years
- In addition, the following tax incentives are given for companies relocating their operations to Malaysia and undertaking new investments in selected services sector including companies adapting Industrial Revolution 4.0 and digitalisation technology:-
  i. New companies
    - Tax rate of 0% to 10% for up to 10 years

  ii. Existing companies with new service segments
    - Tax rate of 10% for up to 10 years
- It is proposed that the following tax incentives be given for activities under the Digital Ecosystem Acceleration Scheme to encourage a more comprehensive development of national digital ecosystem:-
  i. Digital Technology Provider
    - For new companies - tax rate of 0% to 10% for up to 10 years
    - For existing companies diversifying into new service activities or segments - tax rate of 10% for up to 10 years

  ii. Digital Infrastructure Provider
    - ITA of 100% on qualifying capital expenditure for qualifying activities for a period of up to 10 years and allowable for set-off against 100% of statutory income
- Effective for applications received by MIDA from 30th October 2021 to 31st December 2025

4. Expansion of Scope of Tax Incentives for Green Technology

- Currently, the following tax incentives are given to encourage the development of green technology as announced in Budget 2020:-
  - Green Investment Tax Allowance ["GITA"]
    - ITA of 100% of qualifying capital expenditure on green assets to set off against 70% of statutory income for each year of assessment up to YA 2023
  - Green Investment Tax Exemption ["GITE"]
    - Income tax exemption of 100% of statutory income for qualifying green services activity up to YA 2023
  - Income tax exemption of 70% of statutory income for a period of up to 10 years of assessment for solar leasing companies certified by Sustainable Energy Development Authority
- To support the Sustainable Development Goals 2030 agenda, which is Goal 6: Clean Water and Sanitation, Goal 11: Sustainable Cities and Communities and Goal 12: Responsible Consumption and Production, it is proposed that the scope of qualifying capital expenditure on green assets be expanded to include Rainwater Harvesting System ["RHS"] projects as certified by the Malaysian Green Technology Corporation with the following tax incentives:-
  - GITA
    - ITA of 100% of qualifying capital expenditure for activities under the qualifying RHS projects and to be set off against 70% of statutory income

- GITE
    - Income tax exemption of 70% of statutory income for services activities under the qualifying RHS projects
- Effective for applications received by MIDA from 1st January 2022 to 31st December 2023

5. Extension of Special Income Tax Rate for Non-Resident Individuals Holding Key Positions in Companies Granted Incentives for Relocation of Manufacturing Activities to Malaysia

- Currently, non-resident individuals holding key positions / C-Suite positions in a company that has been granted incentives for relocation of manufacturing activities to Malaysia under the *PENJANA* Stimulus Package be subject to income tax at the flat rate of 15% for a period of 5 consecutive years
- This incentive is subject to the following conditions:-
    - Restricted to 5 non-resident individuals employed in each company
    - The non-resident individual receives a monthly salary of not less than RM25,000
    - The non-resident individual attains tax resident status in Malaysia throughout the incentive period
- It is proposed that the application period for the above incentive received by MIDA be extended for 1 year until 31st December 2022

D. RPGT

1. Review of RPGT Rates

- It is proposed that the RPGT rate for disposal of chargeable assets made by individuals who are citizen or permanent resident in the 6th year from the date of acquisition and thereafter be reduced from 5% to 0%
- Effective 1st January 2022

2. Application of RPGT Rates to Body of Persons Registered under Any Written Law in Malaysia

- It is proposed that the current RPGT rates for companies incorporated in Malaysia, trustees of a trust, and societies registered under the Societies Act 1966 (as tabulated below) be expanded to include body of persons registered under any written law in Malaysia:-

Disposal	RPGT Rate
Within 3 years after date of acquisition	30%
In the 4th year after date of acquisition	20%
In the 5th year after date of acquisition	15%
In the 6th year after date of acquisition or thereafter	10%

- As the terms "body of persons registered under any written law in Malaysia" are wide enough to cover societies registered under the Societies Act 1966, the latter is excluded from Part II, Schedule 5 to the RPGT Act 1976
- Effective 1st January 2022

3. Increase in Retention Sum by Acquirer in Relation to Disposal of a Chargeable Asset by a Company Incorporated in Malaysia, a Trustee of a Trust, or Body of Persons Registered under Any Written Law in Malaysia

- Currently, acquirer is required to retain up to 3% of the total consideration value if the disposer is a person other than an individual who is not a citizen and not a permanent resident
- It is proposed that the 3% be increased to 5% if the disposer is a company incorporated in Malaysia, a trustee of a trust or a body of persons registered under any written law in Malaysia
- Effective 1st January 2022

4. RPGT Exemption for Individuals

- Currently, an individual is entitled to an exemption of an amount of RM10,000 or 10% of the chargeable gain, whichever is greater, in respect of a chargeable gain derived from the disposal of a chargeable asset. Where the chargeable asset is partly disposed of, the amount to be compared to the 10% of the chargeable gain shall be apportioned based on the area of the chargeable asset, in accordance with the formula provided in Paragraph 2, Schedule 4 of the RPGT Act 1976
- It is proposed that Paragraph 2, Schedule 4 of the RPGT 1976 Act exemption on part disposal be expanded to include disposal of shares deemed to be chargeable assets under Paragraph 34 or 34A of the RPGT Act 1976 where the formula as shown below shall be applied in ascertaining the amount of exemption in respect of the disposal of shares chargeable to RPGT:-

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

Where	A	is the number of shares deemed to be a chargeable asset under Paragraph 34 or 34A of Schedule 2 disposed;
	B	is the total number of issued shares deemed to be a chargeable asset in relation to shares deemed to be chargeable asset under Paragraph 34 or 34A of Schedule 2;
	C	is RM10,000;

or 10% of the chargeable gain, whichever is greater.

- Effective 1st January 2022

5. Restriction of Allowable Loss Suffered from Disposal of Shares Chargeable to RPGT

- It is proposed that the loss suffered from disposal of shares deemed to be chargeable assets under Paragraph 34 (i.e. pursuant to transfer of assets of controlled companies) of Schedule 2 to the RPGT Act 1976 be excluded as an allowable loss under Section 7 of the RPGT Act 1976
- Effective 1st January 2022

6. Expansion of Transfer of Assets Owned by an Individual to a Company Controlled by the Individual in Which Disposal Price is Deemed Equal to Acquisition Price

- Currently, the disposal price is deemed equal to acquisition price (also known as no gain no loss transaction) for the transfer of assets owned by an individual, the wife of the individual, or by the individual jointly with his wife or with a connected person, to a company controlled by the individual, by the wife of the individual, by the individual jointly with his wife or with a connected person, for a consideration consisting of shares or substantially of shares in the company
- It is proposed that the above scope of no gain no loss transaction be expanded to include:-
  - the transfer of assets by a nominee or trustee for the individual, his wife or both
  - the transfer of assets to a company controlled by a nominee or trustee for the individual, his wife or both
- Effective 1st January 2022

7. Penalty for Failure to Pay Tax Due Before Leaving Malaysia

- Currently, a person who is leaving Malaysia without paying all the RPGT due shall be liable to imprisonment for a term not exceeding 2 years or to a fine not exceeding RM5,000 or both
- It is proposed that:-
  - the RPGT due to be paid be expanded to include any sum of money or debt due and payable (i.e. including penalty and fine)
  - fine of not exceeding RM5,000 be replaced by RM200 to RM20,000
- Effective 1st January 2022

8. Tax Identification Number

- In line with the proposal made to the ITA 1967 in regards to TIN, it is proposed that every person is required to use the same TIN assigned by the DGIR under the ITA 1967 for RPGT purposes
- Effective 1st January 2022

E. Petroleum Income Tax

1. Tax Incentives for LLA Project for Upstream Petroleum Industry

- In order to attract oil and gas companies to invest and venture into Late-Life Assets ["LLA"], it is proposed that tax incentives be given as follows:-
  - Petroleum income tax rate at 25%;
  - ACA within 2 years; and
  - Losses from decommissioning activities are allowed to be carried back and set-off against the income for 2 consecutive immediate preceding years of assessment. Any unabsorbed carry back losses will be disregarded
  - Export duty exemption be given on petroleum products
- For LLA Production Sharing Contracts awarded between 1st January 2020 to 31st December 2029

2. Use of Prescribed Form for Notification of Change of Address

- Please refer to Part B23 above

3. Use of Prescribed Form for Relief Application to be Submitted to the SCIT

- Currently, where an applicant has made an application for relief to the DGIR and the applicant is aggrieved by the decision made by the DGIR on such application, he may rely on the provisions of Section 41A(10)(a), Section 66(5)(a) or Section 66A(5)(a) to appeal further with the SCIT, as summarised below:-
  - the applicant may within 6 months after being informed of the decision, make a written request to the DGIR to forward the application to the SCIT;
  - the DGIR shall, within 3 months after receiving such written request, forward the application to the SCIT; and
  - the application shall thereupon be deemed to be an appeal and shall be disposed of accordingly.
- It is proposed that the applicant may, within 6 months after being informed of the decision, make the request via a prescribed form for the DGIR to forward the application for relief to the SCIT.
- Effective 1st January 2022

4. Appeals Against Public Ruling and Practice of DGIR

- Currently, there is no restriction for a chargeable person to appeal on an assessment deemed to be made under Section 38(1) of the PITA 1967
- A new Section 43(4) of the PITA 1967 be introduced to provide that a chargeable person may only appeal on an assessment made under Section 38(1) or Section 39A if the chargeable person is aggrieved as a result of complying with the public ruling issued by the DGIR or any practice of the DGIR prevailing at the time when the assessment is made
- This new provision is in line with Section 99(4) of the ITA 1967
- Effective 1st January 2022

5. Minister's Power to Exempt Classes of Income of a Particular Kind

- A new Section 65c(1A) of the PITA 1967 be introduced to empower the Minister to exempt any chargeable person from all or any provision under the PITA 1967, either generally or in respect of any income of a particular kind or any class of income of a particular kind
- This new provision is in line with Section 127(3A) of the ITA 1967
- Effective 1st January 2022

F. Stamp Duty

1. Refund of Excess Stamp Duty Paid in Conformity with Erroneous Assessment

- Currently, any person who is dissatisfied with an assessment or additional assessment made by the Collector may file a notice of objection and apply to the Collector to review the assessment or additional assessment. If the person is dissatisfied with the outcome of review by the Collector, after paying the stamp duty in conformity with the assessment in dispute, the person may file an appeal to the High Court within the stipulated period pursuant to Section 39(1) of the SA 1949
- If it is decided by the High Court that the assessment or additional assessment made by the Collector is erroneous, any stamp duty paid in excess in conformity with the erroneous assessment (including any fine or penalty paid in consequence thereof) shall be refunded by the Collector to the appellant
- A new Section 39(4A) of the SA 1949 be introduced to provide that the abovementioned refund can only be made by the Collector if the relevant assessment has become final and conclusive in accordance with the new Section 36D of the SA 1949
- The new Section 36D of the SA 1949 provides that an assessment shall be final and conclusive if:-
    - no valid notice of appeal against the assessment has been filed to the High Court under Section 39 of the SA 1949 within the stipulated period;
    - the assessment has been determined on appeal and there is no right of further appeal; or
    - a valid notice of appeal against the assessment has been filed to the High Court but the appellant dies before the hearing of the appeal by the High Court is commenced or completed and no personal representative of the estate of the deceased appellant applies to the High Court within 2 years after his death to proceed with or complete the hearing; and
    - none of the above shall prejudice to the application of:-
        - Section 36B of the SA 1949 which provides that the Collector may make additional assessment against initial duty assessed under Section 36A of the SA 1949; or
        - Section 50A of the SA 1949 which provides that no assessment shall be affected, among others, by any erroneous assessment made by the Collector
- Effective 1st January 2022

2. Fee for Endorsement of Exempted Instruments

- Currently, no fee is charged for the endorsement on instrument which is exempted from duty
- It is proposed that a fee of RM10 be imposed for endorsement by the Collector on an instrument exempted from stamp duty which exceeds RM10
- Effective 1st January 2022

3. Extension of Application for Relief for Spoiled Stamps

- Currently, the application for relief for spoiled stamps has to be made:-
    - within 12 months after the stamp has been spoiled or become useless;
    - within 12 months after the date of an executed instrument; or
    - within 12 months after the execution of an instrument if it is not dated
- It is proposed that the above application for relief for spoiled stamps be extended to 24 months
- Effective 1st January 2022

4. Extension of Application for Relief for Misused Stamps

- Currently, the application for relief for misused stamps has to be made within 12 months after the date of the instrument or when the instrument is not dated, within 12 months from the date of execution
- It is proposed that the above application for relief for misused stamps be extended to 24 months
- Effective 1st January 2022

5. Application for Appeal and Refund Via Electronic Medium

- It is proposed that new provisions be introduced to the SA 1949 to enable application for appeal and refund via electronic medium
- Effective 1st January 2022

6. Tax Identification Number

- In line with the proposal made to the ITA 1967 in regards to TIN, it is proposed that every person is required to use the same TIN assigned by the DGIR under the ITA 1967 for stamp duty transaction
- Effective 1st January 2022

7. Review of Stamp Duty on Contract Notes for Trading of Listed Shares

- Currently, the stamp duty on contract notes is RM1.00 for every RM1,000.00 (or fractional part) of the transaction value of securities subject to the maximum of RM200 for each contract note
- It is proposed that:-
  - the stamp duty on contract notes be increased from RM1.00 to RM1.50 for every RM1,000.00 (or fractional part) of the transaction value of securities; and
  - the stamp duty limit of RM200.00 for each contract note be abolished
- Effective 1st January 2022

8. Stamp Duty Exemption on P2P Financing Instrument for SME

- Stamp duty exemption be given on Peer-to-Peer ["P2P"] loan/financing agreement between SME and investors in respect of P2P financing obtained through a P2P platform registered and recognised by the SC
- Effective for loan/financing agreements executed from 1st January 2022 to 31st December 2026

9. Review of Stamp Duty Treatment on Insurance Policies or *Takaful* Certificates with Small Annual Premium or Contribution Value

- Currently, stamp duty exemption is given to the low income-income group ["B40"] on insurance policies or *takaful* certificates for *Perlindungan Tenang* products which cover life, fire and flood with an annual premium or contribution not exceeding RM100
- It is proposed that:-
  - the annual premium or contribution eligible for the stamp duty exemption under the *Perlindungan Tenang* products be increased from RM100 to RM150;
  - stamp duty exemption be given to individuals on the purchase of insurance policies or *takaful* certificates listed below with an annual premium or contribution not exceeding RM150; and
  - stamp duty exemption be given to SME on the purchase of insurance policies or *takaful* certificates listed below with an annual premium or contribution not exceeding RM250

- The insurance policies or *takaful* certificates products given stamp duty exemption for individuals and SME are as follows:-
    - fire insurance;
    - fire business interruption insurance;
    - personal accident insurance;
    - travel insurance;
    - liability insurance; and
    - engineering insurance
- Effective for insurance policies or *takaful* certificates issued from 1st January 2022 to 31st December 2025

10. Extension of Stamp Duty Exemption for Instruments in Relation to Restructuring or Rescheduling of Loan or Financing

- Currently, stamp duty exemption is granted for restructuring or rescheduling of loan or financing between a borrower or customer and a financial institution with the following conditions:-
    - the existing instrument of loan or financing agreement has been duly stamped; and
    - the restructuring or rescheduling of a loan or financing does not contain the element of additional value to the original amount of loan or financing under the existing instrument of loan or financing agreement
- The exemption applies to instruments executed from 1st March 2020 to 31st December 2021
- It is proposed that the above stamp duty exemption be extended for another 1 year
- Effective for instruments executed from 1st January 2022 to 31st December 2022

11. Extension of Stamp Duty Exemption for Instruments in Relation to Merger or Acquisition Executed by SME

- Currently, stamp duty exemption is given on the following instruments in relation to a merger or acquisition executed by SME which is approved by the MEDAC between 1st July 2020 and 30th June 2021:-
    - contract or agreement for sale or leasing of property i.e. land, building, machinery and equipment;
    - instrument of transfer and memorandum of understanding;
    - loan or financing agreements; and
    - first leasing agreement
- The exemption applies to the above instruments executed on or after 1st July 2020 but not later than 31st December 2021
- It is proposed that the above stamp duty exemption be extended for another 1 year
- Effective for instruments executed no later than 31st December 2022 which is approved by the MEDAC between 1st July 2021 to 30th June 2022

G. Sales and Service Tax and Indirect Tax

1. Tax Incentive to Support the Development of the EV Industry

- In order to support the development of the local electric vehicle ["EV"] industry and to encourage domestic demand in line with the Low Carbon Mobility Blueprint, EV Roadmap and National Automotive Policy 2020, it is proposed that tax incentives for EV which includes passenger vehicles (including SUV and MPV), commercial vehicles and electric motorcycles be given as follows:-

No.	Tax Measures	Incentive Period
i.	Full import duty exemption on components for locally assembled EV	1st January 2022 to 31st December 2025
ii.	Full excise duty exemption and sales tax on Completely-Knocked-Down ["CKD"] EV	
iii.	Full import duty and excise duty exemption on imported Completely Built-Up ["CBU"] EV	1st January 2022 to 31st December 2023
iv.	Individual income tax relief of up to RM2,500 on expenses incurred in relation to cost of installation, rental, purchasing including hire-purchase equipment or subscription fees for EV charging facilities and not being used for the purposes of his own business as evidenced by receipts issued in respect of the payment on the amount expended	YA 2022 and YA 2023

- Effective 1st January 2022

2. Tax Incentives for LLA Project for Upstream Petroleum Industry

- Please refer to Part E1 above

3. Extension of Tourism Tax Exemption

- In line with the National Recovery Plan to provide continuous support to the domestic tourism sector and to attract arrival of foreign tourists, it is proposed that the tourism tax exemption be extended for 1 year
- Effective 1st January 2022 to 31st December 2022

4. Extension of Sales Tax Exemption on Passenger Cars

- To continuously drive the momentum of the automotive sector, it is proposed that the existing sales tax exemption of 100% and 50% on CKD and CBU passenger cars respectively be extended for another 6 months
- Effective 1st January 2022 to 30th June 2022

5. Introduction of Sales Tax on LVG

- To ensure fair treatment between taxable goods manufactured in Malaysia and imported goods, it is proposed that imported Low Value Goods ["LVG"] not exceeding RM500 sold via online platforms and delivered to consumers in Malaysia via air courier services be subjected to sales tax
- With the imposition of the sales tax on LVG, the exemption under Item 24 of Schedule A to the Sales Tax (Persons Exempted from Payment of Tax) Order 2018 will be revoked
- Sellers from Malaysia or abroad who sell LVG to consumers in Malaysia are required to register for sales tax purpose and charge sales tax
- Effective 1st January 2023

6. Imposition of Service Tax on Goods Delivery Services

- For the purpose of streamlining the service tax treatment on courier and goods delivery services, it is proposed that service tax be imposed on goods delivery services provided by service providers including e-Commerce platforms (except for food and beverages delivery services as well as logistics services) regardless of whether the service providers are licensed under the Postal Services Act 2012 or not
- Effective 1st July 2022

7. Service Tax Exemption on Brokerage Services Related to Trading of Listed Shares

- To further boost and ensure the stock market activity in Malaysia remains competitive, it is proposed that:-
    - recipients of brokerage services related to trading of shares are exempted from payment of service tax; and
    - brokerage service providers related to trading of shares are exempted from charging of service tax
- The above exemptions are applicable to services related to trading of shares listed on Bursa Malaysia
- Effective 1st January 2022

8. Increase and Expansion of Excise Duty on Liquid or Gel Used for Electronic Cigarettes and Vape

- It is proposed that the scope of excise duty for all types of cigarettes and tobacco products be expanded to include liquid or gel containing nicotine used for electronic cigarettes and vape. The excise duty will be imposed at the rate of RM1.20 per millilitre
- The rate of excise duty for non-nicotine liquid or gel be streamlined with the excise duty for liquid or gel containing nicotine with the proposed increase of the rate from RM0.40 per millilitre to RM1.20 per millilitre
- Effective 1st January 2022

9. Expansion of Scope for Excise Duty on Sugar Sweetened Beverages

- It is proposed that the scope of excise duty for sugar sweetened beverages products be expanded to include pre-mixed preparation of chocolate or cocoa based, malt, coffee and tea such as 2 in 1 or 3 in 1 pre-mixed beverages
- The excise duty will be imposed on pre-mixed preparation products categorised under the tariff codes of 18.06, 19.01 and 21.01 at the rate of RM0.47 per 100g with the threshold of sugar content as prescribed below:-

Tariff Code	Product Description	Sugar Content Threshold
18.06	Mixed chocolate or cocoa preparations	>33.3g/100g
19.01	Mixed malt preparations	
21.01	Pre-mixed coffee and mixed tea preparations	

- Effective 1st April 2022

10. Review and Streamlining of Windfall Profit Levy

- It is proposed that the threshold for Crude Palm Oil ["CPO"] prices for the purpose of imposition of windfall profit levy be reviewed and the levy rate for Sabah and Sarawak be streamlined with the rate for Peninsular Malaysia as follows:-

Location	Threshold of CPO Price (RM/metric tonne)	Rates of Levy (%)
Peninsular Malaysia	RM3,000	3.0
Sabah and Sarawak	RM3,500	

- Effective 1st January 2022

11. Introduction of SVDP

- It is proposed that the Special Voluntary Disclosure Programme ["SVDP"] be introduced by the Director General of Royal Malaysian Customs in phases with the following proposed remissions:-
    - First phase – penalty remission incentive of 100%; and
    - Second phase – penalty remission incentive of 50%
- Tax remission will also be considered based on the merits of each case

H. Labuan

1. Review of Tax Treatment for Income Derived from IP Right by Labuan Entity

- Under the current legislation:-
  - the chargeable profits as per the net profits as reflected in the audited accounts in respect of the Labuan business activity of a Labuan entity which fails to comply with the substantial activities requirements shall be subject to the tax at 24% [Section 2B(1B) of the LBATA 1990]
  - income derived from intellectual property ["IP"] right by a Labuan entity carrying on Labuan trading and non-trading activities will be taxable under the ITA 1967 [Section 4(4) of the LBATA 1990]
- It is proposed that new Sections 2B(1C), 2B(1D) and 2B(1E) be included to clarify that any income derived from royalty and other income derived from an IP right will not be part of the chargeable profits taxed at 24% under Section 2B(1B) but taxable under the ITA 1967
- Effective 1st January 2019

2. Director's Liability

- A new Section 16A of the LBATA 1990 be introduced to provide that a resident director of a Labuan company shall be jointly and severally liable for any tax which is due and payable by the company during the period in which that tax is liable to be paid by that company and such tax which is due and payable shall be recoverable under Section 14 from that director. This proposed new section is similar to existing Section 75A of the ITA 1967
- The definition of "director" under Section 16A of the LBATA 1990 refers to any person who is:-
  - occupying the position of a director, including any person who is concerned in the management of the company's business; and
  - either on his own or with one or more associates, the owner of, or able directly or indirectly controls, not less than 20% of the ordinary share capital of the company
- Effective 1st January 2022

3. Basis Period for Labuan Non-Trading Activity

- It is proposed that Section 8 of the LBATA 1990 be amended to empower the DGIR to direct the basis period for a Labuan non-trading activity (presently, only for Labuan trading activity) if it does not have a basis period for a year of assessment
- Effective YA 2020

4. Requirements to File Return of Profits for Labuan Non-Trading Activity

- It is proposed that:-
  - (i) Section 10 of the LBATA 1990 be amended to include the requirements for a Labuan entity carrying on Labuan non-trading activities to file its return of profits (i.e. Form LE1) within a period of 3 months (or any extended period as may be allowed by the DGIR) from the commencement of a year of assessment
  - (ii) Section 11 of the LBATA 1990 be amended to include the requirements for a Labuan entity carrying on Labuan non-trading activities to make full payment of tax to be charged (if any) at the time of filing the statutory declaration and return of its profits for the year of assessment
  - (iii) It is also proposed that any person who fails to file the return of profits shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding RM1 million or to imprisonment for a term not exceeding 2 years or to both under Section 23(b) of the LBATA 1990
- Items (i) and (ii) are effective YA 2022 whereas item (iii) is effective 1st January 2022

I. Others

1. Minimum EPF Contribution by Employees

- Currently, the minimum rate of contribution by employees to the EPF have been reduced from 11% to 9% for the period from January 2021 to December 2021
- It is announced that the reduction of 11% to 9% will be extended further until June 2022

2. Extension of the Wage Subsidy Programme for Tourism Sector

- It is announced that the Wage Subsidy Programme will continue with a targeted approach specifically for the tour operators whom experienced decline in revenue of at least 30%

3. Incentive for Hiring Malaysians Who Have Not Been Actively Employed under the *JaminKerja* Initiative

- It is announced that an incentive of 20% of the monthly salary for the first 6 months and 30% for the next 6 months be given to employers hiring Malaysians who have not been actively employed
- The salary of the employee has to be at least RM1,500

4. Incentive for Hiring Individuals from Targeted Groups

- It is announced that an incentive of 30% of the monthly salary for the first 6 months and 40% for the next 6 months be given to employers who hire individuals from the following targeted groups:-
  - Disabled persons;
  - Orang Asli;
  - Ex-convicts;
  - Women who have been unemployed for more than 365 days;
  - Single mothers; and
  - Housewives
- The salary of the employee has to be at least RM1,200

5. Incentive for Hiring Apprentices

- Currently, incentive of RM800 per month for up to 6 months is given to employers for hiring apprentices (school leavers and graduates aged 18 to 30 years)
- It is announced that the incentive be increased from RM800 to RM900 per month in year 2022

6. Retirement Incentive

- The current retirement incentive *(i-Saraan)* provided by EPF for self-employed members aged below 55 years old be expanded to include those aged between 55 and 60 years old

7. Female Board Member for All Public Listed Companies

- It is announced that all public listed companies must have at least one female board member
- Effective 1st September 2022 for large-cap companies and from 1st June 2023 for the remaining listed companies

8. Extension of Entertainments Duty Exemption in the Federal Territories

- Currently, entertainments duty is exempted on admission fees to entertainment venues such as theme parks, stage performances, sports events and competitions, and cinemas in the Federal Territories of Kuala Lumpur, Labuan and Putrajaya from 1st April 2021 to 31st December 2021 under the *PEMERKASA* Stimulus Package
- It is proposed that the entertainments duty exemption be extended until 31st December 2022

9. Grants

- The Government has allocated funds for the following grants:-

No.	Type of Grants	Allocation	Targeted Beneficiary and Purposes	Eligible Amount
i.	Malaysian Incentive Community Empowerment	RM20 million	2,000 associations registered with The Registry of Societies Malaysia in the category of welfare, social, safety or basic rights	RM10,000
ii.	Aerospace Segment	RM100 million	*Bumiputera* SME for exploration of business opportunities in the aerospace segment	Matching grants
iii.	Smart Automation	RM100 million	Companies in the manufacturing and services sector to automate their business processes	Matching grants
iv.	Collaborative Research in Engineering, Science and Technology	RM12 million	Research in areas such as Gallium Nitride for application in LED and EV	Matching grants
v.	Budget Hotels	RM30 million	Budget hotels registered under MOTAC and registered homestay owners for repair purposes	Matching grants
vi.	Arts and Culture Programme	RM50 million	Companies that organise programme related to arts and culture	Matching grants
vii.	SME Digitalisation	RM200 million (including RM50 million dedicated towards *Bumiputera* microentrepreneurs in rural areas)	SME adopting digitalisation measures	Matching grants