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Double Deduction for Expenditure in relation to Minimum Wages

Following the 2014 Budget announcement, the Income Tax (Deduction for Expenditure in relation to Minimum Wages) Rules 2014 have been gazetted to provide a double deduction on the expenditure incurred by a qualifying person from the months of January 2014 until December 2014 in ascertaining the adjusted income in the basis period for a year of assessment. The amount of expenditure eligible for double deduction is equivalent to the difference between the amount of wages paid by a qualifying person to his employee for the month of January 2014 and the amount of wages paid by that qualifying person to the same employee for the month of December 2013 during the period from January 2014 until December 2014.

For the purpose of the above Rules, a “qualifying person” means:-

- a small and medium enterprise in the manufacturing sector:-
 - with not more than 250 full time employees; or
 - has achieved annual sales of RM50 million or less.

Hyperlinks

- [Moore Stephens Malaysia](#)
- [Moore Stephens International](#)
- [Inland Revenue Board](#)

- [Income Tax \(Deduction for Expenditure in relation to Minimum Wages\) Rules 2014](#)

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- ii. a small and medium enterprise in the services sector and other sectors:-
 - with not more than 75 full time employees; or
 - has achieved annual sales of RM20 million or less.
- iii. a co-operative society established under the Co-operative Societies Act 1993.
- iv. a society established under the Societies Act 1966.

For the purpose of the above Rules, an “employee” means:-

- i. a full-time employee;
- ii. an employee whose contract of service with a qualifying person commences prior to 1 January 2014 and the employee works for the qualifying person between the period of 1st January 2014 until 31st December 2014;
- iii. an employee whose amount of wages received prior to 1st January 2014 is less than the minimum wages; and
- iv. an employee who is not a domestic servant.

The above Rules shall have effect from the year of assessment [“YA”] 2014.

Extension of ACA for Information and Communication Technology Equipment

Following the Budget 2014 announcement, the Income Tax (Accelerated Capital Allowance) (Information and Communication Technology Equipment) Rules 2014 has been gazetted to extend the accelerated capital allowance [“ACA”] with an initial allowance and annual allowance of 20% and 80% respectively granted to a resident in Malaysia in respect of capital expenditure incurred for the purchase of information and technology equipment for another 3 years.

The above Rules shall have effect from YA 2014 to YA 2016.

Income Tax (Asset-Backed Securitisation) Regulations 2014

The Income Tax (Asset-Backed Securitisation) Regulations 2014 have been gazetted to provide guidance on the tax treatment of income or loss / expenses of an originator and a special purpose vehicle [“SPV”] based on the principle of neutrality in an asset-backed securitization transaction authorised by the Securities Commission on or after 1st January 2013. These Regulations are issued following the proposals announced back in the 2004 Budget.

Hyperlinks

➤ [Income Tax \(Accelerated Capital Allowance\) \(Information and Communication Technology Equipment\) Rules 2014](#)

➤ [Income Tax \(Asset-Backed Securitisation\) Regulations 2014](#)

Hyperlinks

Among others, it is noteworthy that:-

- i. The gross income of the originator (e.g. proceeds or gains from disposal of trade receivables or stock in trade) shall be deemed to have been accrued throughout the period of securitisation transaction. Similarly, the expenses incurred by the SPV (e.g. cost of acquisition of trade receivables or stock in trade) which is deductible shall also be deemed to have been incurred throughout the period of securitisation transaction.
- ii. The amount of gross income / deductible expenses of the originator/SPV in the basis period for a year of assessment shall be determined in accordance with the following formula:-

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

- where
- A is the number of days in the basis period for that year of assessment that falls within the period of securitisation transaction;
 - B is the total number of days in the period of the securitisation transaction; and
 - C is the total proceeds or gains/loss from the disposal of trade receivables or stock in trade of the originator; or the amount of expenses incurred by the SPV for the acquisition of trade receivables or stock in trade which is deductible under the Income Tax Act 1967.
- iii. The Director General of Inland Revenue may allow the originator/SPV to adopt other formula which is in accordance with the accounting standard or practice.

The above Regulations are deemed to have come into operation from YA 2013.

Income Tax Leasing (Amendment) Regulations 2014

The Income Tax Leasing Regulations 1986 [“the Leasing Regulations”] issued previously provides clarification on the tax treatment of gross income derived by a person from the business of leasing transactions and other activities.

The Income Tax Leasing (Amendment) Regulations 2014 have been gazetted recently to amend the Leasing Regulations with an inclusion of non-application rule (i.e. New Regulation 5) to specify that the Leasing Regulations shall not apply to a lease transaction in relation to an asset-backed securitisation transaction authorised by the Securities Commission on or after 1st January 2013.

The above amendment Regulations are deemed to have come into operation from YA 2013.

➤ [Income Tax Leasing \(Amendment\) Regulations 2014](#)

RPGT Exemption relating to Conversion of Partnership/Company to LLP

The Real Property Gains Tax (Exemption) Order 2014 has been gazetted to provide exemption of real property gains tax ["RPGT"] on chargeable gains derived from the conveyance of any chargeable asset relating to the conversion of a conventional partnership or a private company to a limited liability partnership ["LLP"] registered from 1st January 2013 until 31st December 2017.

The abovementioned conveyance shall be deemed to take place on the date of registration of the LLP.

The above Order is deemed to have come into operation on 1st January 2013.

Stamp Duty Exemption relating to Conversion of Partnership/Company to LLP

The Stamp Duty (Exemption) (No. 2) Order 2014 has been gazetted to provide exemption of stamp duty chargeable on all instruments of transfer of land, business, asset and share in relation to the conversion of a conventional partnership or a private company to a LLP, provided that:-

- the LLP is registered from 1st January 2013 until 31st December 2017; and
- the instrument is executed within 12 months from the date of registration of the conversion.

The above Order is deemed to have come into operation on 1st January 2013.

Hyperlinks

- [Real Property Gains Tax \(Exemption\) Order 2014](#)
- [Stamp Duty \(Exemption\) \(No. 2\) Order 2014](#)

Hyperlinks

GST – Draft Guides

The Royal Malaysian Customs Department [“RMCD”] has recently issued the following revised draft guides on Goods and Services Tax [“GST”] to provide an understanding of GST and its implications on various businesses/matters:-

- Industry Guides
 - Accommodation Premises and Similar Establishment (revised as at 14.07.2014)
 - Insurance and *Takaful* (revised as at 24.07.2014)
 - Pawn Broking (revised as at 14.07.2014)
 - Telecommunication Services (revised as at 19.07.2014)
- Specific Guides
 - Employee Benefits (revised as at 21.07.2014)
 - Free Commercial Zone (revised as at 22.07.2014)
 - Tax Invoice and Records Keeping (revised as at 20.07.2014)
 - Transitional Rules (revised as at 10.07.2014)

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