

Corporate & Commercial Law Update

BUDGET 2010 PROPOSALS – SELECTED EXCERPTS FROM THE BUDGET SPEECH

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BUDGET 2010 PROPOSALS – SELECTED EXCERPTS FROM THE BUDGET SPEECH

▶ R&D, patents, copyrights and trademarks

To strengthen R&D&C activities, the Government will undertake the following measures:

- Rationalising all research funds and grants to be more effective to achieve set targets;
- Establishing a National Innovation Centre supported by a network of innovation excellence centres under the Ministry of Science, Technology and Innovation and in collaboration with the Ministry of Higher Education;
- Integrating R&D activities with patents, copyrights and trademarks registration to ensure R&D&C processes are implemented more effectively. The cooperation between patent and research agencies will expedite the commercialisation of research findings; and
- Providing small and medium enterprises with tax deduction on expenses incurred in the registration of patents and trademarks in the country.

▶ Medical Tourism

To further promote the medical tourism industry, the Government will enhance tax incentives for healthcare service providers who offer services to foreign health tourists. Income tax exemption of 50% on the value of increased exports will be increased to 100%. This enables healthcare service providers to offer high quality health services and attract more health tourists.



▶ **Green Building**

- Building owners obtaining GBI Certificates from 24 October 2009 until 31 December 2014 will be given income tax exemption equivalent to the additional capital expenditure in obtaining such Certificates.
- Buyers purchasing buildings with GBI Certificates from developers will be given stamp duty exemption on instruments of transfer of ownership. The exemption amount is equivalent to the additional cost incurred in obtaining the GBI Certificates. This exemption is given to buyers who execute sale and purchase agreements from 24 October 2009 until 31 December 2014.

▶ **Liberalisation**

100% foreign equity participation in corporate finance and financial planning companies compared with the present requirement of at least 30% local shareholding.

▶ **E-Dividends**

All public listed companies are required to offer e-Dividends to their shareholders in an effort to increase efficiency of the payment system. Stock broking companies will also provide e-Payment options for clients to receive and make payments.

▶ **Islamic Finance**

To ensure rapid development of financial services, particularly Islamic finance, the Government proposes that the existing tax incentives be extended to 2015. The scope of the incentives will be extended to include the following:

- Stamp duty exemption of 20% on Islamic financing instruments;
- Tax exemption on banking profits derived from overseas operations. The exemption is also extended to profits of insurance and takaful companies derived from overseas operations;
- Double deduction on expenditure incurred in promoting Malaysia as an International Islamic Financial Centre;
- Deduction on expenditure incurred in the establishment of Islamic stock broking companies;
- Deduction on expenditure incurred on the issuance of Islamic securities approved by the Securities Commission (SC). The incentive is also extended to expenditure incurred on the issuance of Islamic securities approved by Labuan Offshore Financial Services Authority (LOFSA);
- The tax treatment accorded to Special Purpose Vehicles (SPV) established under the Companies Act 1965 to be extended to SPVs established under the Offshore Companies Act 1990 electing to be taxed under the Income Tax Act 1967; and



- The tax exemption on profits received from non-Ringgit sukuk originating from Malaysia approved by the SC to be extended to profits received from non-Ringgit sukuk originating from Malaysia approved by LOFSA.

▶ **Whistle Blower Act**

A Whistle Blower Act will be formulated to encourage informers to disclose corruption and other misconduct. This Act will provide immunity to informers from civil or criminal charges and will be introduced in 2010.

▶ **GST**

The Government is currently at the final stage of completing the study on the implementation of goods and services tax (GST), particularly to identify the social impact of GST on the people. The purpose of this study is to ensure that if GST needs to be implemented to stabilise Government finance, it will not burden the people. If the Government implements GST, it will replace the current sales tax and service tax as well as exemption will be granted to the low-income group. The GST rate to be imposed will be lower than the current sales tax and service tax rates.

▶ **Petroleum (PITA) taxes**

To standardise the income tax assessment system and to ensure that the Government's cash flow reflects current economic performance, the Government proposes that the tax assessment system for petroleum upstream activities be changed from the preceding year assessment system to the current year assessment system. The formal assessment system will also be changed to the self assessment system. These systems have proven to enhance compliance and tax collection. In order to alleviate the tax burden of upstream petroleum companies, the Government proposes that income tax for year of assessment 2010 based on income derived from 2009 be allowed to be paid in instalments within 5 years.

▶ **RPGT**

The Government needs to ensure that the Malaysian tax system is equitable and able to generate revenue for development purposes. In line with this, the Government proposes that a tax of 5% be imposed on gains from the disposal of real property from 1 January 2010 (it has been clarified by the Second Finance Minister that an exemption order will be gazetted very soon which will make all real property gains taxable at a flat rate of 5% regardless of the year of disposal and of the identity of the disposer). However,



- gifts between parent and child, husband and wife, grandparent and grandchild;
- a disposal of a residential property once in the lifetime of an individual; and
- RM10,000 or 10% of the chargeable gains, whichever is the higher

will be exempted from tax in relation to individuals.

▶ **Service Tax on credit cards**

Credit cards are being used extensively. The number has increased from more than 2 million in 1997 to 11 million as at August 2009, excluding 285,000 charge cards. To promote prudent spending, the Government proposes that a service tax of RM50 a year be imposed on each principal credit card and charge card, including those issued free of charge. The Government also proposes that service tax of RM25 a year be imposed on each supplementary card. This measure is effective from 1 January 2010.

▶ **Fuel Subsidy**

Subsidised fuel is currently enjoyed by all motorists, including luxury vehicle owners and foreigners, which is a strain on Government finance. To ensure subsidies only benefit targeted groups, the Government will implement a fuel subsidy management system in early 2010. This is a more people-friendly system utilising MyKad and the existing infrastructure. This approach of providing subsidy only to the targeted group will also be used for other commodities.

▶ **Reduction in individual income tax**

In the 2009 Budget, the Government reduced the maximum individual income tax rate from 28% to 27%. To ensure that the individual income tax remains competitive and to continue the economic agenda based on creativity, innovation and high value added, the Government proposes that the maximum income tax rate be further reduced from 27% to 26% effective from the year of assessment 2010. Following this, the maximum tax rate for cooperatives will be reduced to 26% while the fixed tax rate for non-resident individuals will be reduced to 26%.

▶ **Personal Relief**

In addition, to improve the well-being of the people, the Government proposes that personal relief be increased from RM8,000 to RM9,000. This means that each individual tax payer will enjoy an increase of RM1,000 in disposable income. This relief will be effective from the year of assessment 2010.



► Iskandar Malaysia

To attract local and foreign talent as well as intensify the development of Iskandar Malaysia, the Government proposes an innovative and radical tax incentive. The Government proposes income tax on employment income of Malaysians and foreign knowledge workers residing and working in Iskandar Malaysia be imposed at a rate of 15% compared with the maximum rate of 26% for the rest of the country.

► EPF Contributions

As part of the First Stimulus Package, the Government allowed employees to reduce their EPF contributions voluntarily from 11% to 8% for 2 years effective from 1 January 2009. With the expected economic recovery, employees' contribution to EPF will be increased again to 11% on a voluntary basis, effective immediately. However, from 1 January 2011, employees' EPF contribution will revert to 11%.

► Annuity premium

The Government realises that it is important for the rakyat to start saving at a young age to ensure a continuous income stream during their retirement. With rising life expectancy, savings with EPF may not be sufficient to provide adequate income during their retirement years. Hence, the annuity scheme is an appropriate financial instrument for this purpose. To encourage more Malaysians to participate in this scheme, the Government proposes the existing personal tax relief of RM6,000 for EPF contribution and life insurance premiums be increased to RM7,000. This increase of RM1,000 is for relief on annuity premiums paid from 1 January 2010 for retirement schemes offered by insurance companies.