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## 2016 Budget Recalibration

The 2016 Budget Recalibration was addressed by our honourable Prime Minister cum Minister of Finance, Y.A.B. Dato' Sri Mohd Najib bin Tun Haji Abdul Razak, on 28<sup>th</sup> January 2016 focusing on 2 main pillars:-

- First, to ensure the economy remains on a strong growth trajectory;
- Second, to protect and safeguard the welfare and wellbeing of the *rakyat*.

Some of the tax measures announced in the 2016 Budget Recalibration include:-

- Special Tax Relief for Middle Income Earners
  - Special tax relief of RM2,000 will be given to individual taxpayers with a monthly income of RM8,000 and below for the year of assessment ["YA"] 2015.

## Hyperlinks

- [Moore Stephens Malaysia](#)
- [Moore Stephens International](#)
- [Inland Revenue Board](#)
  
- [2016 Budget Recalibration Speech](#)

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## Hyperlinks

- ii. Enhanced Compliance and Relaxation of Penalties for Voluntary Disclosure
  - To enhance the efficiency and amount of tax collection, the frequency of tax audits on tax evaders will be increased.
  - Special consideration on relaxation for penalty is given to taxpayers who voluntarily disclose their past years' income not declared previously provided that the tax arrears are settled before 31<sup>st</sup> December 2016.
- iii. Reduction in the Rate of Employees' Contribution to Employees Provident Fund ["EPF"]
  - The rate of employees' contribution to the EPF will be reduced by 3% from 11% to 8% beginning from March 2016 to December 2017.

### PR No. 10/2015 – Investment Holding Company

The Inland Revenue Board ["IRB"] has recently issued the Public Ruling ["PR"] No. 10/2015 – Investment Holding Company to provide guidance on tax treatment in respect of an investment holding company resident in Malaysia. This PR replaces the PR No. 3/2011 issued on 10<sup>th</sup> March 2011 with some updates, renumbering and rephrasing of paragraphs/examples and minor changes.

Among others, it is noteworthy of the amendments made to "C" in the prescribed formula for the computation of the amount of allowable permitted expenses under Section 60F of the Income Tax Act 1967 ["the Act"] in the abovementioned new PR as follows:-

$$A \times \frac{B}{4C}$$

or 5% of B, whichever is lower

where:-

- A is the total of the permitted expenses incurred for a basis period reduced by any receipts of a similar kind;
- B is the gross income consisting of dividend (*Note 1*), interest and rent chargeable to tax for a basis period;
- C is the aggregate of the gross income consisting of dividend and interest (whether such dividend or interest is exempt or not) and rent, and gains from realisation of investments for a basis period. (*Note 2*)

➤ [PR No. 10/2015](#)

In addition, there is no exclusion of the expenses attributable to single tier dividend in computing the allowable permitted expenses in Example 11 of the abovementioned PR.

**Note 1:** "Dividend" includes income distributed by a unit trust.

**Note 2:** Prior to the YA 2014, C is the aggregate of the gross income consisting of dividend (whether exempt or not), interest and rent, and gains from realisation of investments for a basis period.

**Note 3:** For further information relating to PR No. 3/2011, kindly refer to our Tax Flash – April 2011 issue.

### PR No. 11/2015 – Tax Incentive for Angel Investor

The IRB has recently issued the PR No. 11/2015 – Tax Incentive for Angel Investor to explain the tax incentive granted to an angel investor who has invested in a qualified investee company.

Salient points of the abovementioned PR include:-

#### i. Criteria for Angel Investor

- An angel investor is a high net-worth individual providing funding needed to start a business in exchange for share ownership in an investee company.
- Criteria for an angel investor are:-
  - Must be resident in Malaysia;
  - Source of income is not derived solely from business;
  - The amount of investment shall not be more than 30% of the total paid up capital of the investee company;
  - Application of investment must be made on or after 1<sup>st</sup> January 2013 but not later than 31<sup>st</sup> December 2017 for the approval of the Ministry of Finance ["MOF"]; and
  - Must not have family relationship with the investee company.

#### ii. Criteria for Investee Company

- An investee company is a start-up company certified by the Angel Tax Incentive Office under the MOF.
- To qualify as an investee company:-
  - it must be incorporated under the Companies Act 1965 and resident in Malaysia;
  - at least 51% of the investee company's issued share capital is directly owned by a shareholder who is a Malaysian citizen; and

## Hyperlinks

➤ [Tax Flash – April 2011](#)

➤ [PR No. 11/2015](#)

## Hyperlinks

- must carry on activities as approved by the MOF in the following high growth or high technology industries:-
    - Advanced electronics and information technology
    - Telecommunications
    - Equipment/instrumentation, automation and flexible manufacturing systems
    - Healthcare
    - Electro-optics, non-linear optics and optoelectronics
    - Advance materials
    - Transportation
    - Value-added services
    - Emerging technologies
- iii. Tax Incentive
- Tax exemption is given to the angel investor on the aggregate income for the basis period of the second year of assessment following the year of assessment in which an investment is made.
  - The amount of aggregate income exempted is equal to the amount of investment made in an investee company.
  - The amount of tax exemption allowed per annum is the amount of investment made or RM500,000, whichever is the lower.
  - Conditions for grant of tax exemption are:-
    - the investment must not be disposed of (fully or partly) within 2 years from the date the investment is made; and
    - the conditions given in the approval letter for the investment must be complied with.
- iv. Non-Application Rule
- An individual investor who has made a claim for a deduction under Income Tax (Deduction for Investment in a Venture Company) Rules 2005 [P.U. (A) 76/2005] is not eligible for the tax exemption as an angel investor.

### **PR No. 12/2015 – Recovery from Persons Leaving Malaysia**

The IRB has recently issued the PR No. 12/2015 – Recovery from Persons Leaving Malaysia to explain the circumstances and procedures for recovering tax and debts due from taxpayers who will be leaving Malaysia.

➤ [PR No. 12/2015](#)

## Hyperlinks

Salient points of the abovementioned PR include:-

- i. Under Section 104 of the Act, the Director General of Inland Revenue ["DGIR"] may issue a certificate to a Commissioner of Police or a Director of Immigration requesting for a taxpayer to be prevented from leaving Malaysia until the taxpayer has paid all the tax, sums and debts so payable or furnishes security for the payment to the satisfaction of the DGIR.
- ii. A taxpayer who leaves Malaysia voluntarily or attempts to leave Malaysia without making payment for all tax, sums and debts so payable mentioned in the certificate, will be liable to:-
  - a fine of between RM200 to RM20,000; or
  - imprisonment for a period not exceeding 6 months; or
  - both, if convicted.
- iii. Taxpayers can check on the status of the imposition of stoppage order on the official website of Immigration Department Malaysia ["IDM"] at [www.imi.gov.my](http://www.imi.gov.my). Foreign nationals are advised to contact the IRB branch office or IRB call centre regarding their status.
- iv. A police officer or an immigration officer may arrest, without warrant, any person whom he reasonably suspects of committing or is about to commit an offence by not complying with a certificate issued under Section 104 of the Act.
- v. A taxpayer will be allowed to leave country if the debts has been fully settled and documentary evidence or receipt must be submitted to the relevant IRB branch office. A revocation letter will then be issued to the taxpayer.
- vi. A taxpayer (excluding foreign nationals) who cannot settle his debt due in full will be allowed to leave the country with certain conditions.
- vii. A letter for temporary release will be issued and the period a taxpayer is allowed to travel out of the country will be stated in the letter.
- viii. Information on the revocation of stoppage order and temporary release will be made available on the IDM website.

### Deduction for Expenditure on Issuance of *Sukuk*

Following the Budget 2016 announcement, the Income Tax (Deduction for Expenditure Incurred on Issuance of *Sukuk*) Rules 2015 has been gazetted to allow a deduction on the expenditure incurred by a company on the issuance of *sukuk*:-

- approved or authorised by, or lodged with, the Securities Commission under the Capital Markets and Services Act 2007; or
- approved by the Labuan Financial Services Authority established under the Labuan Financial Services Authority Act 1996.

For the purposes of these Rules:-

“company” means a company resident in Malaysia and incorporated under the Companies Act 1965 or the Labuan Companies Act 1990.

“*sukuk*” means *sukuk* structured pursuant to the principle of *Ijarah* or *Wakalah*, comprising a mixed component of asset and debt.

The above Rules shall have effect from YA 2016 until YA 2018.

### Stamp Duty Exemption for Purchasers of a Revived Residential Property

Pursuant to the Stamp Duty (Exemption) (No. 5) Order 2013, stamp duty exemption is granted to the purchasers of a revived residential property in respect of any instrument of transfer / loan agreement approved by the bank and financial institution for the purpose of transferring/financing the revived residential property in relation to an abandoned project.

The Stamp Duty (Exemption) (Amendment) Order 2015 has been gazetted to amend the following:-

- the words “the bank or financial institution” are replaced by “the financier” which has been redefined to mean:-
  - a bank licensed under the Financial Services Act 2013;
  - an Islamic bank licensed under the Islamic Financial Services Act 2013;
  - a development financial institution prescribed under the Development Financial Institutions Act 2002;
  - an insurance business under the Financial Services Act 2013;
  - a *takaful* operator under the Islamic Financial Services Act 2013;
  - a co-operative society registered under the Co-operative Societies Act 1993;
  - any employer who provides an employee housing loan scheme;

### Hyperlinks

- [Income Tax \(Deduction for Expenditure Incurred on Issuance of \*Sukuk\*\) Rules 2015](#)

- [Stamp Duty \(Exemption\) \(Amendment\) Order 2015](#)

- the Malaysian Building Society Berhad incorporated under the Companies Act 1965; or
- the Borneo Housing Mortgage Finance Berhad incorporated under the Companies Act 1965.
- the exemption period has been extended until 31<sup>st</sup> December 2017 from 31<sup>st</sup> December 2015.

The above amendment Order comes into operation on 1<sup>st</sup> January 2016.

**Note:** For further information, kindly refer to our Tax Flash – April 2013 issue.

### Stamp Duty Exemption for a Rescuing Contractor/Developer

Pursuant to the Stamp Duty (Exemption) (No. 6) Order 2013, stamp duty exemption is granted to a rescuing contractor/developer of an abandoned housing project in respect of any instrument of transfer / loan agreement approved by the bank and financial institution for the purpose of transferring/financing the revived residential property in relation to an abandoned project.

The Stamp Duty (Exemption) (Amendment) (No. 2) Order 2015 has been gazetted to amend the following:-

- the words “the bank or financial institution” are replaced by “the financier” which has the same meaning as defined in the Stamp Duty (Exemption) (Amendment) Order 2015 mentioned above; and
- the exemption period has been extended until 31<sup>st</sup> December 2017 from 31<sup>st</sup> December 2015.

The above amendment Order comes into operation on 1<sup>st</sup> January 2016.

**Note:** For further information, kindly refer to our Tax Flash – April 2013 issue.

This publication is provided gratuitously and without liability. It is intended as a general guide only and the application of its contents to specific situations will depend on the particular circumstances involved. Readers should seek appropriate professional advice regarding any particular problems that they encounter, and this tax update should not be relied on as a substitute for advice. Accordingly, Advent MS Tax Consultants Sdn Bhd assumes no responsibility for any errors or omissions it may contain, whether caused by negligence or otherwise, or for any losses, however caused, sustained by any person that relies on it. Should further information, clarification or advice be required on any of the contents stated herein, please feel free to contact our tax team.

## Hyperlinks

➤ [Tax Flash – April 2013](#)

➤ [Stamp Duty \(Exemption\) \(Amendment\) \(No. 2\) Order 2015](#)

➤ [Tax Flash – April 2013](#)